

As Introduced

**126th General Assembly
Regular Session
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H. B. No. 301

**Representatives Seitz, Fessler, Combs, Wagoner, Coley, Trakas, Reidelbach,
Gilb, White, Schneider**

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A B I L L

To amend sections 121.76, 1701.01, 1701.10, 1701.11, 1
1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 2
1701.44, 1701.51, 1701.54, 1701.57, 1701.58, 3
1701.62, 1701.63, 1701.73, 1701.75, 1701.76, 4
1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 5
1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 6
1705.41, 1705.42, 1707.01, 1707.041, 1707.20, 7
1707.44, 1775.01, 1775.05, 1775.14, 1775.45 to 8
1775.52, 1782.435, 1782.436, and 1782.437 and to 9
enact sections 1701.782, 1701.792, 1701.802, 10
1701.811, 1701.821, 1705.361, 1705.371, 1705.381, 11
1705.391, 1707.142, 1775.53 to 1775.56, 1782.438, 12
1782.439, 1782.440, 1782.441, and 1782.65 of the 13
Revised Code to modify state agency rulemaking 14
authority to automatically include any future 15
amendments to federal laws incorporated by 16
reference into a rule; to authorize and specify 17
applicable provisions to conversions of business 18
entities by corporations, limited liability 19
companies, and general, limited liability, and 20
limited partnerships; to expand the limited 21
liability of registered limited liability 22
partnerships; to limit liability to limited 23
partnerships; to modify the Corporation Law 24

relating to regulations or articles, shareholder 25
rights, delegation authority, acceptable payments 26
for shares, director meetings, executive 27
committees, actions authorized after bankruptcy, 28
distributions to shareholders when the issuing 29
corporation "spins off" a subsidiary corporation, 30
reorganization and restructuring of holding 31
company corporations, and control share 32
acquisitions; to modify the Limited Liability 33
Company Law to specify acceptable forms of 34
contributions; and to modify the Securities Law 35
relating to dealer recordkeeping and filing 36
requirements, tender offers, and incorporation in 37
Ohio law of future amendments to federal 38
securities laws. 39

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 121.76, 1701.01, 1701.10, 1701.11, 40
1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 1701.51, 41
1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 1701.75, 42
1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 1704.02, 43
1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 1707.01, 44
1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 1775.45, 45
1775.46, 1775.47, 1775.48, 1775.49, 1775.50, 1775.51, 1775.52, 46
1782.435, 1782.436, and 1782.437 be amended and sections 1701.782, 47
1701.792, 1701.802, 1701.811, 1701.821, 1705.361, 1705.371, 48
1705.381, 1705.391, 1707.142, 1775.53, 1775.54, 1775.55, 1775.56, 49
1782.438, 1782.439, 1782.440, 1782.441, and 1782.65 of the Revised 50
Code be enacted to read as follows: 51

Sec. 121.76. (A) Sections 121.71 to 121.75 of the Revised 52
Code do not apply to the incorporation by reference of: 53

(1) A section of the Revised Code;	54
(2) An uncodified statute of this state; or	55
(3) A rule in the Administrative Code.	56
(B) Sections 121.71 to 121.75 of the Revised Code do not apply to either:	57 58
(1) An internal management rule as defined in section 111.15 of the Revised Code; or	59 60
(2) A rule insofar as it is necessary to obtain or maintain authorization of a federally delegated program in Ohio, or insofar as it is necessary to maintain compliance with federal requirements in order to receive federal funds for a federally funded program, and, in regard to that authorization or compliance, incorporates a text or other material by reference; <u>or</u>	61 62 63 64 65 66
<u>(3) A rule that, under authority explicitly conferred by a statute of this state, incorporates by reference a statute that is part of, or a rule, regulation, or form that has been adopted, promulgated, or prescribed under, a federal law, not only as that statute, rule, regulation, or form exists at the time of its incorporation by reference but also as it may exist at any time in the future, provided that the incorporation by reference includes a citation to the existing version of the statute, rule, regulation, or form; the citation states that not only the existing but also future versions of the statute, rule, regulation, or form are being incorporated; and the citation will be intelligible to the persons reasonably expected to be affected by the rule.</u>	67 68 69 70 71 72 73 74 75 76 77 78 79
It is recommended that a rule exempt from complying with sections 121.71 to 121.75 of the Revised Code under division (B)(2) of this section nevertheless incorporate by reference a particular edition or other version of the text or other material.	80 81 82 83

Sec. 1701.01. As used in sections 1701.01 to 1701.98 of the Revised Code, unless the context otherwise requires:	84
(A) "Corporation" or "domestic corporation" means a corporation for profit formed under the laws of this state.	85
(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.	86
(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.	87
(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.	88
(E) "Incorporator" means a person who signed the original articles of incorporation.	89
(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 <u>adopted by the shareholders, the regulations adopted by the directors pursuant to division (A)(1) of section 1701.10 of the Revised Code</u> , 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.	90
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(G) "Person" includes, without limitation, a natural person, 114
a corporation, whether nonprofit or for profit, a partnership, a 115
limited liability company, an unincorporated society or 116
association, and two or more persons having a joint or common 117
interest. 118

(H) The location of the "principal office" of a corporation 119
is the place named as the principal office in its articles. 120

(I) The "express terms" of shares of a class are the 121
statements expressed in the articles with respect to such shares. 122

(J) Shares of a class are "junior" to shares of another class 123
when any of their dividend or distribution rights are subordinate 124
to, or dependent or contingent upon, any right of, or dividend on, 125
or distribution to, shares of such other class. 126

(K) "Treasury shares" means shares belonging to the 127
corporation and not retired that have been either issued and 128
thereafter acquired by the corporation or paid as a dividend or 129
distribution in shares of the corporation on treasury shares of 130
the same class; such shares shall be deemed to be issued, but they 131
shall not be considered as an asset or a liability of the 132
corporation, or as outstanding for dividend or distribution, 133
quorum, voting, or other purposes, except, when authorized by the 134
directors, for dividends or distributions in authorized but 135
unissued shares of the corporation of the same class. 136

(L) To "retire" a share means to restore it to the status of 137
an authorized but unissued share. 138

(M) "Redemption price of shares" means the amount required by 139
the articles to be paid on redemption of shares. 140

(N) "Liquidation price" means the amount or portion of assets 141
required by the articles to be distributed to the holders of 142
shares of any class upon dissolution, liquidation, merger, or 143

consolidation of the corporation, or upon sale of all or 144
substantially all of its assets. 145

(O) "Insolvent" means that the corporation is unable to pay 146
its obligations as they become due in the usual course of its 147
affairs. 148

(P) "Parent corporation" or "parent" means a domestic or 149
foreign corporation that owns and holds of record shares of 150
another corporation, domestic or foreign, entitling the holder of 151
the shares at the time to exercise a majority of the voting power 152
in the election of the directors of the other corporation without 153
regard to voting power that may thereafter exist upon a default, 154
failure, or other contingency; "subsidiary corporation" or 155
"subsidiary" means a domestic or foreign corporation of which 156
another corporation, domestic or foreign, is the parent. 157

(Q) "Combination" means a transaction, other than a merger or 158
consolidation, wherein either of the following applies: 159

(1) Voting shares of a domestic corporation are issued or 160
transferred in consideration in whole or in part for the transfer 161
to itself or to one or more of its subsidiaries, domestic or 162
foreign, of all or substantially all the assets of one or more 163
corporations, domestic or foreign, with or without good will or 164
the assumption of liabilities; 165

(2) Voting shares of a foreign parent corporation are issued 166
or transferred in consideration in whole or in part for the 167
transfer of such assets to one or more of its domestic 168
subsidiaries. 169

"Transferee corporation" in a combination means the 170
corporation, domestic or foreign, to which the assets are 171
transferred, and "transferor corporation" in a combination means 172
the corporation, domestic or foreign, transferring such assets and 173
to which, or to the shareholders of which, the voting shares of 174

the domestic or foreign corporation are issued or transferred. 175

(R) "Majority share acquisition" means the acquisition of 176
shares of a corporation, domestic or foreign, entitling the holder 177
of the shares to exercise a majority of the voting power in the 178
election of directors of such corporation without regard to voting 179
power that may thereafter exist upon a default, failure, or other 180
contingency, by either of the following: 181

