

# AN ACT

To amend sections 111.16, 1701.01, 1701.10, 1701.11, 1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 1701.51, 1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 1701.75, 1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 1707.01, 1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 1775.45 to 1775.52, 1782.435, 1782.436, and 1782.437 and to enact sections 1701.782, 1701.792, 1701.802, 1701.811, 1701.821, 1701.921, 1705.361, 1705.371, 1705.381, 1705.391, 1705.61, 1707.142, 1775.53 to 1775.56, 1782.438, 1782.439, 1782.4310, 1782.4311, and 1782.65 of the Revised Code to authorize and specify applicable provisions to conversions of business entities by corporations, limited liability companies, and general, limited liability, and limited partnerships; to expand the limited liability of registered limited liability partnerships; to limit liability to limited partnerships; to modify the Corporation Law relating to regulations or articles, shareholder rights, delegation authority, acceptable payments for shares, director meetings, executive committees, actions authorized after bankruptcy, distributions to shareholders when the issuing corporation "spins off" a subsidiary corporation, reorganization and restructuring of holding company corporations, and control share acquisitions; to modify the Limited Liability Company Law to specify acceptable forms of contributions; and to modify the Securities Law

relating to dealer recordkeeping and filing requirements, tender offers, and incorporation in Ohio law of future amendments to federal securities laws.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 111.16, 1701.01, 1701.10, 1701.11, 1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 1701.51, 1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 1701.75, 1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 1707.01, 1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 1775.45, 1775.46, 1775.47, 1775.48, 1775.49, 1775.50, 1775.51, 1775.52, 1782.435, 1782.436, and 1782.437 be amended and sections 1701.782, 1701.792, 1701.802, 1701.811, 1701.821, 1701.921, 1705.361, 1705.371, 1705.381, 1705.391, 1705.61, 1707.142, 1775.53, 1775.54, 1775.55, 1775.56, 1782.438, 1782.439, 1782.4310, 1782.4311, and 1782.65 of the Revised Code be enacted to read as follows:

Sec. 111.16. The secretary of state shall charge and collect, for the benefit of the state, the following fees:

(A) For filing and recording articles of incorporation of a domestic corporation, including designation of agent:

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, one hundred twenty-five dollars;

(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:

(a) Ten cents for each share authorized up to and including one thousand shares;

(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;

(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;

(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;

(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;

(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than one hundred twenty-five dollars or greater than one hundred thousand dollars.

(B) For filing and recording a certificate of amendment to or amended

articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, a certificate of dissolution, or an amendment to a foreign license application:

(1) If the domestic corporation is not authorized to issue any shares of capital stock, fifty dollars;

(2) If the domestic corporation is authorized to issue shares of capital stock, fifty dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued by the corporation; provided no fee under division (B)(2) of this section shall be greater than one hundred thousand dollars;

(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars;

(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars.

(C) For filing and recording articles of incorporation of a savings and loan association, one hundred twenty-five dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation of a savings and loan association, fifty dollars;

(D) For filing and recording a certificate of conversion, including a designation of agent, a certificate of merger, or a certificate of consolidation, one hundred twenty-five dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued or represented in this state by each of the corporations for which a consolidation or merger is effected by the certificate;

(E) For filing and recording articles of incorporation of a credit union or the American credit union guaranty association, one hundred twenty-five dollars, and for filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the association, fifty dollars;

(F) For filing and recording articles of organization of a limited liability company, for filing and recording an application to become a registered foreign limited liability company, for filing and recording a registration application to become a domestic limited liability partnership, or for filing and recording an application to become a registered foreign limited liability

partnership, one hundred twenty-five dollars;

(G) For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, one hundred twenty-five dollars.

(H) For filing a copy of papers evidencing the incorporation of a municipal corporation or of annexation of territory by a municipal corporation, five dollars, to be paid by the municipal corporation, the petitioners therefor, or their agent;

(I) For filing and recording any of the following:

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code or a foreign nonprofit corporation pursuant to section 1703.27 of the Revised Code, one hundred twenty-five dollars;

(2) A biennial report or biennial statement pursuant to section 1775.63 or 1785.06 of the Revised Code, twenty-five dollars;

(3) Except as otherwise provided in this section or any other section of the Revised Code, any other certificate or paper that is required to be filed and recorded or is permitted to be filed and recorded by any provision of the Revised Code with the secretary of state, twenty-five dollars.

(J) For filing any certificate or paper not required to be recorded, five dollars;

(K)(1) For making copies of any certificate or other paper filed in the office of the secretary of state, a fee not to exceed one dollar per page, except as otherwise provided in the Revised Code, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars. For copies of certificates or papers required by state officers for official purpose, no charge shall be made.

(2) For creating and affixing the seal of the office of the secretary of state to the certificates described in division (E) of section 1701.81, division (E) of section 1701.811, division (E) of section 1705.38, division (E) of section 1705.381, division (D) of section 1702.43, division (E) of section 1775.47, ~~or division (E) of section 1775.55~~, division (E) of section 1782.433, or division (E) of section 1782.4310 of the Revised Code, twenty-five dollars.

(L) For a minister's license to solemnize marriages, ten dollars;

(M) For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing, fifty dollars;

(N) Fifty dollars for filing and recording any of the following:

(1) A certificate of dissolution and accompanying documents, or a certificate of cancellation, under section 1701.86, 1702.47, 1705.43, or

1782.10 of the Revised Code;

(2) A notice of dissolution of a foreign licensed corporation or a certificate of surrender of license by a foreign licensed corporation under section 1703.17 of the Revised Code;

(3) The withdrawal of registration of a foreign or domestic limited liability partnership under section 1775.61 or 1775.64 of the Revised Code, or the certificate of cancellation of registration of a foreign limited liability company under section 1705.57 of the Revised Code;

(4) The filing of a cancellation of disclaimer of general partner status under Chapter 1782. of the Revised Code.

(O) For filing a statement of continued existence by a nonprofit corporation, twenty-five dollars;

(P) For filing a restatement under section 1705.08 or 1782.09 of the Revised Code, an amendment to a certificate of cancellation under section 1782.10 of the Revised Code, an amendment under section 1705.08 or 1782.09 of the Revised Code, or a correction under section 1705.55, 1775.61, 1775.64, or 1782.52 of the Revised Code, fifty dollars;

(Q) For filing for reinstatement of an entity cancelled by operation of law, by the secretary of state, by order of the department of taxation, or by order of a court, twenty-five dollars;

(R) For filing a change of agent, resignation of agent, or change of agent's address under section 1701.07, 1702.06, 1703.041, 1703.27, 1705.06, 1705.55, 1746.04, 1747.03, or 1782.04 of the Revised Code, twenty-five dollars;

(S) For filing and recording any of the following:

(1) An application for the exclusive right to use a name or an application to reserve a name for future use under section 1701.05, 1702.05, 1703.31, 1705.05, or 1746.06 of the Revised Code, fifty dollars;

(2) A trade name or fictitious name registration or report, fifty dollars;

(3) An application to renew any item covered by division (S)(1) or (2) of this section that is permitted to be renewed, twenty-five dollars;

(4) An assignment of rights for use of a name covered by division (S)(1), (2), or (3) of this section, the cancellation of a name registration or name reservation that is so covered, or notice of a change of address of the registrant of a name that is so covered, twenty-five dollars.

(T) For filing and recording a report to operate a business trust or a real estate investment trust, either foreign or domestic, one hundred twenty-five dollars; and for filing and recording an amendment to a report or associated trust instrument, or a surrender of authority, to operate a business trust or real estate investment trust, fifty dollars;

(U)(1) For filing and recording the registration of a trademark, service mark, or mark of ownership, one hundred twenty-five dollars;

(2) For filing and recording the change of address of a registrant, the assignment of rights to a registration, a renewal of a registration, or the cancellation of a registration associated with a trademark, service mark, or mark of ownership, twenty-five dollars.

(V) For filing a service of process with the secretary of state, five dollars, except as otherwise provided in any section of the Revised Code.

Fees specified in this section may be paid by cash, check, or money order, by credit card in accordance with section 113.40 of the Revised Code, or by an alternative payment program in accordance with division (B) of section 111.18 of the Revised Code. Any credit card number or the expiration date of any credit card is not subject to disclosure under Chapter 149. of the Revised Code.

Sec. 1701.01. As used in sections 1701.01 to 1701.98 of the Revised Code, unless the context otherwise requires:

(A) "Corporation" or "domestic corporation" means a corporation for profit formed under the laws of this state.

(B) "Foreign corporation" means a corporation for profit formed under the laws of another state, and "foreign entity" means an entity formed under the laws of another state.

(C) "State" means the United States; any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia; any foreign country or nation; and any province, territory, or other political subdivision of such foreign country or nation.

(D) "Articles" includes original articles of incorporation, certificates of reorganization, amended articles, and amendments to any of these, and, in the case of a corporation created before September 1, 1851, the special charter and any amendments to it made by special act of the general assembly or pursuant to general law.

(E) "Incorporator" means a person who signed the original articles of incorporation.

(F) "Shareholder" means a person whose name appears on the books of the corporation as the owner of shares of ~~such~~ the corporation. Unless the articles, the regulations adopted by the shareholders, the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code, or the contract of subscription otherwise provides, "shareholder" includes a subscriber to shares, whether the subscription is received by the incorporators or pursuant to authorization by the directors, and such shares shall be deemed to be outstanding shares.

(G) "Person" includes, without limitation, a natural person, a corporation, whether nonprofit or for profit, a partnership, a limited liability company, an unincorporated society or association, and two or more persons having a joint or common interest.

(H) The location of the "principal office" of a corporation is the place named as the principal office in its articles.

(I) The "express terms" of shares of a class are the statements expressed in the articles with respect to such shares.

(J) Shares of a class are "junior" to shares of another class when any of their dividend or distribution rights are subordinate to, or dependent or contingent upon, any right of, or dividend on, or distribution to, shares of such other class.

(K) "Treasury shares" means shares belonging to the corporation and not retired that have been either issued and thereafter acquired by the corporation or paid as a dividend or distribution in shares of the corporation on treasury shares of the same class; such shares shall be deemed to be issued, but they shall not be considered as an asset or a liability of the corporation, or as outstanding for dividend or distribution, quorum, voting, or other purposes, except, when authorized by the directors, for dividends or distributions in authorized but unissued shares of the corporation of the same class.

(L) To "retire" a share means to restore it to the status of an authorized but unissued share.

(M) "Redemption price of shares" means the amount required by the articles to be paid on redemption of shares.

(N) "Liquidation price" means the amount or portion of assets required by the articles to be distributed to the holders of shares of any class upon dissolution, liquidation, merger, or consolidation of the corporation, or upon sale of all or substantially all of its assets.

(O) "Insolvent" means that the corporation is unable to pay its obligations as they become due in the usual course of its affairs.

(P) "Parent corporation" or "parent" means a domestic or foreign corporation that owns and holds of record shares of another corporation, domestic or foreign, entitling the holder of the shares at the time to exercise a majority of the voting power in the election of the directors of the other corporation without regard to voting power that may thereafter exist upon a default, failure, or other contingency; "subsidiary corporation" or "subsidiary" means a domestic or foreign corporation of which another corporation, domestic or foreign, is the parent.

(Q) "Combination" means a transaction, other than a merger or

consolidation, wherein either of the following applies:

(1) Voting shares of a domestic corporation are issued or transferred in consideration in whole or in part for the transfer to itself or to one or more of its subsidiaries, domestic or foreign, of all or substantially all the assets of one or more corporations, domestic or foreign, with or without good will or the assumption of liabilities;

(2) Voting shares of a foreign parent corporation are issued or transferred in consideration in whole or in part for the transfer of such assets to one or more of its domestic subsidiaries.

"Transferee corporation" in a combination means the corporation, domestic or foreign, to which the assets are transferred, and "transferor corporation" in a combination means the corporation, domestic or foreign, transferring such assets and to which, or to the shareholders of which, the voting shares of the domestic or foreign corporation are issued or transferred.

(R) "Majority share acquisition" means the acquisition of shares of a corporation, domestic or foreign, entitling the holder of the shares to exercise a majority of the voting power in the election of directors of such corporation without regard to voting power that may thereafter exist upon a default, failure, or other contingency, by either of the following:

(1) A domestic corporation in consideration in whole or in part, for the issuance or transfer of its voting shares;

(2) A domestic or foreign subsidiary in consideration in whole or in part for the issuance or transfer of voting shares of its domestic parent.

(S) "Acquiring corporation" in a combination means the domestic corporation whose voting shares are issued or transferred by it or its subsidiary or subsidiaries to the transferor corporation or corporations or the shareholders of the transferor corporation or corporations; and "acquiring corporation" in a majority share acquisition means the domestic corporation whose voting shares are issued or transferred by it or its subsidiary in consideration for shares of a domestic or foreign corporation entitling the holder of the shares to exercise a majority of the voting power in the election of directors of such corporation.

(T) When used in connection with a combination or a majority share acquisition, "voting shares" means shares of a corporation, domestic or foreign, entitling the holder of the shares to vote at the time in the election of directors of such corporation without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(U) "An emergency" exists when the governor, or any other person lawfully exercising the power and discharging the duties of the office of

governor, proclaims that an attack on the United States or any nuclear, atomic, or other disaster has caused an emergency for corporations, and such an emergency shall continue until terminated by proclamation of the governor or any other person lawfully exercising the powers and discharging the duties of the office of governor.

(V) "Constituent corporation" means an existing corporation merging into or into which is being merged one or more other entities in a merger or an existing corporation being consolidated with one or more other entities into a new entity in a consolidation, whether any of the entities is domestic or foreign, and "constituent entity" means any entity merging into or into which is being merged one or more other entities in a merger, or an existing entity being consolidated with one or more other entities into a new entity in a consolidation, whether any of the entities is domestic or foreign.

(W) "Surviving corporation" means the constituent domestic or foreign corporation that is specified as the corporation into which one or more other constituent entities are to be or have been merged, and "surviving entity" means the constituent domestic or foreign entity that is specified as the entity into which one or more other constituent entities are to be or have been merged.

(X) "Close corporation agreement" means an agreement that satisfies the three requirements of division (A) of section 1701.591 of the Revised Code.

(Y) "Issuing public corporation" means a domestic corporation with fifty or more shareholders that has its principal place of business, its principal executive offices, assets having substantial value, or a substantial percentage of its assets within this state, and as to which no valid close corporation agreement exists under division (H) of section 1701.591 of the Revised Code.

(Z)(1) "Control share acquisition" means the acquisition, directly or indirectly, by any person of shares of an issuing public corporation that, when added to all other shares of the issuing public corporation in respect of which ~~such the~~ person may exercise or direct the exercise of voting power as provided in this division, would entitle ~~such the~~ person, immediately after ~~such the~~ acquisition, directly or indirectly, alone or with others, to exercise or direct the exercise of the voting power of the issuing public corporation in the election of directors within any of the following ranges of such voting power:

- (a) One-fifth or more but less than one-third of such voting power;
- (b) One-third or more but less than a majority of such voting power;
- (c) A majority or more of such voting power.

A bank, broker, nominee, trustee, or other person ~~who~~ that acquires shares in the ordinary course of business for the benefit of others in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code shall, however, be deemed to have voting power only of shares in respect of which such person would be able, without further instructions from others, to exercise or direct the exercise of votes on a proposed control share acquisition at a meeting of shareholders called under section 1701.831 of the Revised Code.

(2) The acquisition by any person of any shares of an issuing public corporation does not constitute a control share acquisition for the purpose of section 1701.831 of the Revised Code if the acquisition was or is consummated in, results from, or is the consequence of any of the following circumstances:

(a) Prior to November 19, 1982;

(b) Pursuant to a contract existing prior to November 19, 1982;

(c) By bequest or inheritance, by operation of law upon the death of an individual, or by any other transfer without valuable consideration, including a gift, that is made in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code;

(d) Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code;

(e) Pursuant to a merger or consolidation adopted, or a combination or majority share acquisition authorized, by vote of the shareholders of the issuing public corporation in compliance with section 1701.78, 1701.781, 1701.79, 1701.791, or 1701.83 of the Revised Code, or pursuant to a merger adopted in compliance with section 1701.802 of the Revised Code;

(f) The person's being entitled, immediately thereafter, to exercise or direct the exercise of voting power of the issuing public corporation in the election of directors within the same range theretofore attained by that person either in compliance with the provisions of section 1701.831 of the Revised Code or as a result solely of the issuing public corporation's purchase of shares issued by it.

The acquisition by any person of shares of an issuing public corporation in a manner described under division (Z)(2) of this section shall be deemed a control share acquisition authorized pursuant to section 1701.831 of the Revised Code within the range of voting power under division (Z)(1)(a), (b), or (c) of this section that such person is entitled to exercise after ~~such~~ the acquisition, provided, in the case of an acquisition in a manner described under division (Z)(2)(c) or (d) of this section, the transferor of shares to such

person had previously obtained any authorization of shareholders required under section 1701.831 of the Revised Code in connection with ~~such~~ the transferor's acquisition of shares of the issuing public corporation.

(3) The acquisition of shares of an issuing public corporation in good faith and not for the purpose of circumventing section 1701.831 of the Revised Code from any person whose control share acquisition previously had been authorized by shareholders in compliance with section 1701.831 of the Revised Code, or from any person whose previous acquisition of shares of an issuing public corporation would have constituted a control share acquisition but for division (Z)(2) or (3) of this section, does not constitute a control share acquisition for the purpose of section 1701.831 of the Revised Code unless such acquisition entitles the person making the acquisition, directly or indirectly, alone or with others, to exercise or direct the exercise of voting power of the corporation in the election of directors in excess of the range of ~~such~~ voting power authorized pursuant to section 1701.831 of the Revised Code, or deemed to be so authorized under division (Z)(2) of this section.

(AA) "Acquiring person" means any person who has delivered an acquiring person statement to an issuing public corporation pursuant to section 1701.831 of the Revised Code.

(BB) "Acquiring person statement" means a written statement that complies with division (B) of section 1701.831 of the Revised Code.

(CC)(1) "Interested shares" means the shares of an issuing public corporation in respect of which any of the following persons may exercise or direct the exercise of the voting power of the corporation in the election of directors:

- (a) An acquiring person;
- (b) Any officer of the issuing public corporation elected or appointed by the directors of the issuing public corporation;
- (c) Any employee of the issuing public corporation who is also a director of such corporation;
- (d) Any person that acquires such shares for valuable consideration during the period beginning with the date of the first public disclosure of a proposal for, or expression of interest in, a control share acquisition of the issuing public corporation; a transaction pursuant to section 1701.76, 1701.78, 1701.781, 1701.79, 1701.791, 1701.83, or 1701.86 of the Revised Code that involves the issuing public corporation or its assets; or any action that would directly or indirectly result in a change in control of the issuing public corporation or its assets, and ending on the record date established by the directors pursuant to section 1701.45 and division (D) of section

1701.831 of the Revised Code, if either of the following applies:

(i) The aggregate consideration paid or given by the person who acquired the shares, and any other persons acting in concert with the person, for all such shares exceeds two hundred fifty thousand dollars;

(ii) The number of shares acquired by the person who acquired the shares, and any other persons acting in concert with the person, exceeds one-half of one per cent of the outstanding shares of the corporation entitled to vote in the election of directors.

(e) Any person that transfers such shares for valuable consideration after the record date described in division (CC)(1)(d) of this section as to shares so transferred, if accompanied by the voting power in the form of a blank proxy, an agreement to vote as instructed by the transferee, or otherwise.

(2) If any part of this division is held to be illegal or invalid in application, the illegality or invalidity does not affect any legal and valid application thereof or any other provision or application of this division or section 1701.831 of the Revised Code that can be given effect without the invalid or illegal provision, and the parts and applications of this division are severable.

(DD) "Certificated security" and "uncertificated security" have the same meanings as in section 1308.01 of the Revised Code.

(EE) "Entity" means any of the following:

(1) A for profit corporation existing under the laws of this state or any other state;

(2) Any of the following organizations existing under the laws of this state, the United States, or any other state:

(a) A business trust or association;

(b) A real estate investment trust;

(c) A common law trust;

(d) An unincorporated business or for profit organization, including a general or limited partnership;

(e) A limited liability company;

(f) A nonprofit corporation.

Sec. 1701.10. (A) After incorporation, all of the following apply:

(1) If the initial directors are named in the articles, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by receiving subscriptions, appointing officers, adopting regulations, and carrying on any other business brought before the meeting.

(2) If the initial directors are not named in the articles, the incorporator or incorporators either shall receive subscriptions as provided in division

(A) of section 1701.09 of the Revised Code or shall hold an organizational meeting at the call of a majority of the incorporators to elect directors who shall complete the organization of the corporation as provided in division (A)(1) of this section. If subscriptions for shares are received by the incorporators, the incorporators, or a majority of them, shall give not less than seven days' written notice to the shareholders, unless written notice is waived by the shareholders, to meet at a specified time and place for the purposes of adopting regulations, electing directors, and transacting any other business. The shareholders shall meet for those purposes at the time and place specified.

(3) Notwithstanding divisions (A)(1) and (2) of this section, if regulations have not been adopted within ninety days after the formation of the corporation, regulations may be adopted only ~~by the shareholders in either of the following ways:~~

~~(a) At a meeting of shareholders called for that purpose by the directors or, if no directors have been named in the articles or elected, at a meeting of shareholders called for that purpose by at least a majority of the incorporators. The directors or incorporators shall give not less than seven days' written notice to the shareholders, unless written notice is waived by the shareholders, to meet at a specified time and place for the purposes of adopting regulations and transacting any other business;~~

~~(b) Without a meeting, by the written consent of the holders of shares entitling them to exercise two thirds of the voting power on the proposal.~~

~~(4) In no event may the directors take any action to adopt or amend regulations after the shareholders have adopted regulations as provided in section 1701.11 of the Revised Code.~~

(B) Action required or permitted by this chapter to be taken by the incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(C) An organizational meeting may be held in or out of this state.

Sec. 1701.11. (A)(1) Regulations for the government of a corporation, the conduct of its affairs, and the management of its property, consistent with law and the articles, may be adopted, amended, or repealed in any of the following ways:

(a) Within ninety days after the corporation is formed, by the directors in accordance with division (A)(1) of section 1701.10 of the Revised Code;

(b) By the shareholders at a meeting held for that purpose, by the affirmative vote of the holders of shares entitling them to exercise a majority of the voting power of the corporation on the proposal, or if the articles or

regulations that have been adopted so provide, by the affirmative vote of the holders entitling them to exercise a greater proportion than a majority of the voting power of the corporation on the proposal;

(c) Without a meeting, by the written consent of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on the proposal:

~~(2) Except as otherwise provided in division (A)(4) of this section, the regulations may be amended, or new regulations may be adopted, in either of the following ways:~~

~~(a) By the shareholders at a meeting held for that purpose, by the affirmative vote of the holders of shares entitling them to exercise a majority of the voting power of the corporation on the proposal;~~

~~(b) Without a meeting, by the written consent of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on the proposal.~~

~~(3) Except as otherwise provided in division (A)(4) of this section, or if the articles or regulations that have been adopted so provide or permit, regulations may be adopted or amended or new regulations may be adopted by the affirmative vote or written consent of the holders of shares entitling them to exercise a greater or lesser proportion but not less than a majority of the voting power of the corporation on the proposal;~~

(d) If and to the extent that the articles or regulations so provide or permit and unless a provision of the Revised Code reserves such authority to shareholders, by the directors, provided that no provision or permission in the articles or regulations may divest shareholders of the power, or limit the shareholders' power, to adopt, amend, or repeal regulations.

~~(4)(2)~~ Any amendment of regulations and any amended or new regulations adopted by shareholders of an issuing public corporation whose directors are classified pursuant to section 1701.57 of the Revised Code that would change or eliminate the classification of directors shall be adopted only by the shareholders ~~only~~ at a meeting held for that purpose, by the affirmative vote of holders of shares entitling them to exercise the voting power of the corporation that is required for shareholders at a meeting under division ~~(A)(2)(a) or (3)(A)(1)(b)~~ of this section, and also by the affirmative vote of the holders of a majority of disinterested shares voted on the proposal determined as specified in division (C)(9) of section 1704.01 of the Revised Code.

(B) Without limiting the generality of the authority described in division (A) of this section, the regulations may include provisions with respect to all of the following:

(1) The place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of shareholders;

(2) The taking of a record of shareholders or the temporary closing of books against transfers of shares;

(3) The number, classification, manner of fixing or changing the number, qualifications, term of office, and compensation or manner of fixing compensation, of directors;

(4) The place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of the directors;

(5) The appointment of an executive and other committees of the directors, and their authority;

(6) The titles, qualifications, duties, term of office, compensation or manner of fixing compensation, and the removal, of officers;

(7) The terms on which new certificates for shares may be issued in the place of lost, stolen, or destroyed certificates;

(8) The manner in which and conditions upon which a certificated security, and the conditions upon which an uncertificated security, and the shares represented by a certificated or uncertificated security, may be transferred, restrictions on the right to transfer the shares, and reservations of liens on the shares;

(9)(a) Restrictions on the transfer and the right to transfer shares of either of the following:

(i) An issuing public corporation to any person in a control share acquisition;

(ii) A corporation with fifty or more shareholders to any person in an acquisition that would be a control share acquisition if the corporation were an issuing public corporation.