(1) A domestic corporation in consideration in whole or in 182
part, for the issuance or transfer of its voting shares; 183

(2) A domestic or foreign subsidiary in consideration in 184
whole or in part for the issuance or transfer of voting shares of 185
its domestic parent. 186

(S) "Acquiring corporation" in a combination means the 187
domestic corporation whose voting shares are issued or transferred 188
by it or its subsidiary or subsidiaries to the transferor 189
corporation or corporations or the shareholders of the transferor 190
corporation or corporations; and "acquiring corporation" in a 191
majority share acquisition means the domestic corporation whose 192
voting shares are issued or transferred by it or its subsidiary in 193
consideration for shares of a domestic or foreign corporation 194
entitling the holder of the shares to exercise a majority of the 195
voting power in the election of directors of such corporation. 196

(T) When used in connection with a combination or a majority 197
share acquisition, "voting shares" means shares of a corporation, 198
domestic or foreign, entitling the holder of the shares to vote at 199
the time in the election of directors of such corporation without 200
regard to voting power which may thereafter exist upon a default, 201
failure, or other contingency. 202

(U) "An emergency" exists when the governor, or any other 203
person lawfully exercising the power and discharging the duties of 204
the office of governor, proclaims that an attack on the United 205

States or any nuclear, atomic, or other disaster has caused an 206
emergency for corporations, and such an emergency shall continue 207
until terminated by proclamation of the governor or any other 208
person lawfully exercising the powers and discharging the duties 209
of the office of governor. 210

(V) "Constituent corporation" means an existing corporation 211
merging into or into which is being merged one or more other 212
entities in a merger or an existing corporation being consolidated 213
with one or more other entities into a new entity in a 214
consolidation, whether any of the entities is domestic or foreign, 215
and "constituent entity" means any entity merging into or into 216
which is being merged one or more other entities in a merger, or 217
an existing entity being consolidated with one or more other 218
entities into a new entity in a consolidation, whether any of the 219
entities is domestic or foreign. 220

(W) "Surviving corporation" means the constituent domestic or 221
foreign corporation that is specified as the corporation into 222
which one or more other constituent entities are to be or have 223
been merged, and "surviving entity" means the constituent domestic 224
or foreign entity that is specified as the entity into which one 225
or more other constituent entities are to be or have been merged. 226

(X) "Close corporation agreement" means an agreement that 227
satisfies the three requirements of division (A) of section 228
1701.591 of the Revised Code. 229

(Y) "Issuing public corporation" means a domestic corporation 230
with fifty or more shareholders that has its principal place of 231
business, its principal executive offices, assets having 232
substantial value, or a substantial percentage of its assets 233
within this state, and as to which no valid close corporation 234
agreement exists under division (H) of section 1701.591 of the 235
Revised Code. 236

(Z)(1) "Control share acquisition" means the acquisition, 237
directly or indirectly, by any person of shares of an issuing 238
public corporation that, when added to all other shares of the 239
issuing public corporation in respect of which ~~such~~ the person may 240
exercise or direct the exercise of voting power as provided in 241
this division, would entitle ~~such~~ the person, immediately after 242
~~such~~ the acquisition, directly or indirectly, alone or with 243
others, to exercise or direct the exercise of the voting power of 244
the issuing public corporation in the election of directors within 245
any of the following ranges of such voting power: 246

(a) One-fifth or more but less than one-third of such voting 247
power; 248

(b) One-third or more but less than a majority of such voting 249
power; 250

(c) A majority or more of such voting power. 251

A bank, broker, nominee, trustee, or other person ~~who~~ that 252
acquires shares in the ordinary course of business for the benefit 253
of others in good faith and not for the purpose of circumventing 254
section 1701.831 of the Revised Code shall, however, be deemed to 255
have voting power only of shares in respect of which such person 256
would be able, without further instructions from others, to 257
exercise or direct the exercise of votes on a proposed control 258
share acquisition at a meeting of shareholders called under 259
section 1701.831 of the Revised Code. 260

(2) The acquisition by any person of any shares of an issuing 261
public corporation does not constitute a control share acquisition 262
for the purpose of section 1701.831 of the Revised Code if the 263
acquisition was or is consummated in, results from, or is the 264
consequence of any of the following circumstances: 265

(a) Prior to November 19, 1982; 266

(b) Pursuant to a contract existing prior to November 19, 267
1982; 268

(c) By bequest or inheritance, by operation of law upon the 269
death of an individual, or by any other transfer without valuable 270
consideration, including a gift, that is made in good faith and 271
not for the purpose of circumventing section 1701.831 of the 272
Revised Code; 273

(d) Pursuant to the satisfaction of a pledge or other 274
security interest created in good faith and not for the purpose of 275
circumventing section 1701.831 of the Revised Code; 276

(e) Pursuant to a merger or consolidation adopted, or a 277
combination or majority share acquisition authorized, by vote of 278
the shareholders of the issuing public corporation in compliance 279
with section 1701.78, 1701.781, 1701.79, 1701.791, or 1701.83 of 280
the Revised Code, or pursuant to a merger adopted in compliance 281
with section 1701.802 of the Revised Code; 282

(f) The person's being entitled, immediately thereafter, to 283
exercise or direct the exercise of voting power of the issuing 284
public corporation in the election of directors within the same 285
range theretofore attained by that person either in compliance 286
with the provisions of section 1701.831 of the Revised Code or as 287
a result solely of the issuing public corporation's purchase of 288
shares issued by it. 289

The acquisition by any person of shares of an issuing public 290
corporation in a manner described under division (Z)(2) of this 291
section shall be deemed a control share acquisition authorized 292
pursuant to section 1701.831 of the Revised Code within the range 293
of voting power under division (Z)(1)(a), (b), or (c) of this 294
section that such person is entitled to exercise after ~~such~~ the 295
acquisition, provided, in the case of an acquisition in a manner 296
described under division (Z)(2)(c) or (d) of this section, the 297

transferor of shares to such person had previously obtained any 298
authorization of shareholders required under section 1701.831 of 299
the Revised Code in connection with ~~such~~ the transferor's 300
acquisition of shares of the issuing public corporation. 301

(3) The acquisition of shares of an issuing public 302
corporation in good faith and not for the purpose of circumventing 303
section 1701.831 of the Revised Code from any person whose control 304
share acquisition previously had been authorized by shareholders 305
in compliance with section 1701.831 of the Revised Code, or from 306
any person whose previous acquisition of shares of an issuing 307
public corporation would have constituted a control share 308
acquisition but for division (Z)(2) or (3) of this section, does 309
not constitute a control share acquisition for the purpose of 310
section 1701.831 of the Revised Code unless such acquisition 311
entitles the person making the acquisition, directly or 312
indirectly, alone or with others, to exercise or direct the 313
exercise of voting power of the corporation in the election of 314
directors in excess of the range of ~~such~~ voting power authorized 315
pursuant to section 1701.831 of the Revised Code, or deemed to be 316
so authorized under division (Z)(2) of this section. 317

(AA) "Acquiring person" means any person who has delivered an 318
acquiring person statement to an issuing public corporation 319
pursuant to section 1701.831 of the Revised Code. 320

(BB) "Acquiring person statement" means a written statement 321
that complies with division (B) of section 1701.831 of the Revised 322
Code. 323

(CC)(1) "Interested shares" means the shares of an issuing 324
public corporation in respect of which any of the following 325
persons may exercise or direct the exercise of the voting power of 326
the corporation in the election of directors: 327

(a) An acquiring person; 328

(b) Any officer of the issuing public corporation elected or appointed by the directors of the issuing public corporation;	329 330
(c) Any employee of the issuing public corporation who is also a director of such corporation;	331 332
(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:	333 334 335 336 337 338 339 340 341 342 343 344
(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;	345 346 347 348
(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.	349 350 351 352
(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.	353 354 355 356 357
(2) If any part of this division is held to be illegal or invalid in application, the illegality or invalidity does not	358 359

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.

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(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:~~

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~~(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;~~

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~~(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.~~

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~~(4) In no event may the directors take any action to adopt or~~
~~amend regulations after the shareholders have adopted regulations~~

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as provided in section 1701.11 of the Revised Code. 419

(B) Action required or permitted by this chapter to be taken 420
by the incorporators at an organizational meeting may be taken 421
without a meeting if the action taken is evidenced by one or more 422
written consents describing the action taken and signed by each 423
incorporator. 424

(C) An organizational meeting may be held in or out of this 425
state. 426

Sec. 1701.11. (A)(1) Regulations for the government of a 427
corporation, the conduct of its affairs, and the management of its 428
property, consistent with law and the articles, may be adopted, 429
amended, or repealed in any of the following ways: 430

(a) Within ninety days after the corporation is formed, by 431
the directors in accordance with division (A)(1) of section 432
1701.10 of the Revised Code; 433

(b) By the shareholders at a meeting held for that purpose, 434
by the affirmative vote of the holders of shares entitling them to 435
exercise a majority of the voting power of the corporation on the 436
proposal, or if the articles or regulations that have been adopted 437
so provide, by the affirmative vote of the holders entitling them 438
to exercise a greater proportion than a majority of the voting 439
power of the corporation on the proposal; 440

(c) Without a meeting, by the written consent of the holders 441
of shares entitling them to exercise two-thirds of the voting 442
power of the corporation on the proposal. 443

~~(2) Except as otherwise provided in division (A)(4) of this 444
section, the regulations may be amended, or new regulations may be 445
adopted, in either of the following ways:~~ 446

~~(a) By the shareholders at a meeting held for that purpose, 447
by the affirmative vote of the holders of shares entitling them to 448~~

~~exercise a majority of the voting power of the corporation on the~~ 449
~~proposal;~~ 450

~~(b) Without a meeting, by the written consent of the holders~~ 451
~~of shares entitling them to exercise two thirds of the voting~~ 452
~~power of the corporation on the proposal.~~ 453

~~(3) Except as otherwise provided in division (A)(4) of this~~ 454
~~section, or~~ if the articles or regulations that have been adopted 455
so provide or permit, ~~regulations may be adopted or amended or new~~ 456
~~regulations may be adopted~~ by the affirmative vote or written 457
consent of the holders of shares entitling them to exercise a 458
greater or lesser proportion but not less than a majority of the 459
voting power of the corporation on the proposal; 460

(d) If and to the extent that the articles or regulations so 461
provide or permit and unless a provision of the Revised Code 462
reserves such authority to shareholders, by the directors, 463
provided that no provision or permission in the articles or 464
regulations may divest shareholders of the power, or limit the 465
shareholders' power, to adopt, amend, or repeal regulations. 466

~~(4)(2)~~ Any amendment of regulations and any amended or new 467
regulations adopted by shareholders of an issuing public 468
corporation whose directors are classified pursuant to section 469
1701.57 of the Revised Code that would change or eliminate the 470
classification of directors shall be adopted only by the 471
shareholders ~~only~~ at a meeting held for that purpose, by the 472
affirmative vote of holders of shares entitling them to exercise 473
the voting power of the corporation that is required for 474
shareholders at a meeting under division ~~(A)(2)(a) or (3)(A)(1)(b)~~ 475
of this section, and also by the affirmative vote of the holders 476
of a majority of disinterested shares voted on the proposal 477
determined as specified in division (C)(9) of section 1704.01 of 478
the Revised Code. 479

(B) Without limiting the generality of the authority	480
described in division (A) of this section, the regulations may	481
include provisions with respect to all of the following:	482
(1) The place, if any, and time for holding, the manner of	483
and authority for calling, giving notice of, and conducting, and	484
the requirements of a quorum for, meetings of shareholders;	485
(2) The taking of a record of shareholders or the temporary	486
closing of books against transfers of shares;	487
(3) The number, classification, manner of fixing or changing	488
the number, qualifications, term of office, and compensation or	489
manner of fixing compensation, of directors;	490
(4) The place, if any, and time for holding, the manner of	491
and authority for calling, giving notice of, and conducting, and	492
the requirements of a quorum for, meetings of the directors;	493
(5) The appointment of an executive and other committees of	494
the directors, and their authority;	495
(6) The titles, qualifications, duties, term of office,	496
compensation or manner of fixing compensation, and the removal, of	497
officers;	498
(7) The terms on which new certificates for shares may be	499
issued in the place of lost, stolen, or destroyed certificates;	500
(8) The manner in which and conditions upon which a	501
certificated security, and the conditions upon which an	502
uncertificated security, and the shares represented by a	503
certificated or uncertificated security, may be transferred,	504
restrictions on the right to transfer the shares, and reservations	505
of liens on the shares;	506
(9)(a) Restrictions on the transfer and the right to transfer	507
shares of either of the following:	508
(i) An issuing public corporation to any person in a control	509

share acquisition; 510

(ii) A corporation with fifty or more shareholders to any 511
person in an acquisition that would be a control share acquisition 512
if the corporation were an issuing public corporation. 513

(b) The restrictions on the transfer and the right to 514
transfer shares described in division (B)(9)(a)(i) and (ii) of 515
this section may include requirements and procedures for consent 516
to an acquisition of the shares by directors based on a 517
determination by the directors of the best interests of the 518
corporation and its shareholders, consent to an acquisition of the 519
shares by shareholders, and reasonable sanctions for a violation 520
of those requirements, including the right of the corporation to 521
refuse to transfer, to redeem, or to deny voting or other 522
shareholder rights appurtenant to shares acquired in an 523
acquisition of the shares. 524

(10) Defining, limiting, or regulating the exercise of the 525
authority of the corporation, the directors, or the officers, ~~or~~ 526
~~all the shareholders;~~ 527

(11) Defining, limiting, or regulating the exercise of the 528
authority of the shareholders; provided, that any amendment of the 529
regulations that would change or eliminate any such provision 530
shall be adopted only by the shareholders. 531

(C) The shareholders of a corporation may adopt and may 532
authorize the directors to adopt, either before or during an 533
emergency, as that term is defined in division (U) of section 534
1701.01 of the Revised Code, emergency regulations that shall be 535
operative only during an emergency. The emergency regulations may 536
include any provisions that are authorized to be included in 537
regulations by divisions (A) and (B) of this section. In addition, 538
unless expressly prohibited by the articles or the regulations, 539
the emergency regulations may make any provision, notwithstanding 540

any different provisions in this chapter and notwithstanding any 541
different provisions in the articles or the regulations that are 542
not expressly stated to be operative during an emergency, that may 543
be practical or necessary with respect to the following: 544

(1) The place, if any, and time for holding, the manner of 545
and authority for calling, giving notice of, and conducting, and 546
the requirements of a quorum for, meetings of the directors; 547

(2) The creation and appointment of an executive and other 548
committees of the directors and the delegation of authority to the 549
committees by the board; 550

(3) The creation, existence, and filling of vacancies, 551
including temporary vacancies, in the office of director; 552

(4) The selection, by appointment, election, or otherwise, of 553
officers and other persons to serve as directors for a meeting of 554
the board in the absence from the meeting of one or more of the 555
directors; 556

(5) The creation, existence, and filling of vacancies, 557
including temporary vacancies, in any office; 558

(6) The order of rank and the succession to the duties and 559
authority of officers. 560

(D) ~~If (1) Unless the corporation complies with division~~ 561
~~(D)(2) of this section, if~~ the regulations are amended or new 562
regulations are adopted, ~~without a meeting of the shareholders~~ 563
~~other than by the shareholders at a meeting held for that purpose,~~ 564
the secretary of the corporation shall send a copy of the 565
amendment or the new regulations by mail, overnight delivery 566
service, or any other means of communication authorized by the 567
shareholder to whom a copy of the amendment or new regulations ~~are~~ 568
is sent, to each shareholder ~~who would have been entitled to vote~~ 569
~~on the adoption of the amendment or the new regulations and did~~ 570

~~not participate in~~ of record as of the date of the adoption of the 571
amendment or the new regulations. 572

(2) Any corporation that files periodic reports with the 573
United States securities and exchange commission pursuant to 574
section 13 of the "Securities Exchange Act of 1934," 48 Stat. 881, 575
15 U.S.C. 78m, as amended, or section 15(d) of the "Securities 576
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), as amended, 577
may satisfy the notice to shareholders of record requirement of 578
division (D)(1) of this section by including a copy of the 579
amendment or the new regulations in a report filed in accordance 580
with those sections within twenty days after the adoption of the 581
amendment or the new regulations. 582

(E) No person dealing with the corporation shall be charged 583
with constructive notice of the regulations. 584

(F) Unless expressly prohibited by the articles or the 585
regulations or unless otherwise provided by the emergency 586
regulations, the following special rules shall be applicable 587
during an emergency notwithstanding any different provision 588
elsewhere in this chapter: 589

(1) Meetings of the directors may be called by any officer or 590
director. 591

(2) Notice of the time and place of each meeting of the 592
directors shall be given to such of the directors as it may be 593
feasible to reach at the time and by the means of communication, 594
written or oral, personal or mass, as may be practicable at the 595
time. 596

(3) The director or directors present at any meeting of the 597
directors that has been duly called and notice of which has been 598
duly given shall constitute a quorum for the meeting, and, in the 599
absence of one or more of the directors, the director or directors 600
present may appoint one or more of the officers of the corporation 601

directors for the meeting.