(b) The restrictions on the transfer and the right to transfer shares described in division (B)(9)(a)(i) and (ii) of this section may include requirements and procedures for consent to an acquisition of the shares by directors based on a determination by the directors of the best interests of the corporation and its shareholders, consent to an acquisition of the shares by shareholders, and reasonable sanctions for a violation of those requirements, including the right of the corporation to refuse to transfer, to redeem, or to deny voting or other shareholder rights appurtenant to shares acquired in an acquisition of the shares.

(10) Defining, limiting, or regulating the exercise of the authority of the corporation, the directors, or the officers, ~~or all the shareholders;~~

(11) Defining, limiting, or regulating the exercise of the authority of the shareholders; provided, that any amendment of the regulations that would change or eliminate any such provision shall be adopted only by the shareholders.

(C) The shareholders of a corporation may adopt and may authorize the directors to adopt, either before or during an emergency, as that term is defined in division (U) of section 1701.01 of the Revised Code, emergency regulations that shall be operative only during an emergency. The emergency regulations may include any provisions that are authorized to be included in regulations by divisions (A) and (B) of this section. In addition, unless expressly prohibited by the articles or the regulations, the emergency regulations may make any provision, notwithstanding any different provisions in this chapter and notwithstanding any different provisions in the articles or the regulations that are not expressly stated to be operative during an emergency, that may be practical or necessary with respect to the following:

(1) The place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of the directors;

(2) The creation and appointment of an executive and other committees of the directors and the delegation of authority to the committees by the board;

(3) The creation, existence, and filling of vacancies, including temporary vacancies, in the office of director;

(4) The selection, by appointment, election, or otherwise, of officers and other persons to serve as directors for a meeting of the board in the absence from the meeting of one or more of the directors;

(5) The creation, existence, and filling of vacancies, including temporary vacancies, in any office;

(6) The order of rank and the succession to the duties and authority of officers.

~~(D) If (1) Unless the corporation complies with division (D)(2) of this section, if the regulations are amended or new regulations are adopted; without a meeting of the shareholders other than by the shareholders at a meeting held for that purpose, the secretary of the corporation shall send a copy of the amendment or the new regulations by mail, overnight delivery service, or any other means of communication authorized by the shareholder to whom a copy of the amendment or new regulations are is sent, to each shareholder who would have been entitled to vote on the adoption of the amendment or the new regulations and did not participate in~~ of record as of

the date of the adoption of the amendment or the new regulations.

(2) Any corporation that files periodic reports with the United States securities and exchange commission pursuant to section 13 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78m, as amended, or section 15(d) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), as amended, may satisfy the notice to shareholders of record requirement of division (D)(1) of this section by including a copy of the amendment or the new regulations in a report filed in accordance with those sections within twenty days after the adoption of the amendment or the new regulations.

(E) No person dealing with the corporation shall be charged with constructive notice of the regulations.

(F) Unless expressly prohibited by the articles or the regulations or unless otherwise provided by the emergency regulations, the following special rules shall be applicable during an emergency notwithstanding any different provision elsewhere in this chapter:

(1) Meetings of the directors may be called by any officer or director.

(2) Notice of the time and place of each meeting of the directors shall be given to such of the directors as it may be feasible to reach at the time and by the means of communication, written or oral, personal or mass, as may be practicable at the time.

(3) The director or directors present at any meeting of the directors that has been duly called and notice of which has been duly given shall constitute a quorum for the meeting, and, in the absence of one or more of the directors, the director or directors present may appoint one or more of the officers of the corporation directors for the meeting.

(4) If none of the directors attends a meeting of the directors that has been duly called and notice of which has been duly given, the officers of the corporation who are present, not exceeding three, in order of rank, shall be directors for the meeting, shall constitute a quorum for the meeting, and may appoint one or more of the other officers of the corporation directors for the meeting.

(5) If the chief executive officer dies, is missing, or for any other reason is temporarily or permanently incapable of discharging the duties of the office, the next ranking officer who is available shall assume the duties and authority of the office of the deceased, missing, or incapacitated chief executive officer until such time as the directors shall otherwise order.

(6) The offices of secretary and treasurer shall be deemed to be of equal rank, and, within the same office and as between the offices of secretary and treasurer, rank shall be determined by priority in time of the first election to

the office or, if two or more persons have been first elected to the office at the same time, by seniority in age.

Sec. 1701.17. (A) A corporation by its directors, upon ~~such~~ terms as it may impose, may provide and carry out plans for the issuance, offering, or sale, or for the grant of options, to employees of the corporation or of subsidiary corporations, or to a trustee on their behalf, during the period of their employment or other period, of, or with respect to, any unissued shares, treasury shares, or shares to be purchased, which plans may provide for the payment for such shares at one time or in installments; or for the establishment of special funds in which employees may participate. Shares otherwise subject to pre-emptive rights may be offered or sold under ~~such~~ these plans only when released from pre-emptive rights.

(B)(1) The directors, or a committee of the directors, may delegate the authority described in division (A) of this section to one or more officers if the resolution authorizing the delegation specifies the total number of shares or options that the officer or officers may award and the terms on which any shares may be issued, offered, or sold or the terms of any options.

(2) The directors may not authorize any officer described in division (B)(1) of this section to designate that officer as a recipient of any shares or options with respect to shares.

Sec. 1701.18. (A) Except as provided in the case of change of shares, share dividends or distributions, reorganization, merger, consolidation, combination, or conversion of shares or obligations into shares, the following apply:

(1) ~~Payment~~ Consideration for shares shall be made with money or other property of any description, or any interest in property, actually transferred to the corporation, or labor or services actually rendered to the corporation may include cash, property, services rendered, a promissory note, or any other binding obligation to contribute cash or property or to perform services; the provision of any other benefit to the corporation; or any combination of these.

(2) In the case of shares with par value, other than treasury shares, the consideration shall be not less than the par value of the shares, provided that the shares may be ~~sold and~~ paid for at such a discount from the par value of the shares that would amount to or not exceed reasonable compensation for the sale, underwriting, or purchase of the shares, and, regardless of the discount, the shares shall be deemed to be fully paid.

(3) In the case of treasury shares with par value, the consideration may be less than the par value of the shares.

(B) Promissory notes, drafts, or other obligations of a subscriber or

purchaser do not constitute payment for shares.

(C) An agreement by a person to perform services as the consideration for shares does not, of itself, constitute ~~the person a shareholder and does not, of itself, constitute~~ payment for such shares prior to the performance of the services.

(D) Except in the case of convertible shares or obligations, shares with par value shall not be issued or disposed of upon change of shares, share dividends or distributions, reorganization, merger, consolidation, exchange of shares for other shares or securities, or otherwise, if as a result the aggregate liabilities of the corporation plus its stated capital would exceed its aggregate assets or any existing excess would be increased.

(E) When shares have been issued as provided in this chapter, in the case of change of shares, share dividends or distributions, reorganization, merger, consolidation, or conversion of shares or obligations into shares, or when shares have been paid for in conformity with this section, such shares shall be deemed fully paid and nonassessable.

(F) Every person who subscribes for or purchases shares of a corporation is liable to the corporation to pay or deliver to the corporation the consideration agreed upon, and, except as provided in division (A) of this section, if the shares are with par value, the person is obligated to pay to the corporation ~~for the shares in money or other property or services~~ consideration not less than the ~~full~~ par value of the shares. The person is not liable to the corporation or its creditors in any other amount.

(G) Every holder, whether the original or a transferee, of shares not paid for as provided in this section, who has acquired them with actual knowledge of that fact, is personally liable to the corporation for the amount unpaid on the shares, and the holder's liability shall continue notwithstanding any transfer of the shares, until the shares are paid in full; but no holder who has acquired the shares without actual knowledge of the fact that the shares are not paid for is under any liability in respect of the shares.

(H) No pledgee or other holder of shares as collateral security is personally liable as a shareholder.

(I) No person who in fact, whether disclosed on the records of the corporation or otherwise, holds shares as executor, administrator, guardian, trustee, trustee of a voting trust, receiver, or in any other fiduciary capacity is personally liable as a shareholder, but the estate or property in the hands of such fiduciary is liable or the real or beneficial owner is liable under this section as equity may require. This section does not relieve a fiduciary from liability for a breach of trust.

(J) Except as set forth in any provision in Title LVII of the Revised Code, neither a shareholder of a corporation nor a subscriber to its shares is personally liable for any debts, obligations, or liabilities of the corporation in the absence of a written, enforceable agreement that is signed by the shareholder or subscriber and that specifically undertakes liability for such debts, obligations, or liabilities.

Sec. 1701.19. (A) When a determination of the fair value to a corporation ~~of property other than money or of services~~ is made by the incorporators, directors, or shareholders with respect to ~~property transferred or to be transferred, or services rendered or to be rendered,~~ consideration, other than cash, paid or to be paid to the corporation ~~as consideration~~ for shares; or made by the directors with respect to property voluntarily contributed to the corporation; or made by the directors with respect to physical assets of the corporation ~~which that~~ are reckoned by the directors to have a fair value to the corporation in excess of the amount at which they are carried on its books; or provided for in a ~~plan of reorganization confirmed~~ decree or order as provided in section 1701.75 of the Revised Code or set forth in an agreement of merger or consolidation adopted as provided in section 1701.78, 1701.79, 1701.80, or 1701.801 of the Revised Code, then ~~such the~~ the determination shall be conclusive in any action or proceeding in which it is claimed that the fair value to the corporation of such consideration or property ~~or of such services~~ is or was less than the value so determined, unless the party asserting ~~such~~ a claim affirmatively proves by clear and convincing evidence, and otherwise than by proving the difference between the value of such consideration or property, ~~or of such services,~~ and the fair value so determined, that ~~such the~~ the determination was knowingly and intentionally made, by the persons making the determination, at a value greater than the fair value of such consideration or property ~~or of such services~~ to the corporation.

(B) The making of an agreement to issue or dispose of shares for property or consideration other than ~~money or for services~~ cash or the issuance or disposition of shares in consummation of any agreement or transaction referred to in division (A) of this section shall be held to be a determination that the property ~~or the services~~ other consideration involved ~~have~~ has a fair value to the corporation not less than the value required to justify the issuance or disposition of such shares.

Sec. 1701.40. (A) Meetings of shareholders may be called by any of the following:

(1) The chairperson of the board, the president, or, in case of the president's absence, death, or disability, the vice-president authorized to

exercise the authority of the president;

(2) The directors by action at a meeting, or a majority of the directors acting without a meeting;

(3) Persons who hold twenty-five per cent of all shares outstanding and entitled to vote at the meeting, unless the articles or the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code specify for that purpose a smaller or larger proportion but not in excess of fifty per cent;

(4) Such other officers or persons as the articles or the regulations authorize to call the meetings.

(B) Meetings of shareholders may be held either within or without this state if so provided in the articles or the regulations. The articles or regulations may authorize the directors to determine that the meeting shall not be held at any physical place, but instead may be held solely by means of communications equipment as authorized by division (C) of this section. If the corporation is an issuing public corporation and the articles or regulations do not require that a meeting be held at a particular physical place and also authorize the directors to fix the place of the meeting, the directors may determine that the meeting shall not be held at any physical place, but instead may be held solely by means of communications equipment as authorized by division (C) of this section. In the absence of any such provision, all meetings shall be held at the principal office of the corporation in this state.

(C) If authorized by the directors, the shareholders and proxyholders who are not physically present at a meeting of shareholders may attend a meeting of shareholders by use of communications equipment that enables the shareholder or proxyholder an opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting and to speak or otherwise participate in the proceedings contemporaneously with those physically present. Any shareholder using communications equipment will be deemed present in person at the meeting whether the meeting is to be held at a designated place or solely by means of communications equipment. The directors may adopt guidelines and procedures for the use of communications equipment in connection with a meeting of shareholders to permit the corporation to verify that a person is a shareholder or proxyholder and to maintain a record of any vote or other action.

Sec. 1701.41. (A) Written notice stating the time, place, if any, and purposes of a meeting of the shareholders, and the means, if any, by which shareholders can be present and vote at the meeting through the use of

communications equipment shall be given either by personal delivery or by mail, overnight delivery service, or any other means of communication authorized by the shareholder to whom the notice is given, not less than seven nor more than sixty days before the date of the meeting unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code specify a longer period: (1) to every shareholder of record entitled to notice of the meeting; (2) by or at the direction of the president or the secretary or any other person required or permitted by the regulations to give that notice. If mailed or sent by overnight delivery service, the notice shall be sent to the shareholder at the shareholder's address as it appears on the records of the corporation. If sent by another means of communication authorized by the shareholder, the notice shall be sent to the address furnished by the shareholder for those transmissions. Notice of adjournment of a meeting need not be given if the time and place, if any, to which it is adjourned and the means, if any, by which shareholders can be present and vote at the adjourned meeting through the use of communications equipment are fixed and announced at the meeting.

(B) Upon request in writing delivered either in person or by registered mail to the president or the secretary by any persons entitled to call a meeting of shareholders, that officer shall forthwith cause to be given to the shareholders entitled to notice of a meeting to be held on a date not less than seven nor more than sixty days after the receipt of the request, as the officer may fix, unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code specify a longer period for this purpose. If the notice is not given within fifteen days after the delivery or mailing of the request, or that shorter or longer period as the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code specify for this purpose, the persons calling the meeting may fix the time of meeting and give notice of the time of meeting as provided in division (A) of this section, or cause the notice to be given by any designated representative.

(C) Any authorization by a shareholder to send notices given pursuant to this chapter by any means other than in person or by mail or overnight delivery service is revocable by written notice to the corporation either by personal delivery or by mail, overnight delivery service, or any other means of communication authorized by the corporation. If sent by another means of communication authorized by the corporation, the notice shall be sent to

the address furnished by the corporation for those transmissions. Any authorization by a shareholder to send notices given pursuant to this chapter by any means other than in person or by mail or overnight delivery service will be deemed to have been revoked by the shareholder if (1) the corporation has attempted to make delivery of two consecutive notices in accordance with that authorization, and (2) the secretary or an assistant secretary of the corporation, or other person responsible for giving of notice, has received notice that, or otherwise believes that, delivery has not occurred. However, an inadvertent failure to treat the inability to deliver notice as a revocation will not invalidate any meeting of shareholders or other action.

Sec. 1701.44. (A) Except to the extent that the voting rights of the shares of any class are increased, limited, or denied by the express terms of such shares, and except as provided in scrip issued in lieu of a certificate for a fraction of a share, each outstanding share regardless of class shall entitle the holder thereof to one vote on each matter properly submitted to the shareholders for their vote, consent, waiver, release, or other action, subject to the provisions with respect to cumulative voting in section 1701.55 of the Revised Code.

(B) Unless the articles, the regulations adopted by the shareholders, the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code, or the contract of subscription for shares otherwise provides, a shareholder shall be entitled to vote even though ~~his~~ the shareholder's shares have not been fully paid, but shares upon which an installment of the consideration for such shares is overdue and unpaid shall not be voted.

Sec. 1701.51. ~~(A)~~ Unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code otherwise provide:

~~(A) The~~ the shareholders present in person, by proxy, or by the use of communications equipment at any meeting of shareholders shall constitute a quorum for such meeting, but no action required by law, the articles, or the regulations to be authorized or taken by the holders of a designated proportion of the shares of any particular class or of each class, may be authorized or taken by a lesser proportion.

(B) ~~The~~ Unless the articles or the regulations otherwise provide, the holders of a majority of the voting shares represented at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time.

Sec. 1701.54. (A) Unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division

(A)(1) of section 1701.10 of the Revised Code prohibit the authorization or taking of any action of the shareholders or of the directors without a meeting, any action that may be authorized or taken at a meeting of the shareholders or of the directors, as the case may be, may be authorized or taken without a meeting with the affirmative vote or approval of, and in a writing or writings signed by all the shareholders who would be entitled to notice of a meeting of the shareholders held for such purpose, or all the directors, respectively, which writing or writings shall be filed with or entered upon the records of the corporation. Any certificate with respect to the authorization or taking of any such action that is required to be filed in the office of the secretary of state shall recite that the authorization or taking of such action was in a writing or writings approved and signed as specified in this section.

(B) A telegram, cablegram, electronic mail, or an electronic or other transmission capable of authentication that appears to have been sent by a person described in division (A) of this section and that contains an affirmative vote or approval of that person is a signed writing for the purposes of this section. The date on which that telegram, cablegram, electronic mail, or electronic or other transmission is sent is the date on which the writing is signed.

Sec. 1701.57. (A) Unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code provide for a different term (which may not exceed three years from the date of ~~his~~ election and until ~~his~~ a successor is elected), each director shall hold office until the next annual meeting of the shareholders and until ~~his~~ a successor is elected, or until ~~his~~ the director's earlier resignation, removal from office, or death.

(B) The articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code may provide:

(1) For the classification of directors into either two or three classes consisting of not less than three directors each, provided that where all shares of a corporation entitled to elect a class of directors are owned of record by one or two shareholders, the number of directors of each class may be less than three, but not less than the number of shareholders entitled to elect directors of such class;

(2) That the terms of office of the several classes need not be uniform, except that no term shall exceed the maximum period specified in division (A) of this section.

Sec. 1701.58. (A) The office of a director becomes vacant if the director

dies or resigns. A resignation shall take effect immediately or at such other time as the director may specify.

(B) The directors may remove any director and thereby create a vacancy in the board:

(1) If by order of court the director has been found to be of unsound mind, or if the director is adjudicated a bankrupt;

(2) If within sixty days, or within ~~such~~ any other period of time as is prescribed in the articles or the regulations, from the date of the director's election the director does not qualify by accepting in writing the director's election to ~~such~~ that office or by acting at a meeting of the directors, and by acquiring the qualifications specified in the articles or the regulations; or if, for such period as is prescribed in the articles or the regulations, the director ceases to hold the required qualifications.

(C) Except as otherwise provided in this division, if the shareholders have a right to vote cumulatively in the election of directors, then, unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code expressly provide that no director may be removed from office or that removal of directors requires a greater vote than that specified in this division, all the directors, all the directors of a particular class, or any individual director may be removed from office, without assigning any cause, by the vote of the holders of a majority of the voting power entitling them to elect directors in place of those to be removed, except that, unless all the directors, or all the directors of a particular class, are removed, no individual director shall be removed if the votes of a sufficient number of shares are cast against the director's removal that, if cumulatively voted at an election of all the directors, or all the directors of a particular class, as the case may be, would be sufficient to elect at least one director. In the case of an issuing public corporation whose directors are classified pursuant to section 1701.57 of the Revised Code, the shareholders may effect a removal under this division only for cause.

(D) If the shareholders do not have the right to vote cumulatively as a result of an amendment to the articles permitted by division (B)(10) of section 1701.69 of the Revised Code, then, unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code expressly provide that no director may be removed from office or that removal of directors requires a greater vote than that specified in this division, all the directors, all the directors of a particular class, or any individual director may be removed from office, without assigning any

cause, by the vote of the holders of a majority of the voting power entitling them to elect directors in place of those to be removed; except that in the case of an issuing public corporation whose directors are classified pursuant to section 1701.57 of the Revised Code, the shareholders may effect that removal only for cause.

(E) In case of any removal pursuant to division (C) or (D) of this section, a new director may be elected at the same meeting for the unexpired term of each director removed. Failure to elect a director to fill the unexpired term of any director removed is deemed to create a vacancy in the board.

(F) Unless the articles or the regulations otherwise provide, the remaining directors, though less than a majority of the whole authorized number of directors, may, by the vote of a majority of their number, fill any vacancy in the board for the unexpired term. Under this section, a vacancy exists if the shareholders increase the authorized number of directors but fail at the meeting at which such increase is authorized, or an adjournment of that meeting, to elect the additional directors provided for, or if the shareholders fail at any time to elect the whole authorized number of directors.

Sec. 1701.62. Unless the articles ~~or~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code otherwise provide, and subject to the exceptions; applicable during an emergency, as that term is defined in section 1701.01 of the Revised Code, for which provision is made in division (F) of section 1701.11 of the Revised Code, a majority of the whole authorized number of directors is necessary to constitute a quorum for a meeting of the directors, except that a majority of the directors in office constitutes a quorum for filling a vacancy in the board. The act of a majority of the directors present at a meeting at which a quorum is present is the act of the board, unless the act of a greater number is required by the articles, the regulations adopted by the shareholders, the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code, or the bylaws.

Sec. 1701.63. (A) The regulations may provide for the creation by the directors of an executive committee or any other committee of the directors, to consist of one or more directors, and may authorize the delegation to any such committee of any of the authority of the directors, however conferred, other than the authority of filling vacancies among the directors or in any committee of the directors and other than the authority to adopt, amend, or repeal regulations.

(B) The directors may appoint one or more directors as alternate members of any committee described in division (A) of this section, who may take the place of any absent member or members at any meeting of the particular committee.

(C) Each committee described in division (A) of this section shall serve at the pleasure of the directors, shall act only in the intervals between meetings of the directors, and shall be subject to the control and direction of the directors.

(D) Unless otherwise provided in the regulations or ordered by the directors, any committee described in division (A) of this section may act by a majority of its members at a meeting or by a writing or writings signed by all of its members.

(E) Unless participation by members of any committee described in division (A) of this section at a meeting by means of communications equipment is prohibited by the articles, the regulations, or an order of the directors, meetings of the particular committee may be held through any communications equipment if all persons participating can hear each other. Participation in a meeting pursuant to this division constitutes presence at the meeting.

(F) An act or authorization of an act by any committee described in division (A) of this section within the authority delegated to it shall be as effective for all purposes as the act or authorization of the directors.

(G) Unless otherwise provided in the articles, the regulations, or the resolution of the directors creating a committee described in division (A) of this section, a committee described in division (A) of this section may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and may delegate to a subcommittee any or all of the powers and authority of the committee.

Sec. 1701.73. (A)~~(1)~~ Upon the adoption of any amendment or amended articles, a certificate containing a copy of the resolution adopting the amendment or amended articles, a statement of the manner of its adoption, and, in the case of adoption of the resolution by the incorporators or directors, a statement of the basis for such adoption, shall be filed with the secretary of state, and thereupon the articles shall be amended accordingly, any change of shares provided for in the amendment or amended articles shall become effective, and the amended articles shall supersede the existing articles. ~~When~~

(2) Except as provided in division (A)(3) of this section, when an amendment or amended articles are adopted by the directors pursuant to section 1701.70 of the Revised Code, the corporation shall send notice of

the amendment or amended articles, and a copy or summary thereof, by mail, overnight delivery service, or any other means of communication authorized by the shareholder to whom the notice and copy or summary are sent, to each shareholder of the corporation of record as of the date on which the directors approved the amendment or amended articles. The notice shall be sent to the shareholders within twenty days after the filing of the certificate required by ~~this~~ division (A)(1) of this section.

(3) Any corporation that files periodic reports with the United States securities and exchange commission pursuant to section 13 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78m, as amended, or section 15(d) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), as amended, may satisfy the notice to shareholders of record requirement of division (A)(2) of this section by including a copy or summary of the amendment or amended articles in a report filed in accordance with those provisions within twenty days after the filing of the certificate required by division (A)(1) of this section.

(B) When an amendment or amended articles are adopted by the incorporators, the certificate described in division (A)(1) of this section shall be signed by each of them.

(C) When an amendment or amended articles are adopted by the directors or by the shareholders, the certificate described in division (A)(1) of this section shall be signed by any authorized officer.

(D) A copy of an amendment or amended articles changing the name of a corporation or its principal office in this state, certified by the secretary of state, may be filed for record in the office of the county recorder of any county in this state, and for such recording, the county recorder shall charge and collect the same fee as provided for in division (A) of section 317.32 of the Revised Code. ~~Such~~ The copy shall be recorded in the records of deeds.

Sec. 1701.75. (A) ~~A corporation, If an order of relief has been entered pursuant to the federal Bankruptcy Code, 11 U.S.C. 101, as amended, or if a plan of reorganization of which shall have~~ has been confirmed by the decree or order of a court of competent jurisdiction pursuant to the provisions of any other applicable statute of the United States relating to reorganization of corporations, a corporation may put into effect and carry out ~~the plan and the any~~ the decrees and orders of the court ~~relative thereto, in the bankruptcy or reorganization proceeding~~ and may take any ~~proceeding and do any act~~ corporate action provided ~~in the plan~~ or directed by such decrees and orders, without further action by its directors or shareholders. ~~Such authority~~ Authority may be exercised, and ~~such proceedings and acts~~ corporate actions may be taken ~~or done~~, as directed by such decrees or orders, by the

trustee or trustees of ~~such~~ the corporation appointed or elected in the bankruptcy or reorganization proceedings (or a majority thereof), or if none ~~shall~~ have been appointed or elected and acting, by designated officers of the corporation, or by a ~~master or other~~ representative appointed by the court, with like effect as if exercised and taken by unanimous action of the directors and shareholders of the corporation.

(B) ~~A corporation~~, If authorized in the manner provided in division (A) of this section, but without limiting the generality thereof, a corporation may: amend its articles in any respect; amend or repeal its regulations or adopt new regulations; name, constitute, reconstitute, classify, or reclassify its directors and appoint directors and officers in place of or in addition to some or all of the directors or officers then in office; make any lawful change in its stated capital; make a determination of the fair value to the corporation of its assets; transfer all or a part of its assets; merge; consolidate; remove or appoint a statutory agent; authorize the granting of option rights in respect of shares and other securities; authorize the issuing of notes, bonds, and other evidences of indebtedness, whether or not convertible into shares or other securities; lease its property to any corporation; dissolve; or effect any other change authorized by this chapter.

(C) If ~~a plan of reorganization provides for or effects~~ an amendment to the articles is adopted or the merger, consolidation, or dissolution of a corporation is authorized in the manner provided in division (A)(1) of this section, or if a ~~plan~~ decree or order having such a result is modified in respect of ~~such~~ an amendment, merger, consolidation, or dissolution, then a certificate of reorganization or an amended certificate of reorganization, as the case may be, setting forth such portions of the ~~plan of reorganization decree or order~~ or modification thereof as would otherwise be required to be set forth in a certificate of amendment, an agreement of merger or consolidation, or a certificate of dissolution (and, if desired, any other portions thereof) shall be filed in the office of the secretary of state and shall operate to effect ~~such~~ the amendment, merger, consolidation, or dissolution. ~~Such~~ The certificate shall be made, subscribed, and filed as may be directed by ~~such~~ the decrees or orders, or, in the absence of such direction, by the president or a vice-president and the secretary or an assistant secretary. The certificate shall contain a statement that ~~the plan of reorganization provision for making the certificate~~ has been ~~confirmed~~ authorized by the decree or order of the court designated in the certificate or that the ~~plan so confirmed decree or order~~ has been modified by order of ~~such~~ the court, as the case may be.

(D) If a decree or order by the court in a bankruptcy or reorganization

proceeding provides for or effects an amendment to the articles or the merger, consolidation, or dissolution of a corporation, or if after the filing in the office of the secretary of state of a certificate of reorganization; or an amended certificate, a decree or order of court is entered ~~which~~ that has the effect of vacating ~~said~~ the plan, a certified copy of ~~said~~ the decree or order shall be filed by the corporation in the office of the secretary of state.

(E) Nonassenting or dissenting shareholders ~~shall~~ have only such rights as ~~are provided for~~ in the ~~plan of reorganization~~ decree or order.

Sec. 1701.76. (A)(1) Provided the provisions of Chapter 1704. of the Revised Code do not prevent the transaction from being effected, a lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon the terms and conditions and for the consideration, that may consist, in whole or in part, of money or other property of any description, including shares or other securities or promissory obligations of any other corporation, domestic or foreign, that may be authorized as follows:

(a) By the directors, either before or after authorization by the shareholders as required in this section; and

(b) At a meeting of the shareholders held for that purpose, by the affirmative vote of the holders of shares entitling them to exercise two-thirds of the voting power of the corporation on the proposal, or, if the articles so provide or permit, by the affirmative vote of a greater or lesser proportion, but not less than a majority, of the voting power, and by the affirmative vote of the holders of shares of any particular class that is required by the articles.

(2) At the shareholder meeting described in division (A)(1)(b) of this section or at any subsequent shareholder meeting, shareholders, by the same vote that is required to authorize the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets, with or without the good will, of the corporation, may grant authority to the directors to establish or amend any of the terms and conditions of the transaction, except that the shareholders shall not authorize the directors to do any of the following:

(a) Alter or change the amount or kind of shares, securities, money, property, or rights to be received in exchange for the assets;

(b) Alter or change to any material extent the amount or kind of liabilities to be assumed in exchange for the assets;

(c) Alter or change any other terms and conditions of the transaction if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the shareholders or the corporation.

(3) Notice of the meeting of the shareholders described in division

(A)(1)(b) of this section shall be given to all shareholders whether or not entitled to vote at the meeting and shall be accompanied by a copy or summary of the terms of the transaction.

(B) The corporation by its directors may abandon the transaction under this section, subject to the contract rights of other persons, if the power of abandonment is conferred upon the directors either by the terms of the transaction or by the same vote of shareholders and at the same meeting of shareholders as that referred to in division (A)(1)(b) of this section or at any subsequent meeting.

(C) Dissenting holders of shares of any class, whether or not entitled to vote, shall be entitled to relief under section 1701.85 of the Revised Code.

(D) An action to set aside a conveyance by a corporation, on the ground that any section of the Revised Code applicable to the lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets of that corporation has not been complied with, shall be brought within ninety days after that transaction, or the action shall be forever barred.

(E) If a resolution of dissolution is adopted pursuant to section 1701.86 of the Revised Code, the directors may dispose of all, or substantially all, of the corporation's assets without the necessity of a shareholders' authorization under this section.

(F) The terms and conditions of any transaction under this section shall be subject to the limitations specified in section 2307.97 of the Revised Code.

(G) This section does not apply to the distribution, pursuant to section 1701.33 of the Revised Code, to the shareholders of an issuing public corporation of shares owned by the issuing public corporation in one or more of its domestic or foreign subsidiary corporations, unless either of the following applies:

(1) The former subsidiary is a party to one or more agreements pursuant to which it is obligated to engage in an additional transaction that, if the transaction were authorized after the time at which the distribution becomes effective, would require the approval of its shareholders.

(2) Immediately prior to the time at which the distribution becomes effective, the issuing public corporation has more than one class of shares outstanding.

Sec. 1701.782. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic or foreign entity that is not a domestic corporation and is not a nonprofit corporation may be converted into a domestic corporation.

(B)(1) The written declaration of conversion shall set forth all of the

following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, and the jurisdiction of formation of the converting entity;

(b) The articles of the converted corporation;

(c) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists;

(d) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting entity into, or substituting the interests or shares in the converting entity for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted corporation.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted corporation unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code;

(2) A provision authorizing the converting entity to abandon the proposed conversion by action of authorized representatives of the converting entity taken prior to the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting entity at the time of the conversion;

(4) The regulations of the converted corporation;

(5) The identity of the directors of the converted corporation;

(6) The parties to the declaration of conversion in addition to the converting entity;

(7) The stated capital, if any, of each class of shares of the converted corporation to be outstanding at the time that the conversion becomes effective;

(8) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) At any time before the filing of the certificate of conversion

pursuant to section 1701.811 of the Revised Code, the conversion may be abandoned by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

Sec. 1701.792. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic corporation may be converted into a domestic or foreign entity other than a nonprofit corporation or a domestic corporation.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, the form of the converted entity, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of state as the agent of the converted entity to accept service of process in this state to enforce against the converted entity any obligation of the converting corporation or to enforce the rights of a dissenting shareholder of the converting corporation;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or to be licensed under the applicable chapter of the Revised Code.

(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code, if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity;

(e) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting corporation into, or substituting the interests or shares in the converting corporation for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted entity.

(2) No conversion or substitution described in this section shall be

effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion;

(2) A provision authorizing, prior to the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, the converting corporation to abandon the proposed conversion by action of the directors of the converting corporation or by the same vote as was required to adopt the declaration of conversion;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting corporation at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The directors of the domestic converting corporation must approve the declaration of conversion to effect the conversion, and the declaration of conversion must be adopted by the shareholders of the domestic converting corporation, at a meeting held for the purpose.

(E) Notice of each meeting of shareholders of a domestic converting corporation at which a declaration of conversion is to be submitted shall be given to all shareholders of that corporation, whether or not they are entitled to vote, and shall be accompanied by a copy or a summary of the material provisions of the declaration of conversion.

(F) The vote required to adopt a declaration of conversion at a meeting of the shareholders of a domestic converting corporation is the affirmative vote of the holders of shares of that corporation entitling them to exercise at least two-thirds of the voting power of the corporation on the proposal or a different proportion as provided in the articles, but not less than a majority, or, if the conversion is to a foreign corporation, a different proportion as the articles provide for a merger or consolidation, and the affirmative vote of the holders of shares of any particular class as required by the articles of the converting corporation.

If the declaration of conversion would have an effect that, if accomplished through an amendment to the articles, would entitle the holders of shares of any particular class of a domestic converting

corporation to vote as a class on the adoption of an amendment as provided in division (B) of section 1701.71 of the Revised Code, the declaration of conversion also must be adopted by the affirmative vote of the holders of at least two-thirds of the shares of such class, or a different proportion as the articles provide, but not less than a majority. However, if the declaration of conversion would have an effect that, if accomplished through an amendment to the articles, would entitle the holders of shares of any particular class of a domestic converting corporation to vote as a class on the adoption of an amendment pursuant to division (B)(2) or (4) of section 1701.71 of the Revised Code solely because those shares are to be converted into or substituted for the same number of shares of a class of a different corporation having express terms identical in all material respects to those of the class of shares so converted or substituted, the declaration of conversion does not need to be adopted by the affirmative vote of the holders of shares of that particular class voting as a class.

If the declaration of conversion would authorize any particular corporate action that under any applicable provision of law or the articles could be authorized only by or pursuant to a specified vote of shareholders, the declaration of conversion also must be adopted by the same affirmative vote as required for such action.

(G)(1) At any time before the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, the conversion may be abandoned by the directors of the converting corporation, if the directors are authorized to do so by the declaration of conversion, or by the same vote of the shareholders as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing the directors of the converting corporation to amend the declaration of conversion at any time before the filing of the certificate of conversion pursuant to section 1701.811 of the Revised Code, except that, after the adoption of the declaration of conversion by the stockholders of the converting corporation, the directors may not amend the declaration of conversion to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by the shareholders of the converting corporation in conversion of, or substitution for, their shares;

(b) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons, the vote or action of which would be required for the alteration or change after the conversion;

(c) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the holders of any class or series of shares of the converting corporation.

Sec. 1701.802. (A) For purposes of this section, a holding company is a domestic corporation that, from its formation until consummation of a merger governed by this section, was at all times a direct or indirect wholly owned subsidiary of the parent corporation and whose shares are issued in that merger solely to the shareholders of the parent corporation.

(B) Pursuant to an agreement of merger between the constituent corporations as provided in this section and provided that the provisions of Chapter 1704. of the Revised Code do not prevent the merger from being effected, a direct or indirect wholly owned domestic subsidiary may be merged with or into a domestic parent corporation if all of the following apply:

(1) The parent company and the direct or indirect wholly owned subsidiary are the only constituent entities to the merger.

(2) Each share or fraction of a share of the outstanding shares of the parent corporation outstanding immediately prior to the time at which the merger becomes effective is converted in the merger into a share or fraction of a share of a holding company having express terms identical in all material respects to those that were converted in the merger.

(3) The articles and regulations of the holding company immediately following the time at which the merger becomes effective contain provisions identical in all material respects to those contained in the articles and regulations of the parent corporation immediately prior to the time at which the merger becomes effective.

(4) As a result of the merger, the parent corporation becomes a direct or indirect wholly owned subsidiary of the holding company.

(5) The directors of the parent corporation become or remain the directors of the holding company immediately following the time at which the merger becomes effective.

(C) A parent corporation, by action of its board of directors, may adopt a merger described in division (B) of this section without any vote of its shareholders. From and after the effective time of a merger adopted in this manner, all of the following apply:

(1) To the extent the restrictions of Chapter 1704. of the Revised Code applied to the parent corporation and its shareholders at the effective time of the merger, such restrictions apply to the holding company and its shareholders immediately after the effective time of the merger as though it

were the parent corporation. All shares of stock of the holding company acquired in the merger, for purposes of Chapter 1704. of the Revised Code, are deemed to have been acquired at the time that the shares of stock of the parent corporation converted in the merger were acquired, and any shareholder that immediately prior to the effective time of the merger was not an interested shareholder of the parent corporation within the meaning of Chapter 1704. of the Revised Code does not solely by reason of the merger become an interested shareholder of the holding company.

(2) If the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the parent corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the parent corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of the parent corporation.

(3) To the extent a shareholder of the parent corporation immediately prior to the time at which the merger became effective had standing to institute or maintain litigation by or in the right of the parent corporation, nothing in this section shall be deemed to limit or extinguish such standing.

(D) If the agreement of merger is adopted pursuant to division (C) of this section, the secretary or assistant secretary of the parent corporation shall certify on the agreement that the agreement has been adopted pursuant to this section and that the conditions specified in division (B) of this section have been satisfied.

(E) The agreement of merger shall set forth the designation and the number of the outstanding shares of each class of the subsidiary constituent corporation and the number of shares of each such class owned by the surviving corporation. It also shall set forth any statements and matters that are required, and may set forth any provision that is permitted, in a merger under section 1701.78 of the Revised Code.

(F)(1) Except as otherwise provided in division (F)(2) of this section, within twenty days after the approval of the agreement of merger by the directors of each domestic constituent corporation, the surviving corporation shall deliver or send notice of such approval and a copy or summary of the agreement to each shareholder of each domestic constituent corporation, other than the surviving corporation, of record as of the date on which the directors of the surviving corporation approved the agreement. The notice and copy or summary shall be delivered or sent by mail, overnight delivery service, or any other means of communication authorized by the shareholder to whom the notice and copy or summary are sent.

(2) Any corporation that files periodic reports with the United States securities and exchange commission pursuant to section 13 of the "Securities Exchange Act of 1934," 116 Stat. 787, 15 U.S.C. 78m, as amended, or section 15(d) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), as amended, may satisfy the notice requirement of division (F)(1) of this section by including a copy of the agreement of merger in a report filed in accordance with those provisions within twenty days after the approval of the agreement of merger by the directors of the corporation.

(G) The approval of the agreement of merger by the directors of a domestic constituent corporation under this section constitutes adoption by that corporation.

Sec. 1701.81. (A) Upon adoption by each constituent entity of an agreement of merger or consolidation pursuant to section 1701.78, 1701.781, 1701.79, 1701.791, 1701.80, ~~or 1701.801,~~ or 1701.802 of the Revised Code, a certificate of merger or consolidation shall be filed with the secretary of state that is signed by any authorized representative of each constituent corporation, partnership, or other entity. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required by this section.

(B)(1) The certificate of merger or consolidation shall set forth all of the following:

(a) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(b) A statement that each constituent entity has complied with all of the laws under which it exists and that the laws permit the merger or consolidation;

(c) The name and mailing address of the person or entity that is to provide, in response to any written request made by a shareholder, partner, or other equity holder of a constituent entity, a copy of the agreement of merger or consolidation;

(d) The effective date of the merger or consolidation, which date may be on or after the date of the filing of the certificate;

(e) The signature of each representative authorized to sign the certificate on behalf of each constituent entity and the office held or the capacity in which the representative is acting;

(f) A statement that the agreement of merger or consolidation is authorized on behalf of each constituent entity and that each person who signed the certificate on behalf of each entity is authorized to do so;

(g) In the case of a merger, a statement that one or more specified

constituent entities will be merged into a specified surviving entity or, in the case of a consolidation, a statement that the constituent entities will be consolidated into a new entity;

(h) In the case of a merger, if the surviving entity is a foreign entity not licensed to transact business in this state, the name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity may be served;

(i) In the case of a consolidation, the name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity or the new entity may be served.

(2) In the case of a consolidation into a new domestic corporation, limited liability company, or limited partnership, the articles of incorporation, the articles of organization, or the certificate of limited partnership of the new domestic entity shall be filed with the certificate of merger or consolidation.

(3) In the case of a merger into a domestic corporation, limited liability company, or limited partnership, any amendments to the articles of incorporation, articles of organization, or certificate of limited partnership of the surviving domestic entity shall be filed with the certificate of merger or consolidation.

(4) If the surviving or new entity is a foreign entity that desires to transact business in this state as a foreign corporation, limited liability company, or limited partnership, the certificate of merger or consolidation shall be accompanied by the information required by division (B)(8), (9), or (10) of section 1701.791 of the Revised Code.

(5) If a foreign or domestic corporation licensed to transact business in this state is a constituent entity and the surviving or new entity resulting from the merger or consolidation is not a foreign or domestic corporation that is to be licensed to transact business in this state, the certificate of merger or consolidation shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code, with respect to each domestic constituent corporation, and by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code, with respect to each foreign constituent corporation licensed to transact business in this state.

(C) If any constituent entity in a merger or consolidation is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, there also shall be filed in the proper office all documents that are required to be filed in connection with

the merger or consolidation by the laws of that state or by that chapter.

(D) Upon the filing of a certificate of merger or consolidation and other filings as described in division (C) of this section or at such later date as the certificate of merger or consolidation specifies, the merger or consolidation is effective.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (D) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth the name and the form of entity of each constituent entity and the states under the laws of which each constituent entity existed prior to the merger or consolidation, the name and the form of entity of the surviving or new entity and the state under the laws of which the surviving entity exists or the new entity is to exist, the date of filing of the certificate of merger or consolidation with the secretary of state, and the effective date of the merger or consolidation. The certificate of the secretary of state, or a copy of the certificate of merger or consolidation certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For that recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1701.811. (A) Upon the adoption of a declaration of conversion pursuant to section 1701.782 or 1701.792 of the Revised Code, or at a later time as authorized by the declaration of conversion, a certificate of conversion that is signed by an authorized representative of the converting entity shall be filed with the secretary of state. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required by this section.

(B)(1) The certificate of conversion shall set forth all of the following:

(a) The name and the form of entity of the converting entity and the state under the laws of which the converting entity exists;

(b) A statement that the converting entity has complied with all of the laws under which it exists and that the laws permit the conversion;

(c) The name and mailing address of the person or entity that is to provide a copy of the declaration of conversion in response to any written request made by a shareholder, partner, or member of the converting entity;

(d) The effective date of the conversion, which date may be on or after the date of the filing of the certificate pursuant to this section;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of the converting entity and the office held or the capacity in which the representative is acting;

(f) A statement that the declaration of conversion is authorized on behalf

of the converting entity and that each person signing the certificate on behalf of the converting entity is authorized to do so:

(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;

(h) If the converted entity is a foreign entity that will not be licensed in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served.

(2) In the case of a conversion into a new domestic corporation, limited liability company, limited partnership, or other partnership, any organizational document, including a designation of agent, that would be filed upon the creation of the new entity shall be filed with the certificate of conversion.

(3) If the converted entity is a foreign entity that desires to transact business in this state, the certificate of conversion shall be accompanied by the information required by division (B)(8), (9), or (10) of section 1701.791 of the Revised Code.

(4) If a foreign or domestic corporation licensed to transact business in this state is the converting entity, the certificate of conversion shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code with respect to a converting domestic corporation, or by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code with respect to a foreign corporation.

(C) If the converting entity or the converted entity is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, all documents required to be filed in connection with the conversion by the laws of that state or that chapter shall be filed in the proper office.

(D) Upon the filing of a certificate of conversion and other filings required by division (C) of this section or at any later date that the certificate of conversion specifies, the conversion is effective, subject to the limitation that no conversion will be effective if there are reasonable grounds to believe that the conversion would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth all of the following:

(1) The name and form of entity of the converting entity and the state under the laws of which it existed prior to the conversion;

(2) The name and the form of entity of the converted entity and the state

under the laws of which it will exist:

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion.

(F) The certificate of the secretary of state, or a copy of the certificate of conversion certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For the recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1701.821. (A) Upon a conversion becoming effective, all of the following apply:

(1) The converting entity is continued in the converted entity.

(2) The converted entity exists, and the converting entity ceases to exist.

(3) The converted entity possesses both of the following, and both of the following continue in the converted entity without any further act or deed:

(a) Except to the extent limited by the requirements of applicable law, both of the following:

(i) All assets and property of every description of the converting entity and every interest in the assets and property of the converted entity, wherever the assets, property, and interests are located. Title to any real estate or any interest in real estate that was vested in the converting entity does not revert or in any way is impaired by reason of the conversion.

(ii) The rights, privileges, immunities, powers, franchises, and authority, whether of a public or a private nature, of the converting entity.

(b) All obligations belonging or due to the converting entity.

(4) All the rights of creditors of the converting entity are preserved unimpaired, and all liens upon the property of the converting entity are preserved unimpaired. If a general partner of a converting partnership is not a general partner of the entity resulting from the conversion, then the former general partner has no liability for any obligation incurred after the conversion except to the extent that a former creditor of the converting partnership in which the former general partner was a general partner extends credit to the converted entity reasonably believing that the former general partner continues as a general partner of the converted entity.

(B) In the case of a conversion into a foreign corporation, limited liability company, or partnership that is not licensed or registered to transact business in this state, if the converted entity intends to transact business in this state, and the certificate of conversion is accompanied by the information described in division (B)(4) of section 1701.81 of the Revised Code, then on the effective date of the conversion, the converted entity is considered to have complied with the requirements for procuring a license

or for registration to transact business in this state as a foreign corporation, limited liability company, limited partnership, or limited liability partnership as the case may be. In such a case, a copy of the certificate of conversion certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company, foreign limited partnership, or foreign limited liability partnership.

(C) Any action to set aside a conversion on the ground that any section of the Revised Code applicable to the conversion has not been complied with shall be brought within ninety days after the effective date of the conversion or is forever barred.

(D) In the case of a converting or converted entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under which that entity exists or in which it has property.

Sec. 1701.831. (A) Unless the articles ~~of~~, the regulations adopted by the shareholders, or the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code of the issuing public corporation provide that this section does not apply to control share acquisitions of shares of such corporation, any control share acquisition of an issuing public corporation shall be made only with the prior authorization of the shareholders of such corporation in accordance with this section.

(B) Any person who proposes to make a control share acquisition shall deliver an acquiring person statement to the issuing public corporation at the issuing public corporation's principal executive offices. Such acquiring person statement shall set forth all of the following:

- (1) The identity of the acquiring person;
- (2) A statement that the acquiring person statement is given pursuant to this section;
- (3) The number of shares of the issuing public corporation owned, directly or indirectly, by the acquiring person;
- (4) The range of voting power, described in division (Z)(1)(a), (b), or (c) of section 1701.01 of the Revised Code, under which the proposed control share acquisition would, if consummated, fall;
- (5) A description in reasonable detail of the terms of the proposed control share acquisition;
- (6) Representations of the acquiring person, together with a statement in reasonable detail of the facts upon which they are based, that the proposed control share acquisition, if consummated, will not be contrary to law, and that the acquiring person has the financial capacity to make the proposed control share acquisition.

(C)(1) Within ten days after receipt of an acquiring person statement that complies with division (B) of this section, the directors of the issuing public corporation shall call a special meeting of shareholders of the issuing public corporation for the purpose of voting on the proposed control share acquisition. Subject to division (C)(2) of this section, unless the acquiring person and the issuing public corporation agree in writing to another date, such special meeting of shareholders shall be held within fifty days after receipt by the issuing public corporation of the acquiring person statement. If the acquiring person so requests in writing at the time of delivery of the acquiring person statement, such special meetings shall be held no sooner than thirty days after receipt by the issuing public corporation of the acquiring person statement. Subject to division (C)(2) of this section, such special meeting of shareholders shall be held no later than any other special meeting of shareholders that is called, after receipt by the issuing public corporation of the acquiring person statement, in compliance with this section or section 1701.76, 1701.78, 1701.781, 1701.79, 1701.791, 1701.801, or 1701.83 of the Revised Code.

(2) If, in connection with a proposed control share acquisition, the acquiring person changes the percentage of the class of shares being sought, the consideration offered, or the security dealer's soliciting fee; extends the expiration date of a tender offer for the shares being sought; or otherwise changes the terms of the proposed control share acquisition, then the directors of the issuing public corporation may reschedule the special meeting of shareholders required by division (C)(1) of this section. If the proposed control share acquisition is to be made pursuant to a tender offer, then the meeting may be rescheduled to a date that is not later than the expiration date of the offer. If the proposed control share acquisition is to be made other than pursuant to a tender offer, the meeting may be rescheduled to a date that is not later than ten business days after notice of the change is first given to the shareholders.

(D) Notice of the special meeting of shareholders shall be given as promptly as reasonably practicable by the issuing public corporation to all shareholders of record as of the record date set for such meeting, whether or not entitled to vote at the meeting. The notice shall include or be accompanied by both of the following:

(1) A copy of the acquiring person statement delivered to the issuing public corporation pursuant to this section;

(2) A statement by the issuing public corporation, authorized by its directors, of its position or recommendation, or that it is taking no position or making no recommendation, with respect to the proposed control share

acquisition.

(E) The acquiring person may make the proposed control share acquisition if both of the following occur:

(1) The shareholders of the issuing public corporation who hold shares as of the record date of such corporation entitling them to vote in the election of directors authorize the acquisition at the special meeting held for that purpose at which a quorum is present by an affirmative vote of a majority of the voting power of such corporation in the election of directors represented at the meeting in person or by proxy, and a majority of the portion of the voting power excluding the voting power of interested shares represented at the meeting in person or by proxy. A quorum shall be deemed to be present at the special meeting if at least a majority of the voting power of the issuing public corporation in the election of directors is represented at the meeting in person or by proxy.