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(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.

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(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.

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(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.

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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

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released from pre-emptive rights. 633

(B)(1) The directors, or a committee of the directors, may 634
delegate the authority described in division (A) of this section 635
to one or more officers if the resolution authorizing the 636
delegation specifies the total number of shares or options that 637
the officer or officers may award and the terms on which any 638
shares may be issued, offered, or sold or the terms of any 639
options. 640

(2) The directors may not authorize any officer described in 641
division (B)(1) of this section to designate that officer as a 642
recipient of any shares or options with respect to shares. 643

Sec. 1701.18. (A) Except as provided in the case of change of 644
shares, share dividends or distributions, reorganization, merger, 645
consolidation, combination, or conversion of shares or obligations 646
into shares, the following apply: 647

(1) ~~Payment of consideration for shares shall be made with~~ 648
~~money or other property of any description, or any interest in~~ 649
~~property, actually transferred to the corporation, or labor or~~ 650
~~services actually rendered to the corporation~~ cash, property, 651
services rendered, a promissory note, or any other binding 652
obligation to contribute cash or property or to perform services; 653
by providing any other benefit to the corporation; or with any 654
combination of these. 655

(2) In the case of shares with par value, other than treasury 656
shares, the consideration shall be not less than the par value of 657
the shares, provided that the shares may be ~~sold~~ and paid for at 658
such a discount from the par value of the shares that would amount 659
to or not exceed reasonable compensation for the sale, 660
underwriting, or purchase of the shares, and, regardless of the 661
discount, the shares shall be deemed to be fully paid. 662

(3) In the case of treasury shares with par value, the 663
consideration may be less than the par value of the shares. 664

(B) Promissory notes, drafts, or other obligations of a 665
subscriber or purchaser do not constitute payment for shares. 666

(C) An agreement by a person to perform services as the 667
consideration for shares does not, of itself, constitute ~~the~~ 668
~~person a shareholder and does not, of itself, constitute~~ payment 669
for such shares prior to the performance of the services. 670

(D) Except in the case of convertible shares or obligations, 671
shares with par value shall not be issued or disposed of upon 672
change of shares, share dividends or distributions, 673
reorganization, merger, consolidation, exchange of shares for 674
other shares or securities, or otherwise, if as a result the 675
aggregate liabilities of the corporation plus its stated capital 676
would exceed its aggregate assets or any existing excess would be 677
increased. 678

(E) When shares have been issued as provided in this chapter, 679
in the case of change of shares, share dividends or distributions, 680
reorganization, merger, consolidation, or conversion of shares or 681
obligations into shares, or when shares have been paid for in 682
conformity with this section, such shares shall be deemed fully 683
paid and nonassessable. 684

(F) Every person who subscribes for or purchases shares of a 685
corporation is liable to the corporation to pay or deliver to the 686
corporation the consideration agreed upon, and, except as provided 687
in division (A) of this section, if the shares are with par value, 688
the person is obligated to pay to the corporation ~~for the shares~~ 689
~~in money or other property or services~~ consideration not less than 690
the ~~full~~ par value of the shares. The person is not liable to the 691
corporation or its creditors in any other amount. 692

(G) Every holder, whether the original or a transferee, of 693

shares not paid for as provided in this section, who has acquired 694
them with actual knowledge of that fact, is personally liable to 695
the corporation for the amount unpaid on the shares, and the 696
holder's liability shall continue notwithstanding any transfer of 697
the shares, until the shares are paid in full; but no holder who 698
has acquired the shares without actual knowledge of the fact that 699
the shares are not paid for is under any liability in respect of 700
the shares. 701

(H) No pledgee or other holder of shares as collateral 702
security is personally liable as a shareholder. 703

(I) No person who in fact, whether disclosed on the records 704
of the corporation or otherwise, holds shares as executor, 705
administrator, guardian, trustee, trustee of a voting trust, 706
receiver, or in any other fiduciary capacity is personally liable 707
as a shareholder, but the estate or property in the hands of such 708
fiduciary is liable or the real or beneficial owner is liable 709
under this section as equity may require. This section does not 710
relieve a fiduciary from liability for a breach of trust. 711

(J) Except as set forth in any provision in Title LVII of the 712
Revised Code, neither a shareholder of a corporation nor a 713
subscriber to its shares is personally liable for any debts, 714
obligations, or liabilities of the corporation in the absence of a 715
written, enforceable agreement that is signed by the shareholder 716
or subscriber and that specifically undertakes liability for such 717
debts, obligations, or liabilities. 718

Sec. 1701.19. (A) When a determination of the fair value to a 719
corporation ~~of property other than money or of services~~ is made by 720
the incorporators, directors, or shareholders with respect to 721
~~property transferred or to be transferred, or services rendered or~~ 722
~~to be rendered,~~ consideration, other than cash, paid or to be paid 723
to the corporation ~~as consideration~~ for shares; or made by the 724

directors with respect to property voluntarily contributed to the 725
corporation; or made by the directors with respect to physical 726
assets of the corporation ~~which~~ that are reckoned by the directors 727
to have a fair value to the corporation in excess of the amount at 728
which they are carried on its books; or provided for in a ~~plan of~~ 729
~~reorganization confirmed~~ decree or order as provided in section 730
1701.75 of the Revised Code or set forth in an agreement of merger 731
or consolidation adopted as provided in section 1701.78, 1701.79, 732
1701.80, or 1701.801 of the Revised Code, then ~~such~~ the 733
determination shall be conclusive in any action or proceeding in 734
which it is claimed that the fair value to the corporation of such 735
consideration or property ~~or of such services~~ is or was less than 736
the value so determined, unless the party asserting ~~such~~ a claim 737
affirmatively proves by clear and convincing evidence, and 738
otherwise than by proving the difference between the value of such 739
consideration or property, ~~or of such services,~~ and the fair value 740
so determined, that ~~such~~ the determination was knowingly and 741
intentionally made, by the persons making the determination, at a 742
value greater than the fair value of such consideration or 743
property ~~or of such services~~ to the corporation. 744

(B) The making of an agreement to issue or dispose of shares 745
for property or consideration other than ~~money or for services~~ 746
cash or the issuance or disposition of shares in consummation of 747
any agreement or transaction referred to in division (A) of this 748
section shall be held to be a determination that the property or 749
~~the services~~ other consideration involved ~~have~~ has a fair value to 750
the corporation not less than the value required to justify the 751
issuance or disposition of such shares. 752

Sec. 1701.40. (A) Meetings of shareholders may be called by 753
any of the following: 754

(1) The chairperson of the board, the president, or, in case 755

of the president's absence, death, or disability, the 756
vice-president authorized to exercise the authority of the 757
president; 758

(2) The directors by action at a meeting, or a majority of 759
the directors acting without a meeting; 760

(3) Persons who hold twenty-five per cent of all shares 761
outstanding and entitled to vote at the meeting, unless the 762
articles ~~or~~, the regulations adopted by the shareholders, or the 763
regulations adopted by the directors pursuant to division (A)(1) 764
of section 1701.10 of the Revised Code specify for that purpose a 765
smaller or larger proportion but not in excess of fifty per cent; 766

(4) Such other officers or persons as the articles or the 767
regulations authorize to call the meetings. 768

(B) Meetings of shareholders may be held either within or 769
without this state if so provided in the articles or the 770
regulations. The articles or regulations may authorize the 771
directors to determine that the meeting shall not be held at any 772
physical place, but instead may be held solely by means of 773
communications equipment as authorized by division (C) of this 774
section. If the corporation is an issuing public corporation and 775
the articles or regulations do not require that a meeting be held 776
at a particular physical place and also authorize the directors to 777
fix the place of the meeting, the directors may determine that the 778
meeting shall not be held at any physical place, but instead may 779
be held solely by means of communications equipment as authorized 780
by division (C) of this section. In the absence of any such 781
provision, all meetings shall be held at the principal office of 782
the corporation in this state. 783

(C) If authorized by the directors, the shareholders and 784
proxyholders who are not physically present at a meeting of 785
shareholders may attend a meeting of shareholders by use of 786

communications equipment that enables the shareholder or 787
proxyholder an opportunity to participate in the meeting and to 788
vote on matters submitted to the shareholders, including an 789
opportunity to read or hear the proceedings of the meeting and to 790
speak or otherwise participate in the proceedings 791
contemporaneously with those physically present. Any shareholder 792
using communications equipment will be deemed present in person at 793
the meeting whether the meeting is to be held at a designated 794
place or solely by means of communications equipment. The 795
directors may adopt guidelines and procedures for the use of 796
communications equipment in connection with a meeting of 797
shareholders to permit the corporation to verify that a person is 798
a shareholder or proxyholder and to maintain a record of any vote 799
or other action. 800

Sec. 1701.41. (A) Written notice stating the time, place, if 801
any, and purposes of a meeting of the shareholders, and the means, 802
if any, by which shareholders can be present and vote at the 803
meeting through the use of communications equipment shall be given 804
either by personal delivery or by mail, overnight delivery 805
service, or any other means of communication authorized by the 806
shareholder to whom the notice is given, not less than seven nor 807
more than sixty days before the date of the meeting unless the 808
articles ~~or~~, the regulations adopted by the shareholders, or the 809
regulations adopted by the directors pursuant to division (A)(1) 810
of section 1701.10 of the Revised Code specify a longer period: 811
(1) to every shareholder of record entitled to notice of the 812
meeting; (2) by or at the direction of the president or the 813
secretary or any other person required or permitted by the 814
regulations to give that notice. If mailed or sent by overnight 815
delivery service, the notice shall be sent to the shareholder at 816
the shareholder's address as it appears on the records of the 817
corporation. If sent by another means of communication authorized 818

by the shareholder, the notice shall be sent to the address 819
furnished by the shareholder for those transmissions. Notice of 820
adjournment of a meeting need not be given if the time and place, 821
if any, to which it is adjourned and the means, if any, by which 822
shareholders can be present and vote at the adjourned meeting 823
through the use of communications equipment are fixed and 824
announced at the meeting. 825

(B) Upon request in writing delivered either in person or by 826
registered mail to the president or the secretary by any persons 827
entitled to call a meeting of shareholders, that officer shall 828
forthwith cause to be given to the shareholders entitled to notice 829
of a meeting to be held on a date not less than seven nor more 830
than sixty days after the receipt of the request, as the officer 831
may fix, unless the articles ~~or~~, the regulations adopted by the 832
shareholders, or the regulations adopted by the directors pursuant 833
to division (A)(1) of section 1701.10 of the Revised Code specify 834
a longer period for this purpose. If the notice is not given 835
within fifteen days after the delivery or mailing of the request, 836
or that shorter or longer period as the articles ~~or~~, the 837
regulations adopted by the shareholders, or the regulations 838
adopted by the directors pursuant to division (A)(1) of section 839
1701.10 of the Revised Code specify for this purpose, the persons 840
calling the meeting may fix the time of meeting and give notice of 841
the time of meeting as provided in division (A) of this section, 842
or cause the notice to be given by any designated representative. 843

(C) Any authorization by a shareholder to send notices given 844
pursuant to this chapter by any means other than in person or by 845
mail or overnight delivery service is revocable by written notice 846
to the corporation either by personal delivery or by mail, 847
overnight delivery service, or any other means of communication 848
authorized by the corporation. If sent by another means of 849
communication authorized by the corporation, the notice shall be 850

sent to the address furnished by the corporation for those 851
transmissions. Any authorization by a shareholder to send notices 852
given pursuant to this chapter by any means other than in person 853
or by mail or overnight delivery service will be deemed to have 854
been revoked by the shareholder if (1) the corporation has 855
attempted to make delivery of two consecutive notices in 856
accordance with that authorization, and (2) the secretary or an 857
assistant secretary of the corporation, or other person 858
responsible for giving of notice, has received notice that, or 859
otherwise believes that, delivery has not occurred. However, an 860
inadvertent failure to treat the inability to deliver notice as a 861
revocation will not invalidate any meeting of shareholders or 862
other action. 863

Sec. 1701.44. (A) Except to the extent that the voting rights 864
of the shares of any class are increased, limited, or denied by 865
the express terms of such shares, and except as provided in scrip 866
issued in lieu of a certificate for a fraction of a share, each 867
outstanding share regardless of class shall entitle the holder 868
thereof to one vote on each matter properly submitted to the 869
shareholders for their vote, consent, waiver, release, or other 870
action, subject to the provisions with respect to cumulative 871
voting in section 1701.55 of the Revised Code. 872

(B) Unless the articles, the regulations adopted by the 873
shareholders, the regulations adopted by the directors pursuant to 874
division (A)(1) of section 1701.10 of the Revised Code, or the 875
contract of subscription for shares otherwise provides, a 876
shareholder shall be entitled to vote even though ~~his~~ the 877
shareholder's shares have not been fully paid, but shares upon 878
which an installment of the consideration for such shares is 879
overdue and unpaid shall not be voted. 880

Sec. 1701.51. (A) Unless the articles ~~or~~, the regulations 881
adopted by the shareholders, or the regulations adopted by the 882
directors pursuant to division (A)(1) of section 1701.10 of the 883
Revised Code otherwise provide 884

~~(A) The~~, the shareholders present in person, by proxy, or by 885
the use of communications equipment at any meeting of shareholders 886
shall constitute a quorum for such meeting, but no action required 887
by law, the articles, or the regulations to be authorized or taken 888
by the holders of a designated proportion of the shares of any 889
particular class or of each class, may be authorized or taken by a 890
lesser proportion. 891

(B) ~~The~~ Unless the articles or the regulations otherwise 892
provide, the holders of a majority of the voting shares 893
represented at a meeting, whether or not a quorum is present, may 894
adjourn such meeting from time to time. 895

Sec. 1701.54. (A) Unless the articles ~~or~~, the regulations 896
adopted by the shareholders, or the regulations adopted by the 897
directors pursuant to division (A)(1) of section 1701.10 of the 898
Revised Code prohibit the authorization or taking of any action of 899
the shareholders or of the directors without a meeting, any action 900
that may be authorized or taken at a meeting of the shareholders 901
or of the directors, as the case may be, may be authorized or 902
taken without a meeting with the affirmative vote or approval of, 903
and in a writing or writings signed by all the shareholders who 904
would be entitled to notice of a meeting of the shareholders held 905
for such purpose, or all the directors, respectively, which 906
writing or writings shall be filed with or entered upon the 907
records of the corporation. Any certificate with respect to the 908
authorization or taking of any such action that is required to be 909
filed in the office of the secretary of state shall recite that 910
the authorization or taking of such action was in a writing or 911

writings approved and signed as specified in this section. 912

(B) A telegram, cablegram, electronic mail, or an electronic 913
or other transmission capable of authentication that appears to 914
have been sent by a person described in division (A) of this 915
section and that contains an affirmative vote or approval of that 916
person is a signed writing for the purposes of this section. The 917
date on which that telegram, cablegram, electronic mail, or 918
electronic or other transmission is sent is the date on which the 919
writing is signed. 920

Sec. 1701.57. (A) Unless the articles ~~of~~, the regulations 921
adopted by the shareholders, or the regulations adopted by the 922
directors pursuant to division (A)(1) of section 1701.10 of the 923
Revised Code provide for a different term (which may not exceed 924
three years from the date of ~~his~~ election and until ~~his~~ a 925
successor is elected), each director shall hold office until the 926
next annual meeting of the shareholders and until ~~his~~ a successor 927
is elected, or until ~~his~~ the director's earlier resignation, 928
removal from office, or death. 929

(B) The articles ~~of~~, the regulations adopted by the 930
shareholders, or the regulations adopted by the directors pursuant 931
to division (A)(1) of section 1701.10 of the Revised Code may 932
provide: 933

(1) For the classification of directors into either two or 934
three classes consisting of not less than three directors each, 935
provided that where all shares of a corporation entitled to elect 936
a class of directors are owned of record by one or two 937
shareholders, the number of directors of each class may be less 938
than three, but not less than the number of shareholders entitled 939
to elect directors of such class; 940

(2) That the terms of office of the several classes need not 941
be uniform, except that no term shall exceed the maximum period 942

specified in division (A) of this section.