(2) The acquisition is consummated, in accordance with the terms so authorized, no later than three hundred sixty days following shareholder authorization of the control share acquisition.

(F) Except as expressly provided in this section, nothing in this section shall be construed to affect or impair any right, remedy, obligation, duty, power, or authority of any acquiring person, any issuing public corporation, the directors of any acquiring person or issuing public corporation, or any other person under the laws of this or any other state or of the United States.

(G) If any application of any provision of this section is for any reason held to be illegal or invalid, the illegality or invalidity shall not affect any legal and valid provision or application of this section, and the parts and applications of this section are severable.

Sec. 1701.84. The following are entitled to relief as dissenting shareholders under section 1701.85 of the Revised Code:

(A) Shareholders of a domestic corporation that is being merged or consolidated into a surviving or new entity, domestic or foreign, pursuant to section 1701.78, 1701.781, 1701.79, 1701.791, or 1701.801 of the Revised Code;

(B) In the case of a merger into a domestic corporation, shareholders of the surviving corporation who under section 1701.78 or 1701.781 of the Revised Code are entitled to vote on the adoption of an agreement of merger, but only as to the shares so entitling them to vote;

(C) Shareholders, other than the parent corporation, of a domestic subsidiary corporation that is being merged into the domestic or foreign parent corporation pursuant to section 1701.80 of the Revised Code;

(D) In the case of a combination or a majority share acquisition,

shareholders of the acquiring corporation who under section 1701.83 of the Revised Code are entitled to vote on such transaction, but only as to the shares so entitling them to vote;

(E) Shareholders of a domestic subsidiary corporation into which one or more domestic or foreign corporations are being merged pursuant to section 1701.801 of the Revised Code;

(F) Shareholders of a domestic corporation that is being converted pursuant to section 1701.792 of the Revised Code.

Sec. 1701.85. (A)(1) A shareholder of a domestic corporation is entitled to relief as a dissenting shareholder in respect of the proposals described in sections 1701.74, 1701.76, and 1701.84 of the Revised Code, only in compliance with this section.

(2) If the proposal must be submitted to the shareholders of the corporation involved, the dissenting shareholder shall be a record holder of the shares of the corporation as to which ~~he~~ the dissenting shareholder seeks relief as of the date fixed for the determination of shareholders entitled to notice of a meeting of the shareholders at which the proposal is to be submitted, and such shares shall not have been voted in favor of the proposal. Not later than ten days after the date on which the vote on the proposal was taken at the meeting of the shareholders, the dissenting shareholder shall deliver to the corporation a written demand for payment to ~~him~~ the dissenting shareholder of the fair cash value of the shares as to which ~~he~~ the dissenting shareholder seeks relief, which demand shall state ~~his~~ the dissenting shareholder's address, the number and class of such shares, and the amount claimed by ~~him~~ the dissenting shareholder as the fair cash value of the shares.

(3) The dissenting shareholder entitled to relief under division (C) of section 1701.84 of the Revised Code in the case of a merger pursuant to section 1701.80 of the Revised Code and a dissenting shareholder entitled to relief under division (E) of section 1701.84 of the Revised Code in the case of a merger pursuant to section 1701.801 of the Revised Code shall be a record holder of the shares of the corporation as to which ~~he~~ the dissenting shareholder seeks relief as of the date on which the agreement of merger was adopted by the directors of that corporation. Within twenty days after ~~he~~ the dissenting shareholder has been sent the notice provided in section 1701.80 or 1701.801 of the Revised Code, the dissenting shareholder shall deliver to the corporation a written demand for payment with the same information as that provided for in division (A)(2) of this section.

(4) In the case of a merger or consolidation, a demand served on the constituent corporation involved constitutes service on the surviving or the

new entity, whether the demand is served before, on, or after the effective date of the merger or consolidation. In the case of a conversion, a demand served on the converting corporation constitutes service on the converted entity, whether the demand is served before, on, or after the effective date of the conversion.

(5) If the corporation sends to the dissenting shareholder, at the address specified in ~~his~~ the dissenting shareholder's demand, a request for the certificates representing the shares as to which ~~he~~ the dissenting shareholder seeks relief, the dissenting shareholder, within fifteen days from the date of the sending of such request, shall deliver to the corporation the certificates requested so that the corporation may ~~forthwith~~ endorse on them a legend to the effect that demand for the fair cash value of such shares has been made. The corporation promptly shall return ~~such~~ the endorsed certificates to the dissenting shareholder. A dissenting shareholder's failure to deliver ~~such~~ the certificates terminates ~~his~~ the dissenting shareholder's rights as a dissenting shareholder, at the option of the corporation, exercised by written notice sent to the dissenting shareholder within twenty days after the lapse of the fifteen-day period, unless a court for good cause shown otherwise directs. If shares represented by a certificate on which such a legend has been endorsed are transferred, each new certificate issued for them shall bear a similar legend, together with the name of the original dissenting holder of ~~such~~ the shares. Upon receiving a demand for payment from a dissenting shareholder who is the record holder of uncertificated securities, the corporation shall make an appropriate notation of the demand for payment in its shareholder records. If uncertificated shares for which payment has been demanded are to be transferred, any new certificate issued for the shares shall bear the legend required for certificated securities as provided in this paragraph. A transferee of the shares so endorsed, or of uncertificated securities where such notation has been made, acquires only ~~such~~ the rights in the corporation as the original dissenting holder of such shares had immediately after the service of a demand for payment of the fair cash value of the shares. A request under this paragraph by the corporation is not an admission by the corporation that the shareholder is entitled to relief under this section.

(B) Unless the corporation and the dissenting shareholder have come to an agreement on the fair cash value per share of the shares as to which the dissenting shareholder seeks relief, the dissenting shareholder or the corporation, which in case of a merger or consolidation may be the surviving or new entity, or in the case of a conversion may be the converted entity, within three months after the service of the demand by the dissenting

shareholder, may file a complaint in the court of common pleas of the county in which the principal office of the corporation that issued the shares is located or was located when the proposal was adopted by the shareholders of the corporation, or, if the proposal was not required to be submitted to the shareholders, was approved by the directors. Other dissenting shareholders, within that three-month period, may join as plaintiffs or may be joined as defendants in any such proceeding, and any two or more such proceedings may be consolidated. The complaint shall contain a brief statement of the facts, including the vote and the facts entitling the dissenting shareholder to the relief demanded. No answer to ~~such~~ a complaint is required. Upon the filing of ~~such~~ a complaint, the court, on motion of the petitioner, shall enter an order fixing a date for a hearing on the complaint and requiring that a copy of the complaint and a notice of the filing and of the date for hearing be given to the respondent or defendant in the manner in which summons is required to be served or substituted service is required to be made in other cases. On the day fixed for the hearing on the complaint or any adjournment of it, the court shall determine from the complaint and from ~~such~~ evidence ~~as is~~ submitted by either party whether the dissenting shareholder is entitled to be paid the fair cash value of any shares and, if so, the number and class of such shares. If the court finds that the dissenting shareholder is so entitled, the court may appoint one or more persons as appraisers to receive evidence and to recommend a decision on the amount of the fair cash value. The appraisers have ~~such~~ power and authority ~~as is~~ specified in the order of their appointment. The court thereupon shall make a finding as to the fair cash value of a share and shall render judgment against the corporation for the payment of it, with interest at ~~such~~ a rate and from ~~such~~ a date as the court considers equitable. The costs of the proceeding, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable. The proceeding is a special proceeding and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. If, during the pendency of any proceeding instituted under this section, a suit or proceeding is or has been instituted to enjoin or otherwise to prevent the carrying out of the action as to which the shareholder has dissented, the proceeding instituted under this section shall be stayed until the final determination of the other suit or proceeding. Unless any provision in division (D) of this section is applicable, the fair cash value of the shares that is agreed upon by the parties or fixed under this section shall be paid within thirty days after the date of final determination of such value under

this division, the effective date of the amendment to the articles, or the consummation of the other action involved, whichever occurs last. Upon the occurrence of the last such event, payment shall be made immediately to a holder of uncertificated securities entitled to ~~such~~ payment. In the case of holders of shares represented by certificates, payment shall be made only upon and simultaneously with the surrender to the corporation of the certificates representing the shares for which the payment is made.

(C) If the proposal was required to be submitted to the shareholders of the corporation, fair cash value as to those shareholders shall be determined as of the day prior to the day on which the vote by the shareholders was taken and, in the case of a merger pursuant to section 1701.80 or 1701.801 of the Revised Code, fair cash value as to shareholders of a constituent subsidiary corporation shall be determined as of the day before the adoption of the agreement of merger by the directors of the particular subsidiary corporation. The fair cash value of a share for the purposes of this section is the amount that a willing seller who is under no compulsion to sell would be willing to accept and that a willing buyer who is under no compulsion to purchase would be willing to pay, but in no event shall the fair cash value of a share exceed the amount specified in the demand of the particular shareholder. In computing ~~such~~ fair cash value, any appreciation or depreciation in market value resulting from the proposal submitted to the directors or to the shareholders shall be excluded.

(D)(1) The right and obligation of a dissenting shareholder to receive ~~such~~ fair cash value and to sell such shares as to which ~~he~~ the dissenting shareholder seeks relief, and the right and obligation of the corporation to purchase such shares and to pay the fair cash value of them terminates if any of the following applies:

(a) The dissenting shareholder has not complied with this section, unless the corporation by its directors waives such failure;

(b) The corporation abandons the action involved or is finally enjoined or prevented from carrying it out, or the shareholders rescind their adoption of the action involved;

(c) The dissenting shareholder withdraws ~~his~~ the dissenting shareholder's demand, with the consent of the corporation by its directors;

(d) The corporation and the dissenting shareholder have not come to an agreement as to the fair cash value per share, and neither the shareholder nor the corporation has filed or joined in a complaint under division (B) of this section within the period provided in that division.

(2) For purposes of division (D)(1) of this section, if the merger ~~or~~, consolidation, or conversion has become effective and the surviving ~~or~~, new,

or converted entity is not a corporation, action required to be taken by the directors of the corporation shall be taken by the ~~general~~ partners of a surviving ~~or~~, new, or converted partnership or the comparable representatives of any other surviving ~~or~~, new, or converted entity.

(E) From the time of the dissenting shareholder's giving of the demand until either the termination of the rights and obligations arising from it or the purchase of the shares by the corporation, all other rights accruing from such shares, including voting and dividend or distribution rights, are suspended. If during the suspension, any dividend or distribution is paid in money upon shares of such class or any dividend, distribution, or interest is paid in money upon any securities issued in extinguishment of or in substitution for such shares, an amount equal to the dividend, distribution, or interest which, except for the suspension, would have been payable upon such shares or securities, shall be paid to the holder of record as a credit upon the fair cash value of the shares. If the right to receive fair cash value is terminated other than by the purchase of the shares by the corporation, all rights of the holder shall be restored and all distributions which, except for the suspension, would have been made shall be made to the holder of record of the shares at the time of termination.

Sec. 1701.92. (A) A copy of the articles or amended articles filed in the office of the secretary of state, certified by the secretary of state, shall be conclusive evidence, except as against the state, that the corporation has been incorporated under the laws of this state; ~~and a.~~ A copy duly certified by the secretary of state of any certificate of amendment or other certificate filed in ~~his~~ the secretary of state's office shall be prima-facie evidence of ~~such~~ the amendment or of the facts stated in any such certificate; and of the observance and performance of all antecedent conditions necessary to the action which such certificate purports to evidence.

(B) A copy of amended articles filed in the office of the secretary of state, certified by the secretary of state, shall be accepted in this state and other jurisdictions in lieu of the original articles, amendments thereto, and prior amended articles.

(C) The original or a copy of the record of minutes of the proceedings of the incorporators of a corporation, or of the proceedings or meetings of the shareholders or any class of shareholders, or of the directors, or of any committee thereof, including any written consent, waiver, release, or agreement entered in ~~such~~ the record ~~or~~ of minutes, or the original or a copy of a statement that no specified proceeding was had or that no specified consent, waiver, release, or agreement exists, shall, when certified to be true by the secretary or an assistant secretary of a corporation, be received in the

courts as prima-facie evidence of the facts stated therein. Every meeting referred to in ~~such the~~ certified original or copy shall be deemed duly called and held, ~~and~~ all motions and resolutions adopted and proceedings had at such meeting shall be deemed duly adopted and had, and all elections of directors and all elections or appointments of officers chosen at such meeting shall be deemed valid, until the contrary is proved; ~~and whenever~~. Whenever a person who is not a shareholder of a corporation has acted in good faith in reliance upon any ~~such~~ certified original or copy, it is conclusive in ~~his the person's~~ favor.

(D) A certificate issued by the secretary of state confirming that a corporation is in good standing, as defined in division (E) of this section, is, for seven days after the date on the certificate, conclusive evidence of both of the following:

(1) The authority of a domestic corporation has not been limited as described in section 1701.88 or 1701.91 of the Revised Code, provided that both of the following apply:

(a) The person relying on the certificate had no knowledge that the corporation's articles had been canceled.

(b) The certificate is not presented as evidence against the state.

(2) The license authorizing a foreign corporation to transact business in this state has not expired, been cancelled, or been surrendered.

(E) For purposes of division (D) of this section, "good standing" means that the authority of the corporation to carry on business is not limited by section 1701.88 of the Revised Code.

Sec. 1701.921. (A) Absent an express agreement to the contrary, a person providing goods to or performing services for a domestic or foreign corporation owes no duty to, incurs no liability or obligation to, and is not in privity with the shareholders or creditors of the corporation by reason of providing goods to or performing services for the corporation.

(B) Absent an express agreement to the contrary, a person providing goods to or performing services for a shareholder or group of shareholders of a domestic or foreign corporation owes no duty to, incurs no liability or obligation to, and is not in privity with the corporation, any other shareholders of the corporation, or the creditors of the corporation by reason of providing goods to or performing services for the shareholder or group of shareholders.

Sec. 1704.02. An issuing public corporation shall not engage in a Chapter 1704. transaction for three years after an interested shareholder's share acquisition date unless either of the following applies:

(A) Prior to the interested shareholder's share acquisition date, the

directors of the issuing public corporation have approved, for the purposes of this chapter, the Chapter 1704. transaction or the purchase of shares by the interested shareholder on the interested shareholder's share acquisition date;

(B) Any of the provisions of section 1704.05 of the Revised Code makes this chapter inapplicable, except that if the Chapter 1704. transaction is of a type described in section 1701.76, 1701.78, 1701.79, 1701.80, 1701.801, 1701.802, or 1701.86 of the Revised Code, there also must be compliance with the provisions of that section.

Sec. 1704.03. (A) At any time after the three-year period described in section 1704.02 of the Revised Code, the issuing public corporation may engage in a Chapter 1704. transaction, provided that if the Chapter 1704. transaction is of a type described in section 1701.76, 1701.78, 1701.79, 1701.80, 1701.801, 1701.802, or 1701.86 of the Revised Code, there is compliance with the provisions of that section, and provided that at least one of the following is satisfied:

(1) Any of the provisions of section 1704.05 of the Revised Code makes this chapter inapplicable;

(2) Prior to the interested shareholder's share acquisition date, the directors of the issuing public corporation had approved the purchase of shares by the interested shareholder on the interested shareholder's share acquisition date;

(3) The Chapter 1704. transaction is approved, at a meeting held for that purpose, by the affirmative vote of the holders of shares of the issuing public corporation entitling them to exercise at least two-thirds of the voting power of the issuing public corporation in the election of directors, or of such different proportion as the articles may provide, provided the Chapter 1704. transaction also is ~~also~~ approved by the affirmative vote of the holders of at least a majority of the disinterested shares;

(4) The Chapter 1704. transaction meets both of the following conditions:

(a) It results in the receipt per share by the holders of all outstanding shares of the issuing public corporation not beneficially owned by the interested shareholder of an amount of cash that, when added to the fair market value, as of the consummation date of the Chapter 1704. transaction, of noncash consideration, aggregates at least the higher of the following:

(i) The figure determined under division (B)(1) of this section;

(ii) The preferential amount per share, if any, to which holders of shares of that class or series of shares are entitled upon voluntary or involuntary dissolution of the issuing public corporation, plus the aggregate amount per

share of dividends declared or due that those holders are entitled to receive before payment of dividends on another class or series of shares, unless the aggregate amount per share of those dividends is included in the preferential amount.

(b) The form of consideration to be received by holders of each particular class or series of outstanding shares of the issuing public corporation in the Chapter 1704. transaction, apart from any portion that is interest, is in cash or, if the interested shareholder previously purchased shares of that class or series, is in the same form the interested shareholder previously paid to acquire the largest number of shares of that class or series, but in no event shall the fair market value of the consideration received by a holder of a share of a particular class or series of outstanding shares in the Chapter 1704. transaction be less than the current fair market value of a share of the issuing public corporation of the same class or series.

(B)(1) For purposes of making a determination under division (A)(4)(a) of this section, the figure to be used in division (A)(4)(a)(i) of this section shall be the highest, after taking into account interest to the extent provided in division (B)(2) of this section, of the following:

(a) The fair market value per share on the announcement date of the Chapter 1704. transaction;

(b) The fair market value per share on the interested shareholder's share acquisition date;

(c) The highest price per share paid, including brokerage commissions, transfer taxes, and soliciting dealers' fees, by the interested shareholder, or by an affiliate or associate of the interested shareholder, for shares of the same class or series within the three years immediately before and including the announcement date of the Chapter 1704. transaction;

(d) The highest price per share paid, including brokerage commissions, transfer taxes, and soliciting dealers' fees, by the interested shareholder, or by an affiliate or associate of the interested shareholder, for shares of the same class or series within the three years immediately before and including the interested shareholder's share acquisition date.

(2) Each determination under division (B)(1)(a), (b), (c), or (d) of this section shall include interest compounded annually from the earliest date as of which the per share fair market value was determined or on which that highest per share purchase price was paid through the consummation date of the Chapter 1704. transaction, at the rate of interest paid on one-year United States treasury obligations from time to time in effect, less the aggregate amount of any cash and the fair market value, as of the payment date, of any noncash dividends or other distributions paid per share since that date, up to

the amount of the interest.

Sec. 1705.09. (A) The contributions of a member may be made in cash, property, services rendered, a promissory note, or any other binding obligation to contribute cash or property or to perform services; by providing any other benefit to the limited liability company; or by any combination of these.

(B) A promise by a member to contribute to the limited liability company is not enforceable unless it is set forth in a writing signed by the member.

(C) Except as otherwise provided in the operating agreement, a member is obligated to the limited liability company to perform any enforceable promise to contribute cash or other property or to perform services, even if ~~he~~ the member is unable to perform the promise because of death, disability, or another reason. If a member fails to make a required contribution of property or services, then, at the option of the limited liability company, the member is obligated to contribute cash equal to the portion of the value as stated in the records required to be kept under section 1705.28 of the Revised Code of the stated contribution that ~~he~~ the member has failed to make. This right of the company is in addition to and not in lieu of any other rights, including, but not limited to, the right to specific performance, that the company may have against the member under the operating agreement or applicable law.

(D) Unless otherwise provided in the operating agreement, the obligation of a member to make a contribution or to return money or other property paid or distributed in violation of this chapter may be compromised only by the consent of all of the members.

Sec. 1705.19. If any judgment creditor of a member of a limited liability company applies to a court of common pleas to charge the membership interest of the member with payment of the unsatisfied amount of the judgment with interest, the court may so charge the membership interest. To the extent the membership interest is so charged, the judgment creditor has only the rights of an assignee of the membership interest. Nothing in this chapter deprives a member of ~~his~~ the member's statutory exemption.

Sec. 1705.361. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic or foreign entity other than a domestic limited liability company may be converted into a domestic limited liability company. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converting entity exists.

(B)(1) The written declaration of conversion shall set forth all of the

following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, and the jurisdiction of formation of the converting entity;

(b) The articles of organization of the converted domestic limited liability company;

(c) The operating agreement of the converted domestic limited liability company or a provision that a written agreement of the converting entity, a copy of which is attached to the declaration of conversion, with any amendments set forth in the declaration of conversion, will be the operating agreement of the converted entity;

(d) If management of the converted entity is not reserved to its members, the names of the managers of the converted entity;

(e) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists;

(f) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting entity into, or substituting the interests or shares in the converting entity for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted company.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted company unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code;

(2) A provision authorizing the converting entity to abandon the proposed conversion by action of authorized representatives of the converting entity taken prior to the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting entity at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) At any time before the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code, the conversion may be abandoned by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

Sec. 1705.371. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic limited liability company may be converted into a domestic or foreign entity other than a domestic limited liability company. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converted entity will exist.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name of the domestic limited liability company that is being converted, the name of the entity into which the entity will be converted, the form of the converted entity, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of state as the agent of the converted entity to accept service of process in this state to enforce against the converted entity any obligation of the converting company or to enforce the rights of a dissenting member of the converting company;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or be licensed under the applicable chapter of the Revised Code.

(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity;

(e) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the

converting company into, or substituting the interests in the converting company for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted entity.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code;

(2) A provision authorizing the converting company to abandon the proposed conversion by action of the members or managers of the converting company taken prior to the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting company at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting company;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The members of the converting domestic limited liability company and, if management is not reserved to its members, the managers of the converting entity must adopt the declaration of conversion in order to effect the conversion.

(E)(1) All members, whether or not they are entitled to vote or act, shall be given written notice of any meeting of members or of any proposed action by members, which meeting or action is to adopt a declaration of conversion. The notice shall be given to the members either as provided in writing in the operating agreement or by mail at the members' addresses as they appear on the records of the company, or in person. Unless the operating agreement provides a shorter or longer period, notice described in division (E)(1) of this section shall be given not less than seven and not more than sixty days before the meeting or the effective date of the action.

(2) The notice described in division (E)(1) of this section shall be accompanied by a copy or a summary of the material provisions of the

declaration of conversion.

(F) The unanimous vote or action by the members of a converting company, or a different number or proportion as provided in writing in the operating agreement, is required to adopt a declaration of conversion.

If the declaration of conversion would have an effect or authorize any action that under any applicable provision of law or the operating agreement could be effected or authorized only by or pursuant to a specified vote or action of the members, or of any class or group of members, the declaration of conversion also must be adopted or approved by the same vote or action as would be required to effect that change or to authorize that action.

(G)(1) At any time before the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code, the conversion may be abandoned by all of the members of the converting company or by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing less than all of the members to amend the declaration of conversion at any time before the filing of the certificate of conversion pursuant to section 1705.381 of the Revised Code, except that, after the adoption of the declaration of conversion by the members, less than all of the members are not authorized to amend the declaration of conversion to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash rights, or any other property to be received by the members of the converting company in conversion of, or substitution for, their interests;

(b) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons the vote or action of which would be required for the alteration or change after the conversion;

(c) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the members or any class or group of members of the converting company.

Sec. 1705.381. (A) Upon the adoption of a declaration of conversion pursuant to section 1705.361 or 1705.371 of the Revised Code, or at a later time as authorized by the declaration of conversion, a certificate of conversion that is signed by an authorized representative of the converting entity shall be filed with the secretary of state. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the

information required by this section.

(B)(1) The certificate of conversion shall set forth all of the following:

(a) The name and the form of entity of the converting entity and the state under the laws of which the converting entity exists;

(b) A statement that the converting entity has complied with all of the laws under which it exists and that those laws permit the conversion;

(c) The name and mailing address of the person or entity that is to provide a copy of the declaration of conversion in response to any written request made by a shareholder, partner, or member of the converting entity;

(d) The effective date of the conversion, which date may be on or after the date of the filing of the certificate pursuant to this section;

(e) The signature and title of the representative or representatives authorized to sign the certificate on behalf of the converting entity;

(f) A statement that the declaration of conversion is authorized on behalf of the converting entity and that each person signing the certificate on behalf of the converting entity is authorized to do so;

(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;

(h) If the converted entity is a foreign entity that will not be licensed in this state, the name and address of the statutory agent upon whom any process, notice or demand may be served.

(2) In the case of a conversion into a new domestic corporation, limited liability company, limited partnership, or other partnership, any organizational document that would be filed upon the creation of the converted entity shall be filed with the certificate of conversion.

(3) If the converted entity is a foreign entity that desires to transact business in this state, the certificate of conversion shall be accompanied by the information required by division (B)(8), (9), or (10) of section 1705.37 of the Revised Code.

(4) If a foreign or domestic corporation licensed to transact business in this state is the converting entity, the certificate of conversion shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code with respect to a converting domestic corporation or by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code with respect to a foreign corporation.

(C) If the converting entity or the converted entity is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, all documents required to be filed in connection with the conversion by the laws of that state or that chapter

shall be filed in the proper office.

(D) Upon the filing of a certificate of conversion and other filings required by division (C) of this section or at any later date that the certificate of conversion specifies, the conversion is effective, subject to the limitation that no conversion will be effective if there are reasonable grounds to believe that the conversion would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth all of the following:

(1) The name and form of entity of the converting entity and the state under the laws of which it existed prior to the conversion;

(2) The name and the form of entity of the converted entity and the state under the law of which it will exist;

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion.

(F) The certificate of the secretary of state, or a copy of the certificate of conversion certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For the recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1705.391. (A) Upon a conversion becoming effective, all of the following apply:

(1) The converting entity is continued in the converted entity.

(2) The converted entity exists, and the converting entity ceases to exist.

(3) The converted entity possesses both of the following, and both of the following continue in the converted entity without any further act or deed:

(a) Except to the extent limited by the requirements of applicable law, both of the following:

(i) All assets and property of every description of the converting entity and every interest in the assets and property of the converting entity, wherever the assets, property, and interests are located. Title to any real estate or any interest in real estate that was vested in the converting entity does not revert or in any way is impaired by reason of the conversion.

(ii) The rights, privileges, immunities, powers, franchises, and authority, whether of a public or a private nature, of the converting entity.

(b) All obligations belonging or due to the converting entity.

(4) All the rights of creditors of the converting entity are preserved unimpaired, and all liens upon the property of the converting entity are preserved unimpaired. If a general partner of a converting partnership is not

a general partner of the entity resulting from the conversion, then the former general partner has no liability for any obligation incurred after the conversion except to the extent that a former creditor of the converting partnership in which the former general partner was a general partner extends credit to the converted entity reasonably believing that the former general partner continues as a general partner of the converted entity.

(B) In the case of a conversion into a foreign corporation, limited liability company, or partnership that is not licensed or registered to transact business in this state, if the converted entity intends to transact business in this state, and the certificate of conversion is accompanied by the information described in division (B)(4) of section 1705.38 of the Revised Code, then on the effective date of the conversion, the converted entity is considered to have complied with the requirements for procuring a license or for registration to transact business in this state as a foreign corporation, limited liability company, limited partnership, or limited liability partnership as the case may be. In such a case, a copy of the certificate of conversion certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company, foreign limited partnership, or foreign limited liability partnership.

(C) Any action to set aside any conversion on the ground that any section of the Revised Code applicable to the conversion has not been complied with shall be brought within ninety days after the effective date of the conversion or is forever barred.

(D) In the case of a converting or converted entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under which that entity exists or in which it has property.

Sec. 1705.40. Unless otherwise provided in writing in the operating agreement of a constituent domestic limited liability company, the following are entitled to relief as dissenting members as provided in section 1705.41 of the Revised Code:

(A) Members of a domestic limited liability company that is being merged or consolidated into a surviving or new domestic or foreign entity pursuant to section 1705.36 or 1705.37 of the Revised Code;

(B) In the case of a merger into a domestic limited liability company, members of the surviving domestic limited liability company who, under section 1705.36 of the Revised Code, are entitled to vote or act on the adoption or approval of the agreement of merger, but only as to the membership interests entitling them to so vote or act;

(C) Members of a domestic limited liability company that is being

converted pursuant to section 1705.371 of the Revised Code.

Sec. 1705.41. (A) A member of a domestic limited liability company is entitled to relief as a dissenting member as described in section 1705.40 of the Revised Code only in compliance with this section.

(B) If a proposal of merger or consolidation proposal, or conversion is to be submitted to the members of a domestic limited liability company at a meeting, a dissenting member must be a member and a record holder of the membership interests as to which ~~he~~ the dissenting member seeks relief as of the date fixed for the determination of members entitled to notice of the meeting, and those membership interests must not have been voted in favor of the proposal. Not later than ten days after the date on which the vote on the proposal was taken at the meeting of the members, the dissenting member shall deliver to the company a written demand for payment to ~~him~~ the dissenting member of the fair cash value of the membership interests as to which ~~he~~ the dissenting member seeks relief. The demand shall state the address of the dissenting member, the number and class of the membership interests, and the amount claimed by the dissenting member as the fair cash value of the membership interests.

(C) If the proposal of merger or consolidation proposal, or conversion is to be submitted to the members of a domestic limited liability company for their written approval or other action without a meeting, a dissenting member must be a member and a record holder of the membership interests as to which ~~he~~ the dissenting member seeks relief as of the date that the written request for approval or other action is sent to the members entitled to act or otherwise approve the proposal, and the dissenting member must not have indicated ~~his~~ the dissenting member's approval of the proposal in ~~his~~ the dissenting member's capacity as record holder of the membership interests. Not later than fifteen days after the date on which the request for approval or other action was mailed to the members, the dissenting member shall deliver to the company a written demand for payment to ~~him~~ the dissenting member of the fair cash value of the membership interests as to which ~~he~~ the dissenting member seeks relief. The demand shall state the address of the dissenting member, the number and class of the membership interests, and the amount claimed by the dissenting member as the fair cash value of the membership interests.

(D) A written demand for payment of the fair cash value of membership interests that is served on a domestic limited liability company under this section constitutes service on the surviving or new entity resulting from the merger or consolidation or on the entity resulting from a conversion, whether the demand is served before, on, or after the effective date of the

merger ~~or~~, consolidation, or conversion.

(E)(1) If the membership interests as to which a dissenting member seeks relief are represented by certificates and if the domestic limited liability company sends to the dissenting member at the address specified in ~~his~~ the dissenting member's demand for payment of the fair cash value of those interests a request for the certificates representing those interests, the dissenting member shall deliver the requested certificates to the company within fifteen days from the date on which the request is sent to ~~him~~ the dissenting member so that the company may endorse a legend on the certificates to the effect that a demand for the fair cash value of those membership interests has been made. The company promptly shall return the endorsed certificates to the dissenting member.

At the option of the company, the failure of the dissenting member to deliver the certificates as described in this division shall terminate ~~his~~ the dissenting member's rights as a dissenting member. If exercised, the option shall be exercised by a written notice sent to the dissenting member within twenty days after the lapse of the fifteen-day period described in this division, unless a court for good cause shown otherwise directs.

If membership interests represented by a certificate on which a legend has been endorsed under this division are transferred, each new certificate issued for the membership interests shall bear a similar legend and the name of the original dissenting holder of the membership interests.

(2) Upon receiving from a dissenting member a demand for payment of the fair cash value of membership interests that are not represented by a certificate, a domestic limited liability company shall make an appropriate notation of the demand in its records. If uncertificated membership interests for which payment has been demanded are to be transferred, any writing sent to evidence the transfer shall bear the legend required for certificated membership interests as described in division (E)(1) of this section.

(3) A transferee of membership interests who receives a certificate endorsed with a legend as described in division (E)(1) of this section and a transferee of uncertificated membership interests with respect to which a notation has been made as described in division (E)(2) of this section acquires only the rights in the domestic limited liability company that the original dissenting member had immediately after the serving of the demand for payment of the fair cash value of the membership interests.

(4) A request for certificates under division (E)(1) of this section by a domestic limited liability company is not an admission by it that the member is entitled to relief under this section.

(F) Unless the operating agreement of the domestic limited liability

company in which the dissenting member was a member provides a reasonable basis for determining and paying the fair cash value of the membership interests as to which the dissenting member seeks relief or unless that company and the dissenting member have come to an agreement on the fair cash value of those interests, within three months after the service of the demand for payment of the fair cash value of those interests, the dissenting member, that company, or the surviving or new entity may file a complaint under section 1705.42 of the Revised Code.

The complaint shall be filed in the court of common pleas of the county in which the principal office of the limited liability company that issued the membership interest is located or was located when the proposal for merger ~~or~~ consolidation, or conversion was adopted or approved by the members of that company. Within three months after the service of the demand for payment of the fair cash value of the membership interests of the dissenting member, other dissenting members may join as plaintiffs or may be joined as defendants in the proceeding described in section 1705.42 of the Revised Code, and any two or more proceedings commenced by dissenting members may be consolidated.

(G) The right of a dissenting member to receive the fair cash value for the membership interests as to which ~~he~~ the dissenting member seeks relief, the obligation of the dissenting member to sell those interests, the right of the domestic limited liability company to purchase those interests, and the obligation of the company to pay the fair cash value for those interests terminate if any of the following applies:

(1) Unless the company waives the failure, the dissenting member fails to comply with this section.

(2) The company abandons the merger ~~or~~ consolidation, or conversion or is finally enjoined or prevented from carrying it out, or the members rescind their adoption or approval of the merger ~~or~~ consolidation, or conversion.

(3) The dissenting member withdraws ~~his~~ the dissenting member's demand for payment of the fair cash value of the membership interests with the consent of the company.

(4) All of the following apply:

(a) The operating agreement of the domestic limited liability company in which the dissenting member was a member does not provide a reasonable basis for determining and paying the dissenting member the fair cash value of ~~his~~ the dissenting member's membership interests.

(b) The company and the dissenting member have not agreed upon the fair cash value of the membership interests.

(c) Neither the dissenting member nor the company has filed, joined, or been joined in a complaint under division (F) of this section within the three-month period provided in that division.

(H) Unless otherwise provided in the operating agreement of the domestic limited liability company in which the dissenting member was a member, from the time that the dissenting member delivers the demand for payment of the fair cash value of the membership interests as to which ~~he~~ the dissenting member seeks relief until the termination of the rights and obligations arising from that demand or the purchase of those interests by the company, all other rights accruing from those interests, including voting or distribution rights, are suspended. If, during the suspension, any distribution is paid in money upon membership interests of the class of those interests or any dividend, distribution, or interest is paid in money upon any securities issued in extinguishment of or in substitution for those interests, an amount equal to the dividend, distribution, or interest that, except for the suspension, would have been payable upon those interests or those securities shall be paid to the record holder of those interests or securities as a credit upon the fair cash value of those interests. If the right to receive the fair cash value of those interests is terminated other than by the purchase of those interests by the company, all rights of the dissenting member shall be restored and all distributions that, except for the suspension, would have been made shall be made to the record holder of those interests at the time of termination.

Sec. 1705.42. (A)(1) When authorized by division (F) of section 1705.41 of the Revised Code, a dissenting member of a domestic limited liability company may file a complaint for the relief described in this section. The complaint shall contain a brief statement of the relevant facts, including the vote or action by the members of that company pertaining to the merger ~~or~~, consolidation, or conversion and the facts entitling the dissenting member to the relief described in this section, and a demand for that relief. When authorized by division (F) of section 1705.41 of the Revised Code, the company, or a surviving or new entity or converted entity, also may file a complaint under this section. Notwithstanding the Rules of Civil Procedure, no answer to a complaint filed under this section is required.

(2) Upon the filing of the complaint and upon motion of the complainant, the court shall enter an order that fixes a date for a hearing on the complaint and that requires the service of a copy of the complaint and a notice of its filing and the date for the hearing on the defendants in the manner prescribed in the Rules of Civil Procedure for the service of process.

On the date fixed for the hearing or any adjournment of the hearing, the court shall determine from the complaint and from all evidence submitted at the hearing by the parties whether the dissenting member is entitled to be paid the fair cash value of any membership interests and, if ~~he~~ the dissenting member is to be so paid, the number and class of those interests. If the court finds that the dissenting member is to be so paid, it may appoint one or more persons as appraisers to receive evidence as to the fair cash value and to make recommendations to the court relative to the amount of the fair cash value. The appraisers shall have the power and authority that the court specifies in the order of appointment, and the court shall fix reasonable compensation for their services.

After receiving the recommendations of any appointed appraisers or if appraisers are not appointed, the court shall make findings as to the fair cash value of the membership interests and render judgment against the limited liability company for the payment of that fair cash value and interest at the rate and from the date that the court considers equitable. The costs of the proceeding, including reasonable compensation to any appraisers as fixed by the court, shall be assessed or apportioned as the court considers equitable.

(3) The proceeding described in this section is a special proceeding, and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. If, during the pendency of any proceeding described in this section, an action or proceeding is commenced to enjoin or otherwise prevent the carrying out of the merger or consolidation or other action as to which the member has dissented, the proceeding commenced under this section shall be stayed until the final determination of the other action or proceeding.

(4) Unless division (G) of section 1705.41 of the Revised Code is applicable, the fair cash value of the membership interests that is agreed upon by the dissenting member and the limited liability company or fixed by a court in a proceeding under this section shall be paid within thirty days after the later of the final determination of the fair cash value in a proceeding under this section or the date of the consummation of the merger ~~or~~ consolidation, or conversion. Upon the occurrence of the later event, payment of the fair cash value shall be made to those entitled to the payment as follows:

- (a) Immediately to the holders of uncertificated membership interests;
- (b) Upon and simultaneously with the surrender to the limited liability company of certificates representing the membership interests to the holders of certificated membership interests.

(B) If the proposal of merger or consolidation proposal, or conversion was submitted to the members of a domestic limited liability company at a meeting, the fair cash value of the membership interests as to any of those members that seek relief shall be determined as of the day before the day on which the vote on the proposal was taken. If the proposal of merger or consolidation proposal, or conversion was submitted to the members of a domestic limited liability company for written approval or other action without a meeting, the fair cash value of the membership interests as to which those members seek relief shall be determined as of the day before the day on which the request for approval or other action was sent.

The fair cash value of a membership interest for purposes of this section is the amount that a willing seller who is under no compulsion to sell would be willing to accept and that a willing buyer who is under no compulsion to purchase would be willing to pay, but the fair cash value paid to any member shall not exceed the amount specified in the demand for payment of that member. In computing the fair cash value of a membership interest, any appreciation or depreciation in market value resulting from the merger or consolidation, or conversion shall be excluded.

Sec. 1705.61. (A) Absent an express agreement to the contrary, a person providing goods to or performing services for a limited liability company owes no duty to, incurs no liability or obligation to, and is not in privity with the members or creditors of the limited liability company by reason of providing goods to or performing services for the limited liability company.

(B) Absent an express agreement to the contrary, a person providing goods to or performing services for a member or group of members of a limited liability company owes no duty to, incurs no liability or obligation to, and is not in privity with the limited liability company, any other members of the limited liability company, or the creditors of the limited liability company by reason of providing goods to or performing services for the limited liability company.

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited

liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, interests in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership

association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not

salespersons within the meaning of this definition, nor are ~~such~~ clerical or other employees of an issuer or dealer ~~as~~ that are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily

determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also ~~shall be deemed to include~~ includes registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are fit for use for beverage purposes.

(S) "Institutional investor" means any corporation, bank, insurance company, pension fund or pension fund trust, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee. "Institutional investor" does not include any business entity formed for the primary purpose of evading sections 1707.01 to 1707.45 of the Revised Code.

(T) "~~Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, "Investment Advisers Act of~~

~~1940," 54 Stat. 847, 15 U.S.C. 80b, and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a mean the federal statutes of those names as amended before or after March 18, 1999~~ A reference to a statute of the United States or to a rule, regulation, or form promulgated by the securities and exchange commission or by another federal agency means the statute, rule, regulation, or form as it exists at the time of the act, omission, event, or transaction to which it is applied under this chapter.

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability

of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not within the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) A person who acts solely as a state retirement system investment officer or as a bureau of workers' compensation chief investment officer;

(j) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes

fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any

security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division (EE) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division (EE) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (CC)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (CC)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (CC)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(DD) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

(EE) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (FF) of this section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not

necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(GG)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(HH) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

For purposes of this division, "life settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of any life insurance policy or contract, in return for consideration or any other thing of value that is less than the expected death benefit of the life insurance policy or contract. "Life settlement contract" includes a viatical settlement contract as defined in section 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

(KK) "Bureau of workers' compensation chief investment officer" means an individual employed by the bureau of workers' compensation as a chief investment officer in a position that is substantially equivalent to a chief investment officer.

Sec. 1707.041. (A)(1) No control bid for any securities of a subject company shall be made pursuant to a tender offer or request or invitation for tenders until the offeror files with the division of securities the information prescribed in division (A)(2) of this section. The offeror shall deliver a copy of the information specified in division (A)(2) of this section, by personal service, to the subject company at its principal office not later than the time of the filing with the division. The offeror shall send or deliver to all offerees in this state, as soon as practicable after the filing, the material terms of the proposed offer and the information specified in division (A)(2) of this section.

(2) The information to be filed with the division, with the subject company, and with any other offeror, pursuant to division (A)(1) of this

section, shall include:

(a) Copies of all prospectuses, brochures, advertisements, circulars, letters, or other matter by means of which the offeror proposes to disclose to offerees all information material to a decision to accept or reject the offer;

(b) The identity and background of all persons on whose behalf the acquisition of any equity security of the subject company has been or is to be effected;

(c) The source and amount of funds or other consideration used or to be used in acquiring any equity security, including a statement describing any securities, other than the existing capital stock or long term debt of the offeror, which are being offered in exchange for the equity securities of the subject company;

(d) A statement of any plans or proposals that the offeror, upon gaining control, may have to liquidate the subject company, sell its assets, effect a merger or consolidation of it, establish, terminate, convert, or amend employee benefit plans, close any plant or facility of the subject company or of any of its subsidiaries or affiliates, change or reduce the work force of the subject company or any of its subsidiaries or affiliates, or make any other major change in its business, corporate structure, management personnel, or policies of employment;

(e) The number of shares of any equity security of the subject company of which each offeror is beneficial or record owner or has a right to acquire, directly or indirectly, together with the name and address of each person defined in this section as an offeror;

(f) Particulars as to any contracts, arrangements, or understandings to which an offeror is party with respect to any equity security of the subject company, including transfers of any equity security, joint ventures, loan or option arrangements, puts and calls, guarantees of loan, guarantees against loss, guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into;

(g) Complete information on the organization and operations of the offeror, including the year of organization; the form of organization; the jurisdiction in which it is organized; a description of each class of the offeror's capital stock and of its long term debt; financial statements for the current period and for the three most recent annual accounting periods, unless the division by rule determines that the financial statements are not material or permits the filing of financial statements for less than the three most recent annual accounting periods; a brief description of the location and general character of the principal physical properties of the offeror and

its subsidiaries; a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is the subject; a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past three years; the names of all directors and executive officers together with biographical summaries of each for the preceding three years to date; and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions, to which the offeror or any of its subsidiaries was or is to be a party;

(h) Such other and further documents, exhibits, data, and information as ~~may be~~ required by regulations of the division, or as ~~may be~~ necessary to make fair, full, and effective disclosure to offerees of all information material to a decision to accept or reject the offer.

(3) Within five calendar days of the date of filing by an offeror of information specified in division (A)(2) of this section, the division may by order summarily suspend the continuation of the control bid if the division determines that all of the information specified has not been provided by the offeror or that the control bid materials provided to offerees do not provide full disclosure to offerees of all material information concerning the control bid. Such a suspension shall remain in effect only until the determination following a hearing held pursuant to division (A)(4) of this section.

(4) A hearing shall be scheduled and held by the division with respect to each suspension imposed under division (A)(3) of this section. The hearing shall be held within ten calendar days of the date on which the suspension is imposed. Chapter 119. of the Revised Code does not apply to a hearing held under ~~this division~~ (A)(4) of this section. The division may allow any interested party to appear at and participate in the hearing in a manner considered appropriate by the division. The determination of the division made following the hearing shall be made within three calendar days after the hearing has been completed, and no later than fourteen calendar days after the date on which the suspension is imposed. The division, by rule or order, may prescribe time limits for conducting the hearing and for the making of the determination that are shorter than those specified in this division. If, based upon the hearing, the division determines that all of the information required to be provided by division (A)(2) of this section has not been provided by the offeror, that the control bid materials provided to offerees do not provide full disclosure to offerees of all material information concerning the control bid, or that the control bid is in material violation of

any provision of this chapter, the division shall maintain the suspension of the continuation of the control bid, subject to the right of the offeror to correct disclosure and other deficiencies identified by the division and to reinstitute the control bid by filing new or amended information pursuant to this section.

(5)(a) If an offeror increases or decreases the percentage of the class of securities being sought, the consideration offered, or the dealer's soliciting fee in connection with a control bid for any securities of a subject company pursuant to a tender offer or request or invitation for tenders, or makes any other change in the terms or conditions of the tender offer or request or invitation for tenders that requires the offeror to hold the tender offer or request or invitation for tenders open for at least ten business days from the date that notice of the change is first published or sent to security holders in this state, the offeror shall file with the division both of the following:

(i) All material information, including all information sent or otherwise provided to offerees in this state, pertaining to the increase, decrease, or other change;

(ii) All material information required to update the information filed with the division pursuant to division (A)(2) of this section.

(b) The offeror shall file the information described in division (A)(5)(a) with the division not later than the date on which the information regarding the increase, decrease, or other change first is published or sent to offerees in this state. The offeror shall deliver a copy of the information, by personal services, to the subject company at its principal office not later than the time of the filing with the division.

(6) Within three calendar days of the date of filing by an offeror of the information specified in division (A)(5) of this section, the division, by order, may summarily suspend the continuation of the control bid if the division determines that all of the information specified has not been provided by the offeror or that the information provided to offerees does not provide full disclosure to offerees of all material information concerning the increase, decrease, or other change. The suspension shall remain in effect only until the determination following a hearing held pursuant to division (A)(7) of this section.

(7) The division shall schedule and hold, within three calendar days of the date on which the suspension is imposed, a hearing with respect to each suspension imposed under division (A)(6) of this section. Chapter 119. of the Revised Code does not apply to a hearing held under division (A)(7) of this section. The division may allow any interested party to appear at and participate in the hearing in a manner considered appropriate by the

division. The division shall make a determination following the hearing within three calendar days after the hearing has been completed, and not later than nine calendar days after the date on which the information regarding the increase, decrease, or other change first is published or sent to offerees in this state. The division, by rule or order, may prescribe time limits for conducting the hearing and for the making of the determination that are shorter than those specified in this division. If, based upon the hearing, the division determines that all of the information required to be provided by division (A)(5) of this section has not been provided by the offeror; that the information provided to offerees does not provide full disclosure to offerees of all material information concerning the increase, decrease, or other change; or that the control bid is in material violation of any provision of this chapter, the division shall maintain the suspension of the continuation of the control bid, subject to the right of the offeror to correct disclosure and other deficiencies identified by the division and to reinstate the control bid by filing new or amended information pursuant to this section.

(B)(1) No control bid shall be made pursuant to a tender offer or request or invitation for tenders unless division (A) of section 1707.14 of the Revised Code has been complied with, and no offeror shall make a control bid that is not made to all holders residing in this state of the equity security that is the subject of the control bid, or that is not made to ~~such~~ holders on the same terms as the control bid is made to holders of such equity security not residing in this state.

(2) No offeror may make a control bid pursuant to a tender offer or request or invitation for tenders or acquire any equity security in this state pursuant to a control bid at any time during which any proceeding by the division alleging a violation of any provision of this chapter is pending against the offeror.

(3) No offeror may acquire from any resident of this state, in any manner, any equity security of any class of a subject company at any time within two years following the last acquisition of any security of the same class pursuant to a control bid pursuant to a tender offer or request or invitation for tenders by that offeror, whether the acquisition was made by purchase, exchange, merger, consolidation, partial or complete liquidation, redemption, reverse stock split, recapitalization, reorganization, or any other similar transaction, unless the resident is afforded, at the time of the later acquisition, a reasonable opportunity to dispose of the security to the offeror upon substantially the same terms as those provided in the earlier control bid.

(4) If an offeror makes a tender offer or request or invitation for tenders not subject to Rule 14D-1 or Rule 14D-4 of the securities and exchange commission under the "Securities Exchange Act of 1934," for less than all the outstanding equity securities of a class, and if a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation for tenders are first published or sent or given to security holders than the offeror is bound or willing to take up and pay for, the securities shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each offeree. The preceding sentence applies to securities deposited within ten days after notice of an increase in the consideration offered to security holders, as described in the next sentence, is first published or sent or given to security holders. If the terms of a control bid are changed before its expiration by increasing the consideration offered to offerees, the offeror shall pay the increased consideration for all equity securities taken up, whether the same are deposited or taken up before or after the change in the terms of the control bid.

(C) If the offeror or the subject company is a banking corporation or savings and loan association subject to regulation by the division of financial institutions, or is a public utility corporation subject to regulation by the public utilities commission, the division of securities shall immediately, upon receipt of the filing required under division (A) of this section, furnish a copy of the filing to the regulatory body having jurisdiction over the offeror or subject company.

(D) An offeror is subject to the liabilities and penalties applicable to a seller, and an offeree is entitled to the remedies applicable to a purchaser, as set forth in sections 1707.041 to 1707.44 of the Revised Code.

(E) The division of securities may, pursuant to Chapter 119. of the Revised Code, prescribe reasonable rules:

(1) Defining fraudulent, evasive, deceptive, or grossly unfair practices in connection with control bids; and defining the terms used in this section;

(2) Exempting from this section control bids not made for the purpose of, and not having the effect of, changing or influencing the control of a subject company;

(3) Covering ~~such~~ other matters as ~~are~~ necessary to give effect to this section.

(F) If the offeror or a subject company is an insurance company subject to regulation under Title XXXIX of the Revised Code, the superintendent of insurance shall for all purposes of this section be substituted for the division of securities. This section shall not be construed to limit or modify in any

way any responsibility, authority, power, or jurisdiction of the division of securities or the superintendent of insurance pursuant to any other section of the Revised Code.