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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.

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

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

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(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.

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(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

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removed, no individual director shall be removed if the votes of a 973
sufficient number of shares are cast against the director's 974
removal that, if cumulatively voted at an election of all the 975
directors, or all the directors of a particular class, as the case 976
may be, would be sufficient to elect at least one director. In the 977
case of an issuing public corporation whose directors are 978
classified pursuant to section 1701.57 of the Revised Code, the 979
shareholders may effect a removal under this division only for 980
cause. 981

(D) If the shareholders do not have the right to vote 982
cumulatively as a result of an amendment to the articles permitted 983
by division (B)(10) of section 1701.69 of the Revised Code, then, 984
unless the articles ~~or~~, the regulations adopted by the 985
shareholders, or the regulations adopted by the directors pursuant 986
to division (A)(1) of section 1701.10 of the Revised Code 987
expressly provide that no director may be removed from office or 988
that removal of directors requires a greater vote than that 989
specified in this division, all the directors, all the directors 990
of a particular class, or any individual director may be removed 991
from office, without assigning any cause, by the vote of the 992
holders of a majority of the voting power entitling them to elect 993
directors in place of those to be removed; except that in the case 994
of an issuing public corporation whose directors are classified 995
pursuant to section 1701.57 of the Revised Code, the shareholders 996
may effect that removal only for cause. 997

(E) In case of any removal pursuant to division (C) or (D) of 998
this section, a new director may be elected at the same meeting 999
for the unexpired term of each director removed. Failure to elect 1000
a director to fill the unexpired term of any director removed is 1001
deemed to create a vacancy in the board. 1002

(F) Unless the articles or the regulations otherwise provide, 1003
the remaining directors, though less than a majority of the whole 1004

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~~7~~ 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. 1036

(B) The directors may appoint one or more directors as 1037
alternate members of any committee described in division (A) of 1038
this section, who may take the place of any absent member or 1039
members at any meeting of the particular committee. 1040

(C) Each committee described in division (A) of this section 1041
shall serve at the pleasure of the directors, shall act only in 1042
the intervals between meetings of the directors, and shall be 1043
subject to the control and direction of the directors. 1044

(D) Unless otherwise provided in the regulations or ordered 1045
by the directors, any committee described in division (A) of this 1046
section may act by a majority of its members at a meeting or by a 1047
writing or writings signed by all of its members. 1048

(E) Unless participation by members of any committee 1049
described in division (A) of this section at a meeting by means of 1050
communications equipment is prohibited by the articles, the 1051
regulations, or an order of the directors, meetings of the 1052
particular committee may be held through any communications 1053
equipment if all persons participating can hear each other. 1054
Participation in a meeting pursuant to this division constitutes 1055
presence at the meeting. 1056

(F) An act or authorization of an act by any committee 1057
described in division (A) of this section within the authority 1058
delegated to it shall be as effective for all purposes as the act 1059
or authorization of the directors. 1060

(G) Unless otherwise provided in the articles, the 1061
regulations, or the resolution of the directors creating a 1062
committee described in division (A) of this section, a committee 1063
described in division (A) of this section may create one or more 1064
subcommittees, each subcommittee to consist of one or more members 1065
of the committee, and may delegate to a subcommittee any or all of 1066

the powers and authority of the committee.

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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~~

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(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.

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(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

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certificate required by division (A)(1) of this section. 1098

(B) When an amendment or amended articles are adopted by the 1099
incorporators, the certificate described in division (A)(1) of 1100
this section shall be signed by each of them. 1101

(C) When an amendment or amended articles are adopted by the 1102
directors or by the shareholders, the certificate described in 1103
division (A)(1) of this section shall be signed by any authorized 1104
officer. 1105

(D) A copy of an amendment or amended articles changing the 1106
name of a corporation or its principal office in this state, 1107
certified by the secretary of state, may be filed for record in 1108
the office of the county recorder of any county in this state, and 1109
for such recording, the county recorder shall charge and collect 1110
the same fee as provided for in division (A) of section 317.32 of 1111
the Revised Code. ~~Such~~ The copy shall be recorded in the records 1112
of deeds. 1113

Sec. 1701.75. (A) ~~A corporation,~~ If an order of relief has 1114
been entered pursuant to the federal Bankruptcy Code, 11 U.S.C. 1115
101, as amended, or if a plan of reorganization of which shall 1116
~~have~~ has been confirmed by the decree or order of a court of 1117
competent jurisdiction pursuant to the provisions of any other 1118
applicable statute of the United States relating to reorganization 1119
of corporations, a corporation may put into effect and carry out 1120
~~the plan and the~~ any decrees and orders of the court ~~relative~~ 1121
~~thereto,~~ in the bankruptcy or reorganization proceeding and may 1122
take any ~~proceeding and do any act~~ corporate action provided ~~in~~ 1123
~~the plan~~ or directed by such decrees and orders, without further 1124
action by its directors or shareholders. ~~Such authority~~ Authority 1125
may be exercised, and ~~such proceedings and acts~~ corporate actions 1126
may be taken ~~or done,~~ as directed by such decrees or orders, by 1127
the trustee or trustees of ~~such~~ the corporation appointed or 1128

elected in the bankruptcy or reorganization proceedings (or a 1129
majority thereof), or if none ~~shall~~ have been appointed or elected 1130
and acting, by designated officers of the corporation, or by a 1131
~~master or other~~ representative appointed by the court, with like 1132
effect as if exercised and taken by unanimous action of the 1133
directors and shareholders of the corporation. 1134

(B) ~~A corporation~~, If authorized in the manner provided in 1135
division (A) of this section, but without limiting the generality 1136
thereof, a corporation may: amend its articles in any respect; 1137
amend or repeal its regulations or adopt new regulations; name, 1138
constitute, reconstitute, classify, or reclassify its directors 1139
and appoint directors and officers in place of or in addition to 1140
some or all of the directors or officers then in office; make any 1141
lawful change in its stated capital; make a determination of the 1142
fair value to the corporation of its assets; transfer all or a 1143
part of its assets; merge; consolidate; remove or appoint a 1144
statutory agent; authorize the granting of option rights in 1145
respect of shares and other securities; authorize the issuing of 1146
notes, bonds, and other evidences of indebtedness, whether or not 1147
convertible into shares or other securities; lease its property to 1148
any corporation; dissolve; or effect any other change authorized 1149
by this chapter. 1150

(C) If ~~a plan of reorganization provides for or effects~~ an 1151
amendment to the articles is adopted or the merger, consolidation, 1152
or dissolution of a corporation is authorized in the manner 1153
provided in division (A)(1) of this section, or if a ~~plan~~ decree 1154
or order having such a result is modified in respect of ~~such an~~ 1155
amendment, merger, consolidation, or dissolution, then a 1156
certificate of reorganization or an amended certificate of 1157
reorganization, as the case may be, setting forth such portions of 1158
the ~~plan of reorganization~~ decree or order or modification thereof 1159
as would otherwise be required to be set forth in a certificate of 1160

amendment, an agreement of merger or consolidation, or a 1161
certificate of dissolution (and, if desired, any other portions 1162
thereof) shall be filed in the office of the secretary of state 1163
and shall operate to effect ~~such the~~ amendment, merger, 1164
consolidation, or dissolution. ~~Such The~~ certificate shall be made, 1165
subscribed, and filed as may be directed by ~~such the~~ decrees or 1166
orders, or, in the absence of such direction, by the president or 1167
a vice-president and the secretary or an assistant secretary. The 1168
certificate shall contain a statement that ~~the plan of~~ 1169
~~reorganization~~ provision for making the certificate has been 1170
~~confirmed~~ authorized by the decree or order of the court 1171
designated in the certificate or that the ~~plan so confirmed~~ decree 1172
or order has been modified by order of ~~such the~~ court, as the case 1173
may be. 1174