(G) This section does not apply when:

(1) The offeror or the subject company is a public utility or a public utility holding company as defined in section 2 of the "Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 U.S.C. 79, as amended, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(2) The offeror or the subject company is a bank or a bank holding company as subject to the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, and subsequent amendments thereto, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(3) The offeror or the subject company is a savings and loan holding company as defined in section 2 of the "Savings and Loan Holding Company Amendments of 1967," 82 Stat. 5, 12 U.S.C. 1730a, as amended, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(4) The offeror and the subject company are banks and the offer is part of a merger transaction subject to approval by appropriate federal supervisory authorities.

(H) If any application of any provision of this section is for any reason held to be illegal or invalid, the illegality or invalidity shall not affect any legal and valid provision or application of this section, and the parts and application of this section are severable.

Sec. 1707.142. (A) Every dealer required to be licensed under section 1707.14 of the Revised Code shall comply with all broker and dealer capital, custody, margin, financial responsibility, record-making, record-keeping, bonding, financial reporting, and operational reporting requirements contained in Section 15 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o, as amended, and section 17 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78q, as amended, and the rules of the securities and exchange commission promulgated under those sections.

(B)(1) Subject to division (B)(2) of this section, every dealer required to be licensed under section 1707.14 of the Revised Code shall file with the division of securities any report or document that rules adopted pursuant to section 15 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o, as amended, and section 17 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78q, as amended, require federally registered

brokers or dealers to file with the securities and exchange commission.

(2) Except as otherwise provided by rule or order of the division, if a dealer has filed a report or document described in division (B)(1) of this section with the securities and exchange commission, the document or report shall be deemed to also have been filed with the division.

(C) The division by order or rule may permit, but not require, a dealer that is not required by federal law or the law of this state to register as a broker or dealer with the securities and exchange commission to do both of the following:

(1) Elect one or more alternative financial and reporting provisions that are acceptable to the division. For purposes of division (C)(1) of this section, "alternative financial and reporting provision" means any capital, custody, margin, financial responsibility, record-making, record-keeping, bonding, financial reporting, or operational reporting provision that differs from those established by the securities and exchange commission.

(2) Elect an exemption, the scope of which is acceptable to the division, from all or a specified part of the capital, custody, margin, financial responsibility, record-making, record-keeping, bonding, financial reporting, or operational reporting requirements contained in section 15 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o, as amended, or section 17 of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78q, as amended, or the rules of the securities and exchange commission promulgated under those sections.

(D) For purposes of division (C) of this section, in determining an acceptable alternative financial and reporting provision and in determining the acceptable scope of any exemption that is elected, the division shall consider the size, scope, and type of business of the dealers who will be permitted to elect the provision or exemption and shall consider the protection of investors and customers of the electing dealers.

Sec. 1707.20. (A)(1) The division of securities may adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out sections 1707.01 to 1707.45 of the Revised Code, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in sections 1707.01 to 1707.45 of the Revised Code, insofar as the definitions are not inconsistent with these sections. For the purpose of rules and forms, the division may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

(2) Notwithstanding sections 121.71 to 121.76 of the Revised Code, the division may incorporate by reference into its rules any statute enacted by

the United States congress or any rule, regulation, or form promulgated by the securities and exchange commission, or by another federal agency, in a manner that also incorporates all future amendments to the statute, rule, regulation, or form.

(B) No rule, form, or order may be made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest or for the protection of investors, clients, prospective clients, state retirement systems, or the workers' compensation system and consistent with the purposes fairly intended by the policy and provisions of sections 1707.01 to 1707.45 of the Revised Code. In prescribing rules and forms and in otherwise administering sections 1707.01 to 1707.45 of the Revised Code, the division may cooperate with the securities administrators of the other states and the securities and exchange commission with a view of effectuating the policy of this section to achieve maximum uniformity in the form and content of registration statements, applications, reports, and overall securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required under sections 1707.01 to 1707.45 of the Revised Code;

(2) The circumstances under which consolidated financial statements ~~shall~~ will be filed;

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.45 of the Revised Code, and the procedure and practice before the division.

(E)(1) No provision of sections 1707.01 to 1707.45 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

(2) No provision of sections 1707.01 to 1707.45 of the Revised Code

imposing any liability, penalty, sanction, or disqualification applies to any act done or omitted in good faith in conformity with either of the following:

(a) Any provision of sections 1707.01 to 1707.45 of the Revised Code that incorporates by reference a federal statute, rule, regulation, or form;

(b) Any rule, form, or order of the division that incorporates by reference a federal statute, rule, regulation, or form.

Division (E)(2) of this section applies notwithstanding that the incorporation by reference, or any application of the incorporated provision, is later determined by judicial or other authority to be unconstitutional or invalid for any reason.

Sec. 1707.44. (A)(1) No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code.

(2) No person shall engage in any act or practice that violates division (A) of section 1707.141 or section 1707.161 of the Revised Code.

(3) No person shall engage in any act or practice that violates section 1707.162 of the Revised Code.

(4) No person shall engage in any act or practice that violates section 1707.164 of the Revised Code.

(B) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for any of the following purposes:

(1) Registering securities or transactions, or exempting securities or transactions from registration, under this chapter;

(2) Securing the qualification of any securities under this chapter;

(3) Procuring the licensing of any dealer, salesperson, investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer under this chapter;

(4) Selling any securities in this state;

(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities;

(6) Submitting a notice filing to the division under division (X) of section 1707.03 or section 1707.092 or 1707.141 of the Revised Code.

(C) No person shall knowingly sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:

(1) Is not exempt under section 1707.02 of the Revised Code, nor the

subject matter of one of the transactions exempted in section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not been registered by coordination or qualification, and is not the subject matter of a transaction that has been registered by description;

(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;

(3) The person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked;

(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.

(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be insolvent in that the liabilities of the issuer exceed its assets, shall sell any securities of or for any such issuer, without disclosing the fact of the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any securities on behalf of the issuer, shall knowingly make any representation not authorized by such issuer or at material variance with statements and documents filed with the division by such issuer.

(F) No person, with intent to deceive, shall sell, cause to be sold, offer for sale, or cause to be offered for sale, any securities of an insolvent issuer, with knowledge that such issuer is insolvent in that the liabilities of the issuer exceed its assets, taken at their fair market value.

(G) No person in purchasing or selling securities shall knowingly engage in any act or practice that is, in this chapter, declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or trade with any person because the person appears on a blacklist issued by, or is being boycotted by, any foreign corporate or governmental entity, nor sell any securities of or for any issuer who is known in relation to the issuance or sale of the securities to have engaged in such practices.

(I) No dealer in securities, knowing that the dealer's liabilities exceed the reasonable value of the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of the dealer's insolvency, and thereby cause the customer to lose any part of the customer's securities or the value of those securities, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the

dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer had in the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled to the securities, upon demand and tender of any amount due on the securities.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when the person knows that ~~such~~ the statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in securities which is false in any material respect.

(L) No dealer shall engage in any act that violates the provisions of section 15(c) or 15(g) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule or regulation promulgated by the securities and exchange commission thereunder. ~~If, subsequent to October 11, 1994, additional amendments to section 15(c) or 15(g) are adopted, or additional rules or regulations are promulgated pursuant to such sections, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.~~

(M)(1) No investment adviser or investment adviser representative shall do any of the following:

(a) Employ any device, scheme, or artifice to defraud any person;

(b) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) In acting as principal for the investment adviser's or investment adviser representative's own account, knowingly sell any security to or purchase any security from a client, or in acting as salesperson for a person other than such client, knowingly effect any sale or purchase of any security for the account of such client, without disclosing to the client in writing before the completion of the transaction the capacity in which the

investment adviser or investment adviser representative is acting and obtaining the consent of the client to the transaction. Division (M)(1)(c) of this section does not apply to any investment adviser registered with the securities and exchange commission under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a licensed dealer or salesperson if the licensed dealer or salesperson is not acting as an investment adviser or investment adviser representative in relation to the transaction.

(d) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business that are fraudulent, deceptive, or manipulative.

(2) No investment adviser or investment adviser representative licensed or required to be licensed under this chapter shall take or have custody of any securities or funds of any person, except as provided in rules adopted by the division.

(3) In the solicitation of clients or prospective clients, no person shall make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which the statements were made.

(N) No person knowingly shall influence, coerce, manipulate, or mislead any person engaged in the preparation, compilation, review, or audit of financial statements to be used in the purchase or sale of securities for the purpose of rendering the financial statements materially misleading.

(O) No state retirement system investment officer shall do any of the following:

(1) Employ any device, scheme, or artifice to defraud any state retirement system;

(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on any state retirement system;

(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative;

(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 145.094, 742.104, 3307.043, 3309.043, or 5505.065 of the Revised Code.

(P) No bureau of workers' compensation chief investment officer shall do any of the following:

(1) Employ any device, scheme, or artifice to defraud the workers'

compensation system;

(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on the workers' compensation system;

(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative;

(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 4123.441 of the Revised Code.

Sec. 1775.01. As used in this chapter:

(A) "Court" includes every court and judge having jurisdiction in the case.

(B) "Business" includes every trade, occupation, or profession.

(C) "Person" includes individuals, partnerships, trustees, executors, administrators, other fiduciaries, corporations, and other associations.

(D) "Bankrupt" includes bankrupt under the federal bankruptcy act or insolvent under any state insolvency law.

(E) "Conveyance" includes every assignment, lease, mortgage, or encumbrance.

(F) "Real property" includes land and any interest or estate in land.

(G) "Entity" means either of the following:

(1) A for profit corporation existing under the laws of this state or any other state;

(2) Any of the following organizations existing under the laws of this state, the United States, or any other state:

(a) A business trust or association;

(b) A real estate investment trust;

(c) A common law trust;

(d) An unincorporated business or for profit organization, including a general or limited partnership;

(e) A limited liability company.

Sec. 1775.05. (A) A partnership is an ~~association~~ entity of two or more persons to carry on as co-owners a business for profit and includes such an ~~association~~ entity that has limited liability as provided in this chapter and that is registered under section 1775.61 of the Revised Code.

(B) Any ~~association~~ entity formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under sections 1775.01 to 1775.65 of the Revised Code, unless ~~such association~~ the entity would have been a partnership in this state prior to September 14, 1949, but such sections apply to limited partnerships

except in so far as the statutes relating to ~~such~~ these partnerships are inconsistent herewith.

(C) Except as otherwise provided in the Ohio Constitution, the organization and internal affairs of a foreign limited liability partnership and the liability of the partners for the debts, obligations, or other liabilities of any kind of, or chargeable to, the foreign limited liability partnership shall be governed by the laws of the state under which the foreign limited liability partnership is organized.

(D) For purposes of this chapter, "foreign limited liability partnership" means a limited liability partnership organized and registered as such pursuant to the laws of another state.

Sec. 1775.14. (A) Subject to section 1339.65 of the Revised Code and except as provided in division (B) of this section, all partners are liable as follows:

(1) Jointly and severally for everything chargeable to the partnership under sections 1775.12 and 1775.13 of the Revised Code. This joint and several liability is not subject to section 2307.22 or 2315.36 of the Revised Code with respect to a tort claim that otherwise is subject to either of those sections.

(2) Jointly for all other debts and obligations of the partnership, but any partner may enter into a separate obligation to perform a partnership contract.

(B) Subject to divisions (C)(1) and (2) of this section or as otherwise provided in a written agreement between the partners of a registered limited liability partnership, a partner in a registered limited liability partnership, solely by reason of being a partner; acting or failing to act as a partner; or participating as an employee, consultant, contractor, or otherwise in the conduct of the business or activities of the registered limited liability partnership while the partnership is a registered limited liability partnership. is not personally liable, directly or indirectly, by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, or other liabilities of any kind of, or chargeable to, the partnership or another partner or partners arising from negligence or from wrongful acts, errors, omissions, or misconduct, whether or not intentional or characterized as tort, contract, or otherwise, committed or occurring while the partnership is a registered limited liability partnership ~~and~~ or committed or occurring in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(C)(1) Division (B) of this section does not affect the liability of a partner in a registered limited liability partnership for that partner's own

negligence, wrongful acts, errors, omissions, or misconduct, including that partner's own negligence, wrongful acts, errors, omissions, or misconduct in directly supervising any other partner or any employee, agent, or representative of the partnership.

(2) Division (B) of this section shall not affect the liability of a partner for liabilities imposed by Chapters 5735., 5739., 5743., and 5747. and section 3734.908 of the Revised Code.

(D) A partner in a registered limited liability partnership is not a proper party to an action or proceeding by or against a registered limited liability partnership with respect to any debt, obligation, or other liability of any kind described in division (B) of this section, unless the partner is liable under divisions (C)(1) and (2) of this section.

(E) A registered limited liability partnership is liable out of partnership assets for partnership debts, obligations, and liabilities.

(F)(1) The personal liability of a partner solely by reason of being such a partner, or acting or omitting to act in such capacity, of a registered limited liability partnership organized and registered under the laws of this state shall be determined only under the laws of this state.

(2) The only actions required of a registered limited liability partnership or of individual partners in such a partnership in order to avail themselves of the limited liability provisions of this section are those required by this chapter.

Sec. 1775.45. (A) Pursuant to a written agreement of merger between the constituent entities as provided in this section, a domestic ~~general~~ partnership and one or more additional domestic ~~general~~ partnerships or other domestic or foreign entities may be merged into a surviving domestic ~~general~~ partnership. Pursuant to a written agreement of consolidation between the constituent entities as provided in this section, two or more domestic or foreign entities may be consolidated into a new domestic ~~general~~ partnership formed by such consolidation. If any constituent entity is formed or organized under the laws of any state other than this state or under any chapter of the Revised Code other than this chapter, the merger or consolidation also must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(B) The written agreement of merger or consolidation of constituent entities into a surviving or new domestic ~~general~~ partnership shall set forth all of the following:

(1) The name and the form of entity of each constituent entity, the state under the laws of which each constituent entity exists, and the name of the

surviving or new domestic ~~general~~ partnership;

(2) In the case of a merger, that one or more specified constituent entities will be merged into a specified surviving domestic ~~general~~ partnership, and, in the case of a consolidation, that the constituent entities will be consolidated into a new domestic ~~general~~ partnership;

(3) All statements and matters required to be set forth in such an agreement of merger or consolidation by the laws under which each constituent entity exists;

(4) In the case of a consolidation, the partnership agreement of the new domestic ~~general~~ partnership or a provision that the written partnership agreement of a specified constituent ~~general~~ partnership, a copy of which shall be attached to the agreement of consolidation, with any amendments that are set forth in the agreement of consolidation, shall be the agreement of ~~general~~ partnership of the new domestic ~~general~~ partnership;

(5) The name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity, the surviving domestic ~~general~~ partnership, or the new domestic ~~general~~ partnership may be served;

(6) In the case of a merger, any changes in the general partners of the surviving domestic ~~general~~ partnership and, in the case of a consolidation, the general partners of the new domestic ~~general~~ partnership or a provision specifying the general partners of one or more specified constituent partnerships that shall constitute the initial general partners of the new domestic ~~general~~ partnership;

(7) The terms of the merger or consolidation; the mode of carrying them into effect; and the manner and basis of converting the interests or shares in the constituent entities into, or substituting the interests or shares in the constituent entities for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, securities, cash, rights, or any other property of the surviving domestic ~~general~~ partnership, of the new domestic ~~general~~ partnership, or of any other entity. No such conversion or substitution shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the surviving or new domestic ~~general~~ partnership unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written agreement of merger or consolidation of constituent entities into a surviving or new domestic ~~general~~ partnership may set forth any of the following:

(1) The effective date of the merger or consolidation, which date may be

on or after the date of the filing of the certificate of merger or consolidation;

(2) A provision authorizing one or more of the constituent entities to abandon the proposed merger or consolidation prior to filing the certificate of merger or consolidation pursuant to section 1775.47 of the Revised Code by action of the ~~general~~ partners of a constituent partnership, the directors of a constituent corporation, or the comparable representatives of any other constituent entity;

(3) In the case of a merger, any amendments to the agreement of ~~general~~ partnership of the surviving domestic ~~general~~ partnership, or a provision that the written partnership agreement of a specified constituent ~~general~~ partnership other than the surviving domestic ~~general~~ partnership, with any amendments that are set forth in the agreement of merger, shall be the partnership agreement of the surviving domestic ~~general~~ partnership;

(4) A statement of, or a statement of the method of determining, the fair value of the assets to be owned by the surviving domestic ~~general~~ partnership;

(5) The parties to the agreement of merger or consolidation in addition to the constituent entities;

(6) Any additional provision necessary or desirable with respect to the proposed merger or consolidation.

(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be adopted by the ~~general~~ partners of each constituent domestic ~~general~~ partnership, including the surviving domestic ~~general~~ partnership in the case of a merger, and shall be adopted by or otherwise authorized by or on behalf of each other constituent entity in accordance with the laws under which it exists.

(E) All partners, whether or not they are entitled to vote or act, shall be given written notice of any meeting of general partners of a constituent domestic ~~general~~ partnership or of any proposed action by general partners of a constituent domestic ~~general~~ partnership, which meeting or action is to adopt an agreement of merger or consolidation. The notice shall be given to the partners either by mail at their addresses as they appear on the records of the partnership or in person and, unless the partnership agreement provides a shorter or longer period, shall be given not less than seven and not more than sixty days before the meeting or the effective date of the action. The notice shall be accompanied by a copy or a summary of the material provisions of the agreement of merger or consolidation.

(F) The vote or action of the ~~general~~ partners of a constituent domestic ~~general~~ partnership that is required to adopt an agreement of merger or consolidation is the unanimous vote or action of the ~~general~~ partners or such

different number or proportion as provided in writing in the partnership agreement. If the agreement of merger or consolidation would have an effect or authorize any action that under any applicable provision of law or the partnership agreement could be effected or authorized only by or pursuant to a specified vote or action of the partners, or of any class or group of partners, the agreement of merger or consolidation also shall be adopted or approved by the same vote or action as would be required to effect that change or authorize that action. Each person who will continue to be or who will become a general partner of a partnership that is the surviving or new entity in a merger or consolidation shall specifically agree in writing to continue or to become, as the case may be, a general partner of the partnership that is the surviving or new entity.

(G) At any time before the filing of the certificate of merger or consolidation pursuant to section 1775.47 of the Revised Code, the merger or consolidation may be abandoned by the ~~general~~ partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity if the ~~general~~ partners, directors, or other representatives are authorized to do so by the agreement of merger or consolidation or by the same vote or action as was required to adopt the agreement of merger or consolidation. The agreement of merger or consolidation may contain a provision authorizing less than all of the ~~general~~ partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that, after the adoption of the agreement of merger or consolidation by the ~~general~~ partners of any constituent domestic ~~general~~ partnership, less than all of the ~~general~~ partners shall not be authorized to amend the agreement of merger or consolidation to do any of the following:

(1) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by ~~general~~ partners of the constituent domestic ~~general~~ partnership in conversion of, or in substitution for, their interests;

(2) Alter or change any term of the partnership agreement of the surviving or new domestic ~~general~~ partnership, except for alterations or changes that could otherwise be adopted by the ~~general~~ partners of the surviving or new domestic ~~general~~ partnership;

(3) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the ~~general~~ partners or any

class or group of ~~general~~ partners of the constituent domestic ~~general~~ partnership.

Sec. 1775.46. (A) Pursuant to a written agreement of merger or consolidation between the constituent entities as provided in this section, a domestic ~~general~~ partnership and one or more additional domestic or foreign entities may be merged into a surviving entity other than a domestic ~~general~~ partnership, or a domestic ~~general~~ partnership together with one or more additional domestic or foreign entities may be consolidated into a new entity other than a domestic ~~general~~ partnership to be formed by such consolidation. The merger or consolidation must be permitted by the chapter of the Revised Code under which each domestic constituent entity exists and by the laws under which each foreign constituent entity exists.

(B) The written agreement of merger or consolidation shall set forth all of the following:

(1) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(2) In the case of a merger, that one or more specified constituent domestic ~~general~~ partnerships and other specified constituent entities will be merged into a specified surviving foreign entity or surviving domestic entity other than a domestic ~~general~~ partnership, or, in the case of a consolidation, that the constituent entities will be consolidated into a new foreign entity or a new domestic entity other than a domestic ~~general~~ partnership;

(3) If the surviving or new entity is a foreign ~~general~~ partnership, all statements and matters that would be required by section 1775.45 of the Revised Code if the surviving or new entity were a domestic ~~general~~ partnership;

(4) The name and the form of entity of the surviving or new entity, the state under the laws of which the surviving entity exists or the new entity is to exist, and the location of the principal office of the surviving or new entity;

(5) All additional statements and matters required to be set forth in ~~such~~ an agreement of merger or consolidation by the laws under which each constituent entity exists and, in the case of a consolidation, the new entity is to exist;

(6) The consent of the surviving or new foreign entity to be sued and served with process in this state and the irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding in this state to enforce against the surviving or new foreign entity any obligation of any constituent domestic ~~general~~ partnership or to enforce the rights of a dissenting partner of any constituent domestic ~~general~~

partnership;

(7) If the surviving or new entity is a foreign corporation that desires to transact business in this state as a foreign corporation, a statement to that effect, together with a statement regarding the appointment of a statutory agent and service of any process, notice, or demand upon that statutory agent or the secretary of state, as required when a foreign corporation applies for a license to transact business in this state;

(8) If the surviving or new entity is a foreign limited partnership that desires to transact business in this state as a foreign limited partnership, a statement to that effect, together with all of the information required under section 1782.49 of the Revised Code when a foreign limited partnership registers to transact business in this state;

(9) If the surviving or new entity is a foreign limited liability company that desires to transact business in this state as a foreign limited liability company, a statement to that effect, together with all of the information required under section 1705.54 of the Revised Code when a foreign limited liability company registers to transact business in this state;

(10) If the surviving or new entity is a foreign limited liability partnership that desires to transact business in this state as a foreign limited liability partnership, a statement to that effect, together with all of the information required under section 1775.64 of the Revised Code when a foreign limited liability partnership registers to transact business in this state.

(C) The written agreement of merger or consolidation also may set forth any additional provision permitted by the laws of any state under the laws of which any constituent entity exists, consistent with the laws under which the surviving entity exists or the new entity is to exist.

(D) To effect the merger or consolidation, the agreement of merger or consolidation shall be adopted by the ~~general~~ partners of each constituent domestic ~~general~~ partnership, in the same manner and with the same notice to and vote or action of partners or of a particular class or group of partners as is required by section 1775.45 of the Revised Code. The agreement of merger or consolidation also shall be approved or otherwise authorized by or on behalf of each constituent entity in accordance with the laws under which it exists. Each person who will continue to be or who will become a general partner of a partnership that is the surviving or new entity in a merger or consolidation shall specifically agree in writing to continue or to become, as the case may be, a general partner of the surviving or new entity.

(E) At any time before the filing of the certificate of merger or consolidation pursuant to section 1775.47 of the Revised Code, the merger

or consolidation may be abandoned by the ~~general~~ partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity if the ~~general~~ partners, directors, or comparable representatives are authorized to do so by the agreement of merger or consolidation. The agreement of merger or consolidation may contain a provision authorizing less than all of the ~~general~~ partners of any constituent partnership, the directors of any constituent corporation, or the comparable representatives of any other constituent entity to amend the agreement of merger or consolidation at any time before the filing of the certificate of merger or consolidation, except that after the adoption of the agreement of merger or consolidation by the ~~general~~ partners of any constituent domestic ~~general~~ partnership, less than all of the ~~general~~ partners shall not be authorized to amend the agreement of merger or consolidation to do any of the following:

(1) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash, rights, or any other property to be received by ~~general~~ partners of the constituent domestic ~~general~~ partnership in conversion of or in substitution for their interests;

(2) If the surviving or new entity is a partnership, alter or change any term of the partnership agreement of the surviving or new partnership, except for alterations or changes that otherwise could be adopted by the ~~general~~ partners of the surviving or new partnership;

(3) If the surviving or new entity is a corporation or any other entity other than a partnership, alter or change any term of the articles or comparable instrument of the surviving or new corporation or entity, except for alterations or changes that otherwise could be adopted by the directors or comparable representatives of the surviving or new corporation or entity;

(4) Alter or change any other terms and conditions of the agreement of merger or consolidation if any of the alterations or changes, alone or in the aggregate, would materially adversely affect the ~~general~~ partners or any class or group of ~~general~~ partners of the constituent domestic ~~general~~ partnership.

Sec. 1775.47. (A) Upon the adoption by each constituent entity of an agreement of merger or consolidation pursuant to section 1775.45 or 1775.46 of the Revised Code, a certificate of merger or consolidation shall be filed with the secretary of state that is signed by an authorized representative of each constituent entity. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required by this section.