(D) If a decree or order by the court in a bankruptcy or 1175
reorganization proceeding provides for or effects an amendment to 1176
the articles or the merger, consolidation, or dissolution of a 1177
corporation, or if after the filing in the office of the secretary 1178
of state of a certificate of reorganization, or an amended 1179
certificate, a decree or order of court is entered ~~which that~~ has 1180
the effect of vacating ~~said the~~ plan, a certified copy of ~~said the~~ 1181
decree or order shall be filed by the corporation in the office of 1182
the secretary of state. 1183

(E) Nonassenting or dissenting shareholders ~~shall~~ have only 1184
such rights as ~~are~~ provided ~~for~~ in the ~~plan of reorganization~~ 1185
decree or order. 1186

Sec. 1701.76. (A)(1) Provided the provisions of Chapter 1704. 1187
of the Revised Code do not prevent the transaction from being 1188
effected, a lease, sale, exchange, transfer, or other disposition 1189
of all, or substantially all, of the assets, with or without the 1190
good will, of a corporation, if not made in the usual and regular 1191

course of its business, may be made upon the terms and conditions 1192
and for the consideration, that may consist, in whole or in part, 1193
of money or other property of any description, including shares or 1194
other securities or promissory obligations of any other 1195
corporation, domestic or foreign, that may be authorized as 1196
follows: 1197

(a) By the directors, either before or after authorization by 1198
the shareholders as required in this section; and 1199

(b) At a meeting of the shareholders held for that purpose, 1200
by the affirmative vote of the holders of shares entitling them to 1201
exercise two-thirds of the voting power of the corporation on the 1202
proposal, or, if the articles so provide or permit, by the 1203
affirmative vote of a greater or lesser proportion, but not less 1204
than a majority, of the voting power, and by the affirmative vote 1205
of the holders of shares of any particular class that is required 1206
by the articles. 1207

(2) At the shareholder meeting described in division 1208
(A)(1)(b) of this section or at any subsequent shareholder 1209
meeting, shareholders, by the same vote that is required to 1210
authorize the lease, sale, exchange, transfer, or other 1211
disposition of all, or substantially all, of the assets, with or 1212
without the good will, of the corporation, may grant authority to 1213
the directors to establish or amend any of the terms and 1214
conditions of the transaction, except that the shareholders shall 1215
not authorize the directors to do any of the following: 1216

(a) Alter or change the amount or kind of shares, securities, 1217
money, property, or rights to be received in exchange for the 1218
assets; 1219

(b) Alter or change to any material extent the amount or kind 1220
of liabilities to be assumed in exchange for the assets; 1221

(c) Alter or change any other terms and conditions of the 1222

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: 1254
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(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. 1259
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(2) Immediately prior to the time at which the distribution becomes effective, the issuing public corporation has more than one class of shares outstanding. 1264
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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. 1267
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(B)(1) The written declaration of conversion shall set forth all of the following: 1272
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(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; 1274
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(b) The articles of the converted corporation; 1277

(c) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists; 1278
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(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 1281
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interests or shares in the converting entity for, interests, 1284
evidences of indebtedness, other securities, cash, rights, or any 1285
other property or any combination of interests, evidences of 1286
indebtedness, other securities, cash, rights, or any other 1287
property of the converted corporation. 1288

(2) No conversion or substitution described in this section 1289
shall be effected if there are reasonable grounds to believe that 1290
the conversion or substitution would render the converted 1291
corporation unable to pay its obligations as they become due in 1292
the usual course of its affairs. 1293

(C) The written declaration of conversion may set forth any 1294
of the following: 1295

(1) The effective date of the conversion, which date may be 1296
on or after the date of the filing of the certificate of 1297
conversion pursuant to section 1701.811 of the Revised Code; 1298

(2) A provision authorizing the converting entity to abandon 1299
the proposed conversion by action of authorized representatives of 1300
the converting entity taken prior to the filing of the certificate 1301
of conversion pursuant to section 1701.811 of the Revised Code; 1302

(3) A statement of, or a statement of the method to be used 1303
to determine, the fair value of the assets owned by the converting 1304
entity at the time of the conversion; 1305

(4) The regulations of the converted corporation; 1306

(5) The identity of the directors of the converted 1307
corporation; 1308

(6) The parties to the declaration of conversion in addition 1309
to the converting entity; 1310

(7) The stated capital, if any, of each class of shares of 1311
the converted corporation to be outstanding at the time that the 1312
conversion becomes effective; 1313

(8) Any additional provision necessary or desirable with 1314
respect to the proposed conversion or the converted entity. 1315

(D) At any time before the filing of the certificate of 1316
conversion pursuant to section 1701.811 of the Revised Code, the 1317
conversion may be abandoned by any representatives authorized to 1318
do so by the declaration of conversion, or by the same vote as was 1319
required to adopt the declaration of conversion. 1320

Sec. 1701.792. (A) Subject to division (B)(2) of this 1321
section, pursuant to a written declaration of conversion as 1322
provided in this section, a domestic corporation may be converted 1323
into a domestic or foreign entity other than a nonprofit 1324
corporation or a domestic corporation. 1325

(B)(1) The written declaration of conversion shall set forth 1326
all of the following: 1327

(a) The name and form of entity that is being converted, the 1328
name of the entity into which the entity will be converted, the 1329
form of the converted entity, and the jurisdiction of formation of 1330
the converted entity; 1331

(b) If the converted entity is a domestic entity, the 1332
complete terms of all documents required under the applicable 1333
chapter of the Revised Code to form the converted entity; 1334

(c) If the converted entity is a foreign entity, all of the 1335
following: 1336

(i) The complete terms of all documents required under the 1337
law of its formation to form the converted entity; 1338

(ii) The consent of the converted entity to be sued and 1339
served with process in this state, and the irrevocable appointment 1340
of the secretary of state as the agent of the converted entity to 1341
accept service of process in this state to enforce against the 1342
converted entity any obligation of the converting corporation or 1343

to enforce the rights of a dissenting shareholder of the 1344
converting corporation; 1345

(iii) If the converted entity desires to transact business in 1346
this state, the information required to qualify or to be licensed 1347
under the applicable chapter of the Revised Code. 1348

(d) All other statements and matters required to be set forth 1349
in the declaration of conversion by the applicable chapter of the 1350
Revised Code, if the converted entity is a domestic entity, or by 1351
the laws under which the converted entity will be formed, if the 1352
converted entity is a foreign entity; 1353

(e) The terms of the conversion; the mode of carrying them 1354
into effect; and the manner and basis of converting the interests 1355
or shares of the converting corporation into, or substituting the 1356
interests or shares in the converting corporation for, interests, 1357
evidences of indebtedness, other securities, cash, rights, or any 1358
other property or any combination of interests, evidences of 1359
indebtedness, other securities, cash, rights, or any other 1360
property of the converted entity. 1361

(2) No conversion or substitution described in this section 1362
shall be effected if there are reasonable grounds to believe that 1363
the conversion or substitution would render the converted entity 1364
unable to pay its obligations as they become due in the usual 1365
course of its affairs. 1366

(C) The written declaration of conversion may set forth any 1367
of the following: 1368

(1) The effective date of the conversion, which date may be 1369
on or after the date of the filing of the certificate of 1370
conversion; 1371

(2) A provision authorizing, prior to the filing of the 1372
certificate of conversion pursuant to section 1701.811 of the 1373

Revised Code, the converting corporation to abandon the proposed 1374
conversion by action of the directors of the converting 1375
corporation or by the same vote as was required to adopt the 1376
declaration of conversion; 1377

(3) A statement of, or a statement of the method to be used 1378
to determine, the fair value of the assets owned by the converting 1379
corporation at the time of the conversion; 1380

(4) The parties to the declaration of conversion in addition 1381
to the converting entity; 1382

(5) Any additional provision necessary or desirable with 1383
respect to the proposed conversion or the converted entity. 1384

(D) The directors of the domestic converting corporation must 1385
approve the declaration of conversion to effect the conversion, 1386
and the declaration of conversion must be adopted by the 1387
shareholders of the domestic converting corporation, at a meeting 1388
held for the purpose. 1389

(E) Notice of each meeting of shareholders of a domestic 1390
converting corporation at which a declaration of conversion is to 1391
be submitted shall be given to all shareholders of that 1392
corporation, whether or not they are entitled to vote, and shall 1393
be accompanied by a copy or a summary of the material provisions 1394
of the declaration of conversion. 1395

(F) The vote required to adopt a declaration of conversion at 1396
a meeting of the shareholders of a domestic converting corporation 1397
is the affirmative vote of the holders of shares of that 1398
corporation entitling them to exercise at least two-thirds of the 1399
voting power of the corporation on the proposal or a different 1400
proportion as provided in the articles, but not less than a 1401
majority, or, if the conversion is to a foreign corporation, a 1402
different proportion as the articles provide for a merger or 1403
consolidation, and the affirmative vote of the holders of shares 1404

of any particular class as required by the articles of the
converting corporation.