(B)(1) The certificate of merger or consolidation shall set forth all of the

following:

(a) The name and the form of entity of each constituent entity and the state under the laws of which each constituent entity exists;

(b) A statement that each constituent entity has complied with all of the laws under which it exists and that the laws permit the merger or consolidation;

(c) The name and mailing address of the person or entity that is to provide, in response to any written request made by a shareholder, partner, or other equity holder of a constituent entity, a copy of the agreement of merger or consolidation;

(d) The effective date of the merger or consolidation, which date may be on or after the date of the filing of the certificate;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of each constituent entity and the office held or the capacity in which the representative is acting;

(f) A statement that the agreement of merger or consolidation is authorized on behalf of each constituent entity and that the persons who signed the certificate on behalf of each entity are authorized to do so;

(g) In the case of a merger, a statement that one or more specified constituent entities will be merged into a specified surviving entity or, in the case of a consolidation, a statement that the constituent entities will be consolidated into a new entity;

(h) The name and form of the surviving entity in the case of a merger or the name and form of the new entity in the case of a consolidation;

(i) In the case of a merger, if the surviving entity is a foreign entity not licensed to transact business in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served;

(j) In the case of a consolidation, the name and address of the statutory agent upon whom any process, notice, or demand against any constituent entity or the new entity may be served.

(2) In the case of a consolidation into a new domestic corporation, limited liability company, or limited partnership, the articles of incorporation, the articles of organization, or the certificate of limited partnership of the new domestic entity shall be filed with the certificate of consolidation.

(3) In the case of a merger into a domestic corporation, limited liability company, or limited partnership, any amendments to the articles of incorporation, articles of organization, or certificate of limited partnership of the surviving domestic entity shall be filed with the certificate of merger.

(4) If the surviving or new entity is a foreign entity that desires to

transact business in this state as a foreign corporation, limited liability company, or limited partnership, the certificate of merger or consolidation shall be accompanied by the information required by division (B)(7), (8), ~~or (9), or (10)~~ of section 1775.46 of the Revised Code.

(5) If a foreign or domestic corporation licensed to transact business in this state is a constituent entity and the surviving or new entity resulting from the merger or consolidation is not a foreign or domestic corporation that is to be licensed to transact business in this state, the certificate of merger or consolidation shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code, with respect to each domestic constituent corporation, and by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code, with respect to each foreign constituent corporation licensed to transact business in this state.

(C) If any constituent entity in a merger or consolidation is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, there also shall be filed in the proper office all documents that are required to be filed in connection with the merger or consolidation by the laws of that state or by that chapter.

(D) Upon the filing of a certificate of merger or consolidation and other filings as described in division (C) of this section or at any later date that the certificate of merger or consolidation specifies, the merger or consolidation is effective, subject to the limitation specified in division (B)(7) of section 1775.45 of the Revised Code.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth: the name and form of entity of each constituent entity and the states under the laws of which each constituent entity existed prior to the merger or consolidation; the name and the form of entity of the surviving or new entity and the state under the laws of which the surviving entity exists or the new entity is to exist; the date of filing of the certificate of merger or consolidation with the secretary of state; and the effective date of the merger or consolidation. The certificate of the secretary of state, or a copy of the certificate of merger or consolidation certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For that recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1775.48. (A) When a merger or consolidation becomes effective,

all of the following apply:

(1) The separate existence of each constituent entity other than the surviving entity in a merger shall cease, except that whenever a conveyance, assignment, transfer, deed, or other instrument or act is necessary to vest property or rights in the surviving or new entity, the ~~general~~ partners, officers, or other authorized representatives of the respective constituent entities shall execute, acknowledge, and deliver ~~such~~ the instruments and do such acts. For these purposes, the existence of the constituent entities and the authority of their respective ~~general~~ partners, officers, directors, or other representatives are continued notwithstanding the merger or consolidation.

(2) In the case of a consolidation, the new entity exists when the consolidation becomes effective and, if the new entity is a domestic ~~general~~ partnership, the written partnership agreement contained in or provided for in the agreement of consolidation shall be its original partnership agreement.

(3) In the case of a merger in which the surviving entity is a ~~general~~ partnership, the written partnership agreement of the surviving ~~general~~ partnership in effect immediately prior to the time the merger becomes effective shall be its partnership agreement after the merger except as otherwise provided in the agreement of merger.

(4) The surviving or new entity possesses all of the following, and all of the following are vested in the surviving or new entity without further act or deed:

(a) Except to the extent limited by the mandatory provisions of applicable law, the following:

(i) All assets and property of every description of each constituent entity, and every interest in the assets and property of each constituent entity, wherever the assets, property, and interests are located. Title to any real estate or any interest in real estate that was vested in any constituent entity shall not revert or in any way be impaired by reason of the merger or consolidation.

(ii) The rights, privileges, immunities, powers, franchises, and authority, whether of a public or private nature, of each constituent entity.

(b) All obligations belonging to or due to each constituent entity.

(5) The surviving or new entity is liable for all the obligations of each constituent entity, including liability to dissenting partners, dissenting shareholders, or other dissenting equity holders. Any claim existing or any action or proceeding pending by or against any constituent entity may be prosecuted to judgment with right of appeal, as if the merger or consolidation had not taken place, or the surviving or new entity may be substituted in place of any constituent entity.

(6) All the rights of creditors of each constituent entity are preserved unimpaired, and all liens upon the property of any constituent entity are preserved unimpaired, on only the property affected by such liens immediately before the effective date of the merger or consolidation. If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, then the former general partner shall have no liability for any obligation incurred after the merger or consolidation except to the extent that a former creditor of the constituent partnership in which the former general partner was a general partner extends credit to the surviving or new entity reasonably believing that the former general partner continued as a general partner of the surviving or new entity.

(B) If a general partner of a constituent partnership is not a general partner of the entity surviving or the new entity resulting from the merger or consolidation, then unless that general partner agrees otherwise in writing, the general partner shall be indemnified by the surviving or new entity against all present or future liabilities of the constituent partnership of which the general partner was a general partner. Any amount payable pursuant to section 1775.50 of the Revised Code to a partner of the constituent partnership in which that general partner was a partner shall be a present liability of that constituent partnership.

(C) In the case of a merger of a constituent domestic ~~general~~ partnership into a foreign surviving corporation, limited liability company, or ~~general~~ partnership that is not licensed or registered to transact business in this state or in the case of a consolidation of a constituent domestic limited partnership into a new foreign corporation, limited liability company, ~~or~~ limited partnership, or limited liability partnership, if the surviving or new entity intends to transact business in this state and the certificate of merger or consolidation is accompanied by the information described in division (B)(4) of section 1775.47 of the Revised Code, then on the effective date of the merger or consolidation the surviving or new entity shall be considered to have complied with the requirements for procuring a license or for registration to transact business in this state as a foreign corporation, limited liability company, or limited partnership, as the case may be. In such a case, a copy of the certificate of merger or consolidation certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company or foreign limited partnership.

(D) Any action to set aside any merger or consolidation on the ground that any section of the Revised Code applicable to the merger or

consolidation has not been complied with shall be brought within ninety days after the effective date of the merger or consolidation or forever be barred.

(E) In the case of an entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under the laws of which the entity exists or in which it has property.

Sec. 1775.49. (A) Unless otherwise provided in writing in the partnership agreement of a constituent domestic ~~general~~ partnership, the following are entitled to relief as dissenting partners as provided in section 1775.50 of the Revised Code:

(1) Partners of a domestic ~~general~~ partnership that is being merged or consolidated into a surviving or new entity, domestic or foreign, pursuant to section 1775.45 or 1775.46 of the Revised Code;

(2) In the case of a merger into a domestic ~~general~~ partnership, partners of the surviving domestic ~~general~~ partnership who under section 1775.45 of the Revised Code are entitled to vote or act on the adoption of an agreement of merger, but only as to the interests so entitling them to vote or act;

(3) Partners of a domestic partnership that is being converted into a converted entity pursuant to section 1775.53 of the Revised Code.

(B) Unless otherwise expressly agreed to in writing, a general partner of any constituent partnership shall be liable to the partners of the constituent partnership for any amount payable to them pursuant to section 1775.50 of the Revised Code as if the amount ~~so~~ payable were an existing liability of the constituent partnership at the time of the merger ~~or~~, consolidation, or conversion.

Sec. 1775.50. (A) A partner of a domestic ~~general~~ partnership is entitled to relief as a dissenting partner in respect of the proposals described in section 1775.49 of the Revised Code only in compliance with this section.

(B) If the proposal of merger ~~or~~, consolidation, or conversion is to be submitted to the partners at a meeting, the dissenting partner shall be a partner and a record holder of the partnership interests as to which the dissenting partner seeks relief as of the date fixed for the determination of partners entitled to notice of the meeting, and such interests shall not have been voted in favor of the proposal. Not later than ten days after the date on which the vote on the proposal was taken at the meeting of the partners, the dissenting partner shall deliver to the ~~general~~ partnership a written demand for payment to the dissenting partner of the fair cash value of the interests as to which the dissenting partner seeks relief that states the dissenting partner's address, the number and class of those interests, and the amount claimed by the dissenting partner as the fair cash value of the interests.

(C) If the proposal of merger ~~or~~, consolidation, or conversion is to be submitted to the partners for their written approval or other action without a meeting, the dissenting partner shall be a partner and a record holder of the interests of the partnership as to which the dissenting partner seeks relief as of the date the request for approval or action was sent to the partners entitled to act or otherwise approve the proposal, and the dissenting partner shall not have indicated approval of the proposal in the dissenting partner's capacity as a holder of such interests. Not later than fifteen days after the date on which the request for approval of or action on the proposal was mailed to the partners, the dissenting partner shall deliver to the partnership a written demand for payment to the dissenting partner of the fair cash value of the interests as to which the dissenting partner seeks relief, which demand shall state the dissenting partner's address, the number and class of such interests, and the amount claimed by the dissenting partner as the fair cash value of those interests.

(D) In the case of a merger or consolidation, a demand served on the constituent domestic ~~general~~ partnership involved constitutes service on the surviving entity or the new entity, whether the demand is served before, on, or after the effective date of the merger or consolidation. In the case of a conversion, a demand served on the converting domestic partnership constitutes service on the converted entity, whether the demand is served before, on, or after the effective date of the conversion.

(E) If the interests as to which a dissenting partner seeks relief are represented by certificates and if the domestic ~~general~~ partnership sends to the dissenting partner, at the address specified in the dissenting partner's demand, a request for certificates representing the interests as to which the dissenting partner seeks relief, the dissenting partner, within fifteen days from the date on which the request was sent, shall deliver to the ~~general~~ partnership the certificates requested so that the ~~general~~ partnership may endorse on them a legend to the effect that a demand for the fair cash value of such interests has been made. The ~~general~~ partnership promptly shall return the endorsed certificates to the dissenting partner. The failure of a dissenting partner to deliver such certificates terminates rights as a dissenting partner, at the option of the ~~general~~ partnership, exercised by written notice sent to the dissenting partner within twenty days after the lapse of the fifteen-day period, unless a court for good cause shown otherwise directs. If interests represented by a certificate on which such a legend has been endorsed are transferred, each new certificate issued for them shall bear a similar legend, together with the name of the original dissenting holder of such interests. Upon receiving a demand for payment

from a dissenting partner who is a record holder of uncertificated interests, the ~~general~~ partnership shall make an appropriate notation of the demand for payment in its records. If uncertificated interests for which payment has been demanded are to be transferred, any writing sent to evidence the transfer shall bear the legend required for certificated interests as provided in this division. A transferee of the interests receiving a certificate so endorsed, or of uncertificated interests where such a notation has been made, acquires only ~~such~~ the rights in the ~~general~~ partnership as the original partner holding ~~such~~ the interests had immediately after the service of a demand for payment of the fair cash value of the interests. A request under this division by the ~~general~~ partnership is not an admission by it that the holder of the interest is entitled to relief under this section.

(F) Unless the partnership agreement of the constituent domestic ~~general~~ partnership in which the dissenting partner was a partner provides a reasonable basis for determining and paying the fair cash value of the interests as to which the dissenting partner seeks relief or unless that partnership and the dissenting partner have come to an agreement on the fair cash value of the interests as to which the dissenting partner seeks relief, the dissenting partner or the ~~general~~ partnership, which in the case of a merger or consolidation may be the surviving or new entity, or in the case of a conversion may be the converted entity, within ninety days after the service of the demand by the dissenting partner, may file a complaint under section 1775.51 of the Revised Code. The complaint shall be filed in the court of common pleas of the county in which the principal office of the ~~general~~ partnership that issued the interests is located or was located when the proposal of merger ~~or~~, consolidation, or conversion was adopted by the partners of the ~~general~~ partnership. Other dissenting partners, within that ninety-day period, may join as plaintiffs or may be joined as defendants in any such proceeding, and any two or more such proceedings may be consolidated.

(G) The right and obligation of a dissenting partner to receive ~~such~~ fair cash value and to sell such interests as to which the dissenting partner seeks relief and the right and obligation of the domestic ~~general~~ partnership to purchase such interests and to pay the fair cash value of them terminate if any of the following applies:

(1) The dissenting partner has not complied with this section, unless the ~~general~~ partnership waives such failure.

(2) The ~~general~~ partnership abandons the merger ~~or~~, consolidation, or conversion or is finally enjoined or prevented from carrying it out, or the partners rescind their adoption or approval of the merger ~~or~~, consolidation,

or conversion.

(3) The dissenting partner withdraws the dissenting partner's demand, with the consent of the ~~general~~ partnership.

(4) All of the following apply:

(a) The partnership agreement of the constituent domestic ~~general~~ partnership in which the dissenting partner was a partner does not provide a reasonable basis for determining and paying the dissenting partner the fair cash value of the dissenting partner's interest.

(b) The ~~general~~ partnership and the dissenting partner have not agreed upon the fair cash value of the interest.

(c) Neither the dissenting partner nor the ~~general~~ partnership has filed or joined in a complaint under division (F) of this section within the period provided in that division.

(H) Unless otherwise provided in the partnership agreement of the constituent domestic ~~general~~ partnership in which the dissenting partner was a partner, from the time the dissenting partner gives the demand until either the termination of the rights and obligations arising from it or the purchase of the interests by the ~~general~~ partnership, all other rights accruing from such interests, including voting or distribution rights, are suspended. If, during the suspension, any distribution is paid in money upon interests of ~~such that~~ class or any dividend, distribution, or interest is paid in money upon any securities issued in extinguishment of, or in substitution for, such interest, an amount equal to the dividend, distribution, or interest that, except for the suspension, would have been payable upon such interests or securities shall be paid to the holder of record as a credit upon the fair cash value of the interests. If the right to receive fair cash value is terminated other than by the purchase of the interests by the ~~general~~ partnership, all rights of the dissenting partner shall be restored and all distributions that, except for the suspension, would have been made shall be made to the holder of record of the interests at the time of termination.

Sec. 1775.51. (A) When authorized by division (F) of section 1775.50 of the Revised Code, a dissenting partner or ~~general~~ partnership may file a complaint under this section demanding the relief described in this section. A complaint filed under this section shall contain a brief statement of the facts, including the vote or action by the partners and the facts entitling the dissenting partner to the relief demanded. No answer to ~~such~~ a complaint is required. Upon the filing of ~~such~~ a complaint, the court, on motion of the petitioner, shall enter an order fixing a date for a hearing on the complaint and requiring that a copy of the complaint and a notice of the filing and of the date for the hearing be given to the respondent or defendant in the

manner in which summons is required to be served or substituted service is required to be made in other cases. On the date fixed for the hearing on the complaint or any adjournment of it, the court shall determine from the complaint and from ~~such~~ evidence ~~as is~~ submitted by either party whether the dissenting partner is entitled to be paid the fair cash value of any interests and, if so, the number and class of ~~such~~ the interests. If the court finds that the dissenting partner is so entitled, it may appoint one or more persons as appraisers to receive evidence and to recommend a decision on the amount of the fair cash value. The appraisers have ~~such~~ power and authority ~~as is~~ specified in the order of their appointment. The court thereupon shall make a finding as to the fair cash value of the interests and shall render judgment against the ~~general~~ partnership for the payment of it, with interest at ~~such~~ a rate and from ~~such~~ a date as the court considers equitable. The costs of the proceeding, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable. The proceeding is a special proceeding and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. If, during the pendency of any proceeding under this section, a suit or proceeding is or has been instituted to enjoin or otherwise to prevent the carrying out of the action as to which the partner has dissented, the proceeding instituted under this section shall be stayed until the final determination of the other suit or proceeding. Unless any provision of division (G) of section 1775.50 of the Revised Code is applicable, the fair cash value of the interests that is agreed upon by the parties or fixed under this section shall be paid within thirty days after the date of final determination of such value under this division or the consummation of the merger ~~or~~, consolidation, or conversion, whichever occurs last. Upon the occurrence of the last ~~such~~ event, payment shall be made immediately to a holder of uncertificated interests entitled to ~~such~~ payment. In the case of holders of interests represented by certificates, payment shall be made only upon and simultaneously with the surrender to the domestic ~~general~~ partnership of the certificates representing the interests for which the payment is made.

(B) If the proposal of merger ~~or~~, consolidation, or conversion was submitted to the partners of the ~~general~~ partnership for a vote at a meeting, fair cash value as to those partners shall be determined as of the day before the day on which the vote by the partners was taken. If the proposal was submitted to the partners for written approval or other action, fair cash value as to those partners shall be determined as of the day before the day on

which the request for the approval or action was sent. The fair cash value of an interest for purposes of this section is the amount that a willing seller who is under no compulsion to sell would be willing to accept and that a willing buyer who is under no compulsion to purchase would be willing to pay, but the fair cash value paid to any partner shall not exceed the amount specified in the demand of that partner. In computing ~~such~~ fair cash value, any appreciation or depreciation in market value resulting from the merger ~~or~~, consolidation, or conversion shall be excluded.

Sec. 1775.52. If a domestic ~~general~~ partnership is a constituent entity to a merger or consolidation that has become effective, and the domestic ~~general~~ partnership is not the surviving or resulting entity of the merger or consolidation, or if a domestic partnership is the converting entity in a conversion, a judgment creditor of a partner of that domestic ~~general~~ partnership shall not levy execution against the assets of the partner to satisfy a judgment based on a claim against the surviving or resulting entity of the merger ~~or~~, consolidation, or conversion unless any of the following applies:

(A) The claim is for an obligation of the domestic ~~general~~ partnership for which the partner is liable as provided in this chapter and one of the following applies:

(1) A judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation or the entity resulting from the conversion and a writ of execution on the judgment has been returned unsatisfied in whole or in part.

(2) The surviving or resulting entity of the merger ~~or~~, consolidation, or conversion is a debtor in bankruptcy.

(3) The partner has agreed that the creditor need not exhaust the assets of the domestic ~~general~~ partnership that was not the surviving or resulting entity of the merger or consolidation or the entity resulting from the conversion.

(4) The partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation or the entity resulting from the conversion.

(B) A court grants permission to the judgment creditor to levy execution against the assets of the partner based on a finding that the assets of the surviving or resulting entity of the merger ~~or~~, consolidation, or conversion that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation or the entity resulting from the conversion is excessively burdensome, or that the grant of permission is an appropriate

exercise of the court's equitable powers.

(C) Liability is imposed on the partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation or the entity resulting from the conversion.

Sec. 1775.53. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic or foreign entity other than a domestic partnership may be converted into a domestic partnership. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converting entity exists.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, and the jurisdiction of formation of the converting entity;

(b) If the converted entity is a limited liability partnership, its registration application;

(c) The partnership agreement of the converted domestic partnership or a provision that the written agreement of the converting entity, a copy of which shall be attached to the declaration of conversion, with any amendments that are set forth in the declaration of conversion, is the agreement of the converted domestic partnership;

(d) The general partners of the converted partnership;

(e) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists;

(f) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting entity into, or substituting the interests or shares in the converting entity for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted partnership.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted partnership unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code;

(2) A provision authorizing the converting entity to abandon the proposed conversion by action of authorized representatives of the converting entity taken prior to the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting entity at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) At any time before the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code, the conversion may be abandoned by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

(E) Unless the converted entity is a limited liability partnership, each person that will be a partner of the partnership that is the converted entity specifically shall agree in writing to be a partner in the partnership that is the converted entity.

Sec. 1775.54. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic partnership may be converted into a domestic or foreign entity other than a domestic partnership. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converted entity will exist.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, the form of the converted entity, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of state as the agent of the converted entity to accept service of process in this

state to enforce against the converted entity any obligation of the converting partnership or to enforce the rights of a dissenting partner of the converting partnership;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or be licensed under the applicable chapter of the Revised Code;

(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity;

(e) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting partnership into, or substituting the interests in the converting partnership for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted entity.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code;

(2) A provision authorizing the converting partnership to abandon the proposed conversion by action of the partners of the converting partnership taken prior to the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting partnership at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The partners of the converting partnership must adopt the declaration of conversion to effect the conversion.

(E)(1) All partners, whether or not they are entitled to vote or act, shall

be given written notice of any meeting of partners of a partnership or of any proposed action by the partners, which meeting or action is to adopt a declaration of conversion. The notice shall be given to the partners either as provided in writing in the partnership agreement or by mail at the partners' addresses as they appear on the records of the partnership, or in person. Unless the partnership agreement provides a shorter or longer period, notice shall be given not less than seven and not more than sixty days before the meeting or the effective date of the action.

(2) The notice described in division (E)(1) of this section shall be accompanied by a copy or a summary of the material provisions of the declaration of conversion.

(F) The unanimous vote or action of the partners of a converting partnership, or a different number or proportion as provided in writing in the partnership agreement, is required to adopt a declaration of conversion.

If the declaration of conversion would have an effect or authorize any action that under any applicable law or the partnership agreement could be effected or authorized only by or pursuant to a specified vote or action of the partners, or of any class or group of partners, the declaration of conversion also must be adopted or approved by the same vote or action as would be required to effect that change or authorize that action.

(G)(1) At any time before the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code, the conversion may be abandoned by all of the partners of the converting partnership or by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing less than all of the partners to amend the declaration of conversion at any time before the filing of the certificate of conversion pursuant to section 1775.55 of the Revised Code, except that, after the adoption of the declaration of conversion by the partners, less than all the partners are not authorized to amend the declaration of conversion to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash rights, or any other property to be received by the partners of the converting partnership in conversion of, or substitution for, their interests;

(b) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons the vote or action of which would be required for the alteration or change after the conversion;

(c) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the partners or any class or group of partners of the converting partnership.

Sec. 1775.55. (A) Upon the adoption of a declaration of conversion pursuant to section 1775.53 or 1775.54 of the Revised Code, or at a later time as authorized by the declaration of conversion, a certificate of conversion that is signed by an authorized representative of the converting entity shall be filed with the secretary of state. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required by this section.

(B)(1) The certificate of conversion shall set forth all of the following:

(a) The name and the form of entity of the converting entity and the state under the laws of which the converting entity exists;

(b) A statement that the converting entity has complied with all of the laws under which it exists and that those laws permit the conversion;

(c) The name and mailing address of the person or entity that is to provide a copy of the declaration of conversion in response to any written request made by a shareholder, partner, or member of the converting entity;

(d) The effective date of the conversion, which date may be on or after the date of the filing of the certificate pursuant to this section;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of the converting entity and the office held or the capacity in which the representative is acting;

(f) A statement that the declaration of conversion is authorized on behalf of the converting entity and that each person that signed the certificate on behalf of the converting entity is authorized to do so;

(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;

(h) If the converted entity is a foreign entity that will not be licensed in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served.

(2) In the case of a conversion into a new domestic corporation, limited liability company, limited partnership, or other partnership, any organizational document that would be filed upon the creation of the converted entity shall be filed with the certificate of conversion.

(3) If the converted entity is a foreign entity that desires to transact business in this state, the certificate of conversion shall be accompanied by the information required by division (B)(7), (8), (9), or (10) of section 1775.46 of the Revised Code.

(4) If a foreign or domestic corporation licensed to transact business in this state is the converting entity, the certificate of conversion shall be accompanied by the affidavits, receipts, certificates or other evidence required by division (H) of section 1701.86 of the Revised Code with respect to a converting domestic corporation, or by the affidavits, receipts, certificates or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code with respect to a foreign corporation.

(C) If the converting entity or the converted entity is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, all documents required to be filed in connection with the conversion by the laws of that state or that chapter also shall be filed in the proper office.

(D) Upon the filing of a certificate of conversion and other filings required by division (C) of this section, or at any later date that the certificate of conversion specifies, the conversion is effective, subject to the limitation that no conversion shall be effected if there are reasonable grounds to believe that the conversion would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth all of the following:

(1) The name and form of entity of the converting entity and the state under the laws of which it existed prior to the conversion;

(2) The name and the form of entity of the converted entity and the state under the law of which it will exist;

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion.

(F) The certificate of the secretary of state, or a copy of the certificate of conversion certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For the recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1775.56. (A) Upon a conversion becoming effective, all of the following apply:

(1) The converting entity is continued in the converted entity.

(2) The converted entity exists, and the converting entity ceases to exist.

(3) The converted entity possesses both of the following, and both of the following continue in the converted entity without any further act or deed:

(a) Except to the extent limited by requirements of applicable law, both

of the following:

(i) All assets and property of every description of the converting entity and every interest in the assets and property of the converting entity, wherever the assets, property, and interests are located. Title to any real estate or any interest in real estate that was vested in the converting entity does not revert or in any way is impaired by reason of the conversion.

(ii) The rights, privileges, immunities, powers, franchises, and authority, whether of a public or a private nature, of the converting entity.

(b) All obligations belonging or due to the converting entity.

(4) All the rights of creditors of the converting entity are preserved unimpaired, and all liens upon the property of the converting entity are preserved unimpaired. If a general partner of a converting partnership is not a general partner of the entity resulting from the conversion, then the former general partner has no liability for any obligation incurred after the conversion except to the extent that a former creditor of the converting partnership in which the former general partner was a general partner extends credit to the converted entity reasonably believing that the former general partner continues as a general partner of the converted entity.

(B) If a general partner of a converting partnership is not a general partner of the entity resulting from the conversion, then unless that general partner agrees otherwise in writing, the general partner shall be indemnified by the converted entity against all present or future liabilities of the converting partnership of which the general partner was a general partner. Liabilities of the converting partnership, for purposes of division (B) of this section, include any amount payable pursuant to section 1775.50 of the Revised Code to a partner of the converting partnership.

(C) In the case of a conversion into a foreign corporation, limited liability company, or partnership that is not licensed or registered to transact business in this state, if the converted entity intends to transact business in this state, and the certificate of conversion is accompanied by the information described in division (B)(4) of section 1775.47 of the Revised Code, then on the effective date of the conversion, the converted entity is considered to have complied with the requirements for procuring a license or for registration to transact business in this state as a foreign corporation, limited liability company, limited partnership, or limited liability partnership as the case may be. In such a case, a copy of the certificate of conversion certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company, foreign limited partnership, or foreign limited liability partnership.

(D) Any action to set aside any conversion on the ground that any section of the Revised Code applicable to the conversion has not been complied with shall be brought within ninety days after the effective date of the conversion or is forever barred.

(E) In the case of a converting or converted entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under which that entity exists or in which it has property.

Sec. 1782.435. (A) Unless otherwise provided in writing in the partnership agreement of a constituent domestic limited partnership, the following are entitled to relief as dissenting partners as provided in section 1782.436 of the Revised Code:

(1) Partners of a domestic limited partnership that is being merged or consolidated into a surviving or new entity, domestic or foreign, pursuant to section 1782.431 or 1782.432 of the Revised Code;

(2) In the case of a merger into a domestic limited partnership, partners of the surviving domestic limited partnership who under section 1782.431 of the Revised Code are entitled to vote or act on the adoption of an agreement or merger, but only as to the interests so entitling them to vote or act;

(3) Partners of a domestic limited partnership that is being converted into a converted entity pursuant to section 1782.439 of the Revised Code.

(B) Unless otherwise expressly agreed to in writing, a general partner of any constituent partnership shall be liable to the partners of the constituent partnership for any amount payable to them pursuant to section 1782.436 of the Revised Code as if the amount ~~so~~ payable were an existing liability of the constituent partnership at the time of the merger or consolidation.

Sec. 1782.436. (A) A partner of a domestic limited partnership is entitled to relief as a dissenting partner in respect of the proposals described in section 1782.435 of the Revised Code only in compliance with this section.

(B) If the proposal of merger ~~or~~, consolidation, or conversion is to be submitted to the partners at a meeting, the dissenting partner shall be a partner and a record holder of the partnership interests as to which ~~he~~ the dissenting partner seeks relief as of the date fixed for the determination of partners entitled to notice of the meeting, and such interests shall not have been voted in favor of the proposal. Not later than ten days after the date on which the vote on the proposal was taken at the meeting of the partners, the dissenting partner shall deliver to the limited partnership a written demand for payment to ~~him~~ the dissenting partner of the fair cash value of the interests as to which ~~he~~ the dissenting partner seeks relief that states ~~his~~ the dissenting partner's address, the number and class of those interests, and the

amount claimed by ~~him~~ the dissenting partner as the fair cash value of the interests.

(C) If the proposal of merger ~~or~~, consolidation, or conversion is to be submitted to the partners for their written approval or other action without meeting, the dissenting partner shall be a partner and a record holder of the interests of the partnership as to which ~~he~~ the dissenting partner seeks relief as of the date ~~such~~ the writing was sent to the partners entitled to act or otherwise approve the proposal, and the dissenting partner shall not have indicated ~~his~~ approval of the proposal in ~~his~~ the dissenting partner's capacity as a holder of such interests. Not later than fifteen days after the date on which request for approval of the proposal was mailed to the partners, the dissenting partner shall deliver to the partnership a written demand for payment to ~~him~~ the dissenting partner of the fair cash value of the interests as to which ~~he~~ the dissenting partner seeks relief, which demand shall state ~~his~~ the dissenting partner's address, the number and class of such interests, and the amount claimed by ~~him~~ the dissenting partner as the fair cash value of those interests.

(D) In the case of a merger or consolidation, a demand served on the constituent domestic limited partnership involved constitutes service on the surviving entity or the new entity, whether the demand is served before, on, or after the effective date of the merger or consolidation. In the case of a conversion, a demand served on the converting domestic limited partnership constitutes service on the converted entity, whether the demand is served before, on, or after the effective date of the conversion.

(E) If the interests as to which a dissenting partner seeks relief are represented by certificates and if the domestic limited partnership sends to the dissenting partner, at the address specified in ~~his~~ the dissenting partner's demand, a request for certificates representing the interests as to which ~~he~~ the dissenting partner seeks relief, the dissenting partner, within fifteen days from the date on which the request was sent, shall deliver to the limited partnership the certificates requested so that the limited partnership may endorse on them a legend to the effect that a demand for the fair cash value of such interests has been made. The limited partnership promptly shall return the endorsed certificates to the dissenting partner. The failure of a dissenting partner to deliver such certificates terminates ~~his~~ rights as a dissenting partner, at the option of the limited partnership, exercised by written notice sent to the dissenting partner within twenty days after the lapse of the fifteen-day period, unless a court for good cause shown otherwise directs. If interests represented by a certificate on which ~~such~~ a legend has been endorsed are transferred, each new certificate issued for

them shall bear a similar legend, together with the name of the original dissenting holder of such interests. Upon receiving a demand for payment from a dissenting partner who is a record holder of uncertificated interests, the limited partnership shall make an appropriate notation of the demand for payment in its records. If uncertificated interests for which payment has been demanded are to be transferred, any writing sent to evidence the transfer shall bear the legend required for certificated securities as provided in this division. A transferee of the interests receiving a certificate so endorsed, or of uncertificated securities where such a notation has been made, acquires only ~~such~~ rights in the limited partnership as the original partner holding such interests had immediately after the service of a demand for payment of the fair cash value of the interests. A request under this division by the limited partnership is not an admission by it that the holder of the interest is entitled to relief under this section.

(F) Unless the partnership agreement of the constituent domestic limited partnership in which the dissenting partner was a partner provides a reasonable basis for determining and paying the fair cash value of the interests as to which the dissenting partner seeks relief or unless the limited partnership and the dissenting partner have come to an agreement on the fair cash value of the interests as to which the dissenting partner seeks relief, the dissenting partner or the limited partnership, which in the case of a merger or consolidation may be the surviving or new entity, or in the case of a conversion is the converted entity, within three months after the service of the demand by the dissenting partner, may file a complaint under section 1782.437 of the Revised Code. The complaint shall be filed in the court of common pleas of the county in which the principal office of the limited partnership that issued the interests is located or was located when the proposal was adopted by the partners of the limited partnership. Other dissenting partners, within that three-month period, may join as plaintiffs or may be joined as defendants in any such proceeding, and any two or more such proceedings may be consolidated.

(G) The right and obligation of a dissenting partner to receive ~~such~~ fair cash value and to sell such interests as to which ~~he~~ the dissenting partner seeks relief and the right and obligation of the domestic limited partnership to purchase such interests and to pay the fair cash value of them terminate if any of the following applies:

(1) The dissenting partner has not complied with this section, unless the limited partnership waives such failure.

(2) The limited partnership abandons the merger ~~or~~, consolidation, or conversion or is finally enjoined or prevented from carrying it out, or the

partners rescind their adoption or approval of the merger ~~or~~, consolidation, or conversion.

(3) The dissenting partner withdraws ~~his~~ the dissenting partner's demand, with the consent of the limited partnership.

(4) All of the following apply:

(a) The partnership agreement of the constituent domestic limited partnership in which the dissenting partner was a partner does not provide a reasonable basis for determining and paying the dissenting partner the fair cash value of ~~his~~ the dissenting partner's interest.

(b) The limited partnership and the dissenting partner have not agreed upon the fair cash value of the interest.

(c) Neither the dissenting partner nor the limited partnership has filed or joined in a complaint under division (F) of this section within the period provided in that division.

(H) Unless otherwise provided in the partnership agreement of the constituent domestic limited partnership in which the dissenting partner was a partner, from the time the dissenting partner gives the demand until either the termination of the rights and obligations arising from it or the purchase of the interests by the limited partnership, all other rights accruing from such interests, including voting or distribution rights, are suspended. If, during the suspension, any distribution is paid in money upon interests of ~~such a~~ class or any dividend, distribution, or interest is paid in money upon any securities issued in extinguishment of, or in substitution for, such interest, an amount equal to the dividend, distribution, or interest that, except for the suspension, would have been payable upon such interests or securities shall be paid to the holder of record as a credit upon the fair cash value of the interests. If the right to receive fair cash value is terminated other than by the purchase of the interests by the limited partnership, all rights of the dissenting partner shall be restored and all distributions that, except for the suspension, would have been made shall be made to the holder of record of the interests at the time of termination.

Sec. 1782.437. (A) When authorized by division (F) of section 1782.436 of the Revised Code, a dissenting partner or limited partnership may file a complaint under this section demanding the relief described in this section. A complaint filed under this section shall contain a brief statement of the facts, including the vote or action by the partners and the facts entitling the dissenting partner to the relief demanded. No answer to ~~such~~ a complaint is required. Upon the filing of ~~such~~ a complaint, the court, on motion of the petitioner, shall enter an order fixing a date for a hearing on the complaint and requiring that a copy of the complaint and a notice of the filing and of

the date for the hearing be given to the respondent or defendant in the manner in which summons is required to be served or substituted service is required to be made in other cases. On the date fixed for the hearing on the complaint or any adjournment of it, the court shall determine from the complaint and from ~~such~~ evidence ~~as is~~ submitted by either party whether the dissenting partner is entitled to be paid the fair cash value of any interests and, if so, the number and class of such interests. If the court finds that the dissenting partner is so entitled, it may appoint one or more persons as appraisers to receive evidence and to recommend a decision on the amount of the fair cash value. The appraisers have ~~such~~ power and authority ~~as is~~ specified in the order of their appointment. The court thereupon shall make a finding as to the fair cash value of the interests and shall render judgment against the limited partnership for the payment of it, with interest at ~~such~~ a rate and from ~~such~~ a date as the court considers equitable. The costs of the proceeding, including reasonable compensation to the appraisers to be fixed by the court, shall be assessed or apportioned as the court considers equitable. The proceeding is a special proceeding and final orders in it may be vacated, modified, or reversed on appeal pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. If, during the pendency of any proceeding under this section, a suit or proceeding is or has been instituted to enjoin or otherwise to prevent the carrying out of the action as to which the partner has dissented, the proceeding instituted under this section shall be stayed until the final determination of the other suit or proceeding. Unless any provision of division (G) of section 1782.436 of the Revised Code is applicable, the fair cash value of the interests that is agreed upon by the parties or fixed under this section shall be paid within thirty days after the date of final determination of such value under this division or the consummation of the merger ~~or~~, consolidation, or conversion, whichever occurs last. Upon the occurrence of the last such event, payment shall be made immediately to a holder of uncertificated securities entitled to ~~such~~ payment. In the case of holders of interests represented by certificates, payment shall be made only upon and simultaneously with the surrender to the domestic limited partnership of the certificates representing the interests for which the payment is made.

(B) If the proposal was submitted to the partners of the limited partnership for a vote at a meeting, fair cash value as to those partners shall be determined as of the day before the day on which the vote by the partners was taken. If the proposal was submitted to the partners for written approval or other action, fair cash value as to those partners shall be determined as of

the day before the day on which the request for the approval or action was sent. The fair cash value of an interest for purposes of this section is the amount that a willing seller who is under no compulsion to sell would be willing to accept and that a willing buyer who is under no compulsion to purchase would be willing to pay, but the fair cash value paid to any partner shall not exceed the amount specified in the demand of that partner. In computing ~~such~~ fair cash value, any appreciation or depreciation in market value resulting from the merger ~~or~~, consolidation, or conversion shall be excluded.

Sec. 1782.438. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic or foreign entity other than a domestic limited partnership may be converted into a domestic limited partnership. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converting entity exists.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, and the jurisdiction of formation of the converting entity;

(b) The certificate of limited partnership of the converted limited partnership;

(c) The partnership agreement of the converted domestic limited partnership or a provision that the written agreement of the converting entity, a copy of which shall be attached to the declaration of conversion, with any amendments that are set forth in the declaration of conversion, is the agreement of the converted domestic limited partnership;

(d) The general partners of the converted domestic limited partnership;

(e) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists;

(f) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting entity into, or substituting the interests or shares in the converting entity for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted limited partnership.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted limited partnership unable to pay its

obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code;

(2) A provision authorizing the converting entity to abandon the proposed conversion by action of authorized representatives of the converting entity taken prior to the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting entity at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the converting entity;

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) At any time before the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code, the conversion may be abandoned by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

(E) Each person that will be a general partner of the domestic limited partnership that is the converted entity specifically shall agree in writing to be a general partner in the domestic limited partnership that is the converted entity.

Sec. 1782.439. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as provided in this section, a domestic limited partnership may be converted into a domestic or foreign entity other than a domestic limited partnership. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converted entity will exist.

(B)(1) The written declaration of conversion shall set forth all of the following:

(a) The name and form of entity that is being converted, the name of the entity into which the entity will be converted, the form of the converted entity, and the jurisdiction of formation of the converted entity;

(b) If the converted entity is a domestic entity, the complete terms of all documents required under the applicable chapter of the Revised Code to form the converted entity;

(c) If the converted entity is a foreign entity, all of the following:

(i) The complete terms of all documents required under the law of its formation to form the converted entity;

(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment of the secretary of state as the agent of the converted entity to accept service of process in this state to enforce against the converted entity any obligation of the converting limited partnership or to enforce the rights of a dissenting limited partner of the converting limited partnership;

(iii) If the converted entity desires to transact business in this state, the information required to qualify or be licensed under the applicable chapter of the Revised Code;

(d) All other statements and matters required to be set forth in the declaration of conversion by the applicable chapter of the Revised Code if the converted entity is a domestic entity, or by the laws under which the converted entity will be formed, if the converted entity is a foreign entity.

(e) The terms of the conversion; the mode of carrying them into effect; and the manner and basis of converting the interests or shares of the converting limited partnership into, or substituting the interests in the converting partnership for, interests, evidences of indebtedness, other securities, cash, rights, or any other property or any combination of interests, evidences of indebtedness, other securities, cash, rights, or any other property of the converted entity.

(2) No conversion or substitution described in this section shall be effected if there are reasonable grounds to believe that the conversion or substitution would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(C) The written declaration of conversion may set forth any of the following:

(1) The effective date of the conversion, which date may be on or after the date of the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code;

(2) A provision authorizing the converting limited partnership to abandon the proposed conversion by action of the general partners of the converting limited partnership taken prior to the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code;

(3) A statement of, or a statement of the method to be used to determine, the fair value of the assets owned by the converting limited partnership at the time of the conversion;

(4) The parties to the declaration of conversion in addition to the

converting entity:

(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.

(D) The general partners of the converting domestic limited partnership and, unless otherwise provided in writing in the agreement of limited partnership, the limited partners of the converting domestic limited partnership must adopt the declaration of conversion in order to effect the conversion. Notwithstanding that the limited partners of a converting domestic limited partnership are not required to vote on a conversion, the declaration of conversion also must be adopted by the limited partners if the declaration of conversion makes any change to the partnership agreement then in effect or to the documents governing the organization of the converted entity, or authorizes any action that, if it were made or authorized apart from the conversion, would require such approval or adoption.

(E)(1) All partners, whether or not they are entitled to vote or act, shall be given written notice of any meeting of limited partners of a converting domestic limited partnership or of any proposed action by limited partners of a converting domestic limited partnership, which meeting or action is to adopt a declaration of conversion. The notice shall be given to the partners either as provided in writing in the limited partnership agreement or by mail at the partners' addresses as they appear on the records of the limited partnership, or in person. Unless the limited partnership agreement provides a shorter or longer period, notice shall be given not less than seven and not more than sixty days before the meeting or the effective date of the action.

(2) The notice described in division (E)(1) of this section shall be accompanied by a copy or a summary of the material provisions of the declaration of conversion.

(F) The unanimous vote or action of the general partners, or a different number or proportion as provided in writing in the partnership agreement, is required to adopt a declaration of conversion.

If the declaration of conversion would have an effect or authorize any action that under any applicable provision of law or the partnership agreement could be effected or authorized only by or pursuant to a specified vote or action of the partners, or of any class or group of partners, the declaration of conversion also must be adopted or approved by the same vote or action as would be required to effect that change or authorize that action.

(G) Each person that will continue to be or that will become a general partner of a partnership that is a converted entity in a conversion specifically shall agree to continue or to become, as the case may be, a general partner of

the partnership that is the converted entity.

(H)(1) At any time before the filing of the certificate of conversion pursuant to section 1782.4310 of the Revised Code, the conversion may be abandoned by all of the general partners of the converting limited partnership or by any representatives authorized to do so by the declaration of conversion, or by the same vote as was required to adopt the declaration of conversion.

(2) The declaration of conversion may contain a provision authorizing less than all of the general partners to amend the declaration of conversion at any time before the filing of the certificate of conversion, except that, after the adoption of the declaration of conversion by the general partners, less than all the general partners are not authorized to amend the declaration of conversion to do any of the following:

(a) Alter or change the amount or kind of interests, shares, evidences of indebtedness, other securities, cash rights, or any other property to be received by the partners of the converting limited partnership in conversion of, or substitution for, their interests;

(b) Alter or change any term of the organizational documents of the converted entity except for alterations or changes that are adopted with the vote or action of the persons the vote or action of which would be required for the alteration or change after the conversion;

(c) Alter or change any other terms and conditions of the declaration of conversion if any of the alterations or changes, alone or in the aggregate, materially and adversely would affect the partners or any class or group of partners of the converting partnership.

Sec. 1782.4310. (A) Upon the adoption of a declaration of conversion pursuant to section 1782.438 or 1782.439 of the Revised Code, or at a later time as authorized by the declaration of conversion, a certificate of conversion that is signed by an authorized representative of the converting entity shall be filed with the secretary of state. The certificate shall be on a form prescribed by the secretary of state and shall set forth only the information required by this section.

(B)(1) The certificate of conversion shall set forth all of the following:

(a) The name and the form of entity of the converting entity and the state under the laws of which the converting entity exists;

(b) A statement that the converting entity has complied with all of the laws under which it exists and that those laws permit the conversion;

(c) The name and mailing address of the person or entity that is to provide a copy of the declaration of conversion in response to any written request made by a shareholder, partner, or member of the converting entity;

(d) The effective date of the conversion, which date may be on or after the date of the filing of the certificate pursuant to this section;

(e) The signature of the representative or representatives authorized to sign the certificate on behalf of the converting entity and the office held or the capacity in which the representative is acting;

(f) A statement that the declaration of conversion is authorized on behalf of the converting entity and that each person that signed the certificate on behalf of the converting entity is authorized to do so;

(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;

(h) If the converted entity is a foreign entity that will not be licensed in this state, the name and address of the statutory agent upon whom any process, notice, or demand may be served.

(2) In the case of a conversion into a new domestic corporation, limited liability company, or partnership, any organizational document that would be filed upon the creation of the converted entity shall be filed with the certificate of conversion.

(3) If the converted entity is a foreign entity that desires to transact business in this state, the certificate of conversion shall be accompanied by the information required by division (B)(7), (8), or (9) of section 1782.432 of the Revised Code.

(4) If a foreign or domestic corporation licensed to transact business in this state is the converting entity, the certificate of conversion shall be accompanied by the affidavits, receipts, certificates, or other evidence required by division (H) of section 1701.86 of the Revised Code with respect to a converting domestic corporation, or by the affidavits, receipts, certificates, or other evidence required by division (C) or (D) of section 1703.17 of the Revised Code with respect to a foreign corporation.

(C) If the converting entity or the converted entity is organized or formed under the laws of a state other than this state or under any chapter of the Revised Code other than this chapter, all documents required to be filed in connection with the conversion by the laws of that state or that chapter shall be filed in the proper office.

(D) Upon the filing of a certificate of conversion and other filings required by division (C) of this section, or at any later date that the certificate of conversion specifies, the conversion is effective, subject to the limitation that no conversion shall be effected if there are reasonable grounds to believe that the conversion would render the converted entity unable to pay its obligations as they become due in the usual course of its affairs.

(E) The secretary of state shall furnish, upon request and payment of the fee specified in division (K)(2) of section 111.16 of the Revised Code, the secretary of state's certificate setting forth all of the following:

(1) The name and form of entity of the converting entity and the state under the laws of which it existed prior to the conversion;

(2) The name and the form of entity of the converted entity and the state under the law of which it will exist;

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion.

(F) The certificate of the secretary of state, or a copy of the certificate of conversion certified by the secretary of state, may be filed for record in the office of the recorder of any county in this state and, if filed, shall be recorded in the records of deeds for that county. For the recording, the county recorder shall charge and collect the same fee as in the case of deeds.

Sec. 1782.4311. (A) Upon a conversion becoming effective, all of the following apply:

(1) The converting entity is continued in the converted entity.

(2) The converted entity exists, and the converting entity ceases to exist.

(3) The converted entity possesses both of the following, and both of the following continue in the converted entity without any further act or deed:

(a) Except to the extent limited by requirements of applicable law, both of the following:

(i) All assets and property of every description of the converting entity and every interest in the assets and property of the converting entity, wherever the assets, property, and interests are located. Title to any real estate or any interest in real estate that was vested in the converting entity does not revert or in any way is impaired by reason of the conversion.

(ii) The rights, privileges, immunities, powers, franchises, and authority, whether of a public or a private nature, of the converting entity.

(b) All obligations belonging or due to the converting entity.

(4) All the rights of creditors of the converting entity are preserved unimpaired, and all liens upon the property of the converting entity are preserved unimpaired. If a general partner of a converting partnership is not a general partner of the entity resulting from the conversion, then the former general partner has no liability for any obligation incurred after the conversion except to the extent that a former creditor of the converting partnership in which the former general partner was a general partner extends credit to the converted entity reasonably believing that the former general partner continues as a general partner of the converted entity.

(B) If a general partner of a converting limited partnership is not a

general partner of the entity resulting from the conversion, then, unless that general partner agrees otherwise in writing, the general partner shall be indemnified by the converted entity against all present or future liabilities of the converting limited partnership of which the general partner was a general partner. Liabilities of the converting limited partnership, for purposes of division (B) of this section, include any amount payable pursuant to section 1782.435 of the Revised Code to a partner of the converting partnership.

(C) In the case of a conversion into a foreign corporation, limited liability company, or partnership that is not licensed or registered to transact business in this state, if the converted entity intends to transact business in this state, and the certificate of conversion is accompanied by the information described in division (B)(4) of section 1782.433 of the Revised Code, then on the effective date of the conversion, the converted entity is considered to have complied with the requirements for procuring a license or for registration to transact business in this state as a foreign corporation, limited liability company, limited partnership, or limited liability partnership as the case may be. In such a case, a copy of the certificate of conversion certified by the secretary of state constitutes the license certificate prescribed for a foreign corporation or the application for registration prescribed for a foreign limited liability company, foreign limited partnership, or foreign limited liability partnership.

(D) Any action to set aside any conversion on the ground that any section of the Revised Code applicable to the conversion has not been complied with shall be brought within ninety days after the effective date of the conversion or is forever barred.

(E) In the case of a converting or converted entity organized or existing under the laws of any state other than this state, this section is subject to the laws of the state under which that entity exists or in which it has property.

Sec. 1782.65. (A) Absent an express agreement to the contrary, a person providing goods to or performing services for a domestic or foreign limited partnership owes no duty to, incurs no liability or obligation to, and is not in privity with the general partners, limited partners, or creditors of the limited partnership by reason of providing goods to or performing services for the limited partnership.

(B) Absent an express agreement to the contrary, a person providing goods to or performing services for a general or limited partner or a group of general or limited partners of a limited domestic or foreign limited partnership owes no duty to, incurs no liability or obligation to, and is not in privity with the limited partnership, any other general or limited partners of

the limited partnership, or the creditors of the limited partnership by reason of providing goods to or performing services for the general or limited partner or group of general or limited partners.

SECTION 2. That existing sections 111.16, 1701.01, 1701.10, 1701.11, 1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 1701.51, 1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 1701.75, 1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 1707.01, 1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 1775.45, 1775.46, 1775.47, 1775.48, 1775.49, 1775.50, 1775.51, 1775.52, 1782.435, 1782.436, and 1782.437 of the Revised Code are hereby repealed.

SECTION 3. Section 111.16 of the Revised Code, as amended by this act, shall take effect on the one hundred eightieth day after the effective date of this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_