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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.

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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.

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(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

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corporation, if the directors are authorized to do so by the 1437
declaration of conversion, or by the same vote of the shareholders 1438
as was required to adopt the declaration of conversion. 1439

(2) The declaration of conversion may contain a provision 1440
authorizing the directors of the converting corporation to amend 1441
the declaration of conversion at any time before the filing of the 1442
certificate of conversion pursuant to section 1701.811 of the 1443
Revised Code, except that, after the adoption of the declaration 1444
of conversion by the stockholders of the converting corporation, 1445
the directors may not amend the declaration of conversion to do 1446
any of the following: 1447

(a) Alter or change the amount or kind of interests, shares, 1448
evidences of indebtedness, other securities, cash, rights, or any 1449
other property to be received by the shareholders of the 1450
converting corporation in conversion of, or substitution for, 1451
their shares; 1452

(b) Alter or change any term of the organizational documents 1453
of the converted entity except for alterations or changes that are 1454
adopted with the vote or action of the persons, the vote or action 1455
of which would be required for the alteration or change after the 1456
conversion; 1457

(c) Alter or change any other terms and conditions of the 1458
declaration of conversion if any of the alterations or changes, 1459
alone or in the aggregate, materially and adversely would affect 1460
the holders of any class or series of shares of the converting 1461
corporation. 1462

Sec. 1701.802. (A) For purposes of this section, a holding 1463
company is a domestic corporation that, from its formation until 1464
consummation of a merger governed by this section, was at all 1465
times a direct or indirect wholly owned subsidiary of the parent 1466

corporation and whose shares are issued in that merger solely to 1467
the shareholders of the parent corporation. 1468

(B) Pursuant to an agreement of merger between the 1469
constituent corporations as provided in this section and provided 1470
that the provisions of Chapter 1704. of the Revised Code do not 1471
prevent the merger from being effected, a direct or indirect 1472
wholly owned domestic subsidiary may be merged with or into a 1473
domestic parent corporation if all of the following apply: 1474

(1) The parent company and the direct or indirect wholly 1475
owned subsidiary are the only constituent entities to the merger. 1476

(2) Each share or fraction of a share of the outstanding 1477
shares of the parent corporation outstanding immediately prior to 1478
the time at which the merger becomes effective is converted in the 1479
merger into a share or fraction of a share of a holding company 1480
having express terms identical in all material respects to those 1481
that were converted in the merger. 1482

(3) The articles and regulations of the holding company 1483
immediately following the time at which the merger becomes 1484
effective contain provisions identical in all material respects to 1485
those contained in the articles and regulations of the parent 1486
corporation immediately prior to the time at which the merger 1487
becomes effective. 1488

(4) As a result of the merger, the parent corporation becomes 1489
a direct or indirect wholly owned subsidiary of the holding 1490
company. 1491

(5) The directors of the parent corporation become or remain 1492
the directors of the holding company immediately following the 1493
time at which the merger becomes effective. 1494

(C) A parent corporation, by action of its board of 1495
directors, may adopt a merger described in division (B) of this 1496

section without any vote of its shareholders. From and after the 1497
effective time of a merger adopted in this manner, all of the 1498
following apply: 1499

(1) To the extent the restrictions of Chapter 1704. of the 1500
Revised Code applied to the parent corporation and its 1501
shareholders at the effective time of the merger, such 1502
restrictions apply to the holding company and its shareholders 1503
immediately after the effective time of the merger as though it 1504
were the parent corporation. All shares of stock of the holding 1505
company acquired in the merger, for purposes of Chapter 1704. of 1506
the Revised Code, are deemed to have been acquired at the time 1507
that the shares of stock of the parent corporation converted in 1508
the merger were acquired, and any shareholder that immediately 1509
prior to the effective time of the merger was not an interested 1510
shareholder of the parent corporation within the meaning of 1511
Chapter 1704. of the Revised Code does not solely by reason of the 1512
merger become an interested shareholder of the holding company. 1513

(2) If the corporate name of the holding company immediately 1514
following the effective time of the merger is the same as the 1515
corporate name of the parent corporation immediately prior to the 1516
effective time of the merger, the shares of capital stock of the 1517
holding company into which the shares of capital stock of the 1518
parent corporation are converted in the merger shall be 1519
represented by the stock certificates that previously represented 1520
shares of capital stock of the parent corporation. 1521

(3) To the extent a shareholder of the parent corporation 1522
immediately prior to the time at which the merger became effective 1523
had standing to institute or maintain litigation by or in the 1524
right of the parent corporation, nothing in this section shall be 1525
deemed to limit or extinguish such standing. 1526

(D) If the agreement of merger is adopted pursuant to 1527

division (C) of this section, the secretary or assistant secretary 1528
of the parent corporation shall certify on the agreement that the 1529
agreement has been adopted pursuant to this section and that the 1530
conditions specified in this division have been satisfied. 1531

(E) The agreement of merger shall set forth the designation 1532
and the number of the outstanding shares of each class of the 1533
subsidiary constituent corporation and the number of shares of 1534
each such class owned by the surviving corporation. It also shall 1535
set forth any statements and matters that are required, and may 1536
set forth any provision that is permitted, in a merger under 1537
section 1701.78 of the Revised Code. 1538

(F)(1) Except as otherwise provided in division (F)(2) of 1539
this section, within twenty days after the approval of the 1540
agreement of merger by the directors of each domestic constituent 1541
corporation, the surviving corporation shall deliver or send 1542
notice of such approval and a copy or summary of the agreement to 1543
each shareholder of each domestic constituent corporation, other 1544
than the surviving corporation, of record as of the date on which 1545
the directors of the surviving corporation approved the agreement. 1546
The notice and copy or summary shall be delivered or sent by mail, 1547
overnight delivery service, or any other means of communication 1548
authorized by the shareholder to whom the notice and copy or 1549
summary are sent. 1550

(2) Any corporation that files periodic reports with the 1551
United States securities and exchange commission pursuant to 1552
section 13 of the "Securities Exchange Act of 1934," 116 Stat. 1553
787, 15 U.S.C. 78m, as amended, or section 15(d) of the 1554
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o(d), 1555
as amended, may satisfy the notice requirement of division (F)(1) 1556
of this section by including a copy of the agreement of merger in 1557
a report filed in accordance with those provisions within twenty 1558
days after the approval of the agreement of merger by the 1559

directors of the corporation. 1560

(G) The approval of the agreement of merger by the directors 1561
of a domestic constituent corporation under this section 1562
constitutes adoption by that corporation. 1563

Sec. 1701.81. (A) Upon adoption by each constituent entity of 1564
an agreement of merger or consolidation pursuant to section 1565
1701.78, 1701.781, 1701.79, 1701.791, 1701.80, ~~or~~ 1701.801, or 1566
1701.802 of the Revised Code, a certificate of merger or 1567
consolidation shall be filed with the secretary of state that is 1568
signed by any authorized representative of each constituent 1569
corporation, partnership, or other entity. The certificate shall 1570
be on a form prescribed by the secretary of state and shall set 1571
forth only the information required by this section. 1572

(B)(1) The certificate of merger or consolidation shall set 1573
forth all of the following: 1574

(a) The name and the form of entity of each constituent 1575
entity and the state under the laws of which each constituent 1576
entity exists; 1577

(b) A statement that each constituent entity has complied 1578
with all of the laws under which it exists and that the laws 1579
permit the merger or consolidation; 1580

(c) The name and mailing address of the person or entity that 1581
is to provide, in response to any written request made by a 1582
shareholder, partner, or other equity holder of a constituent 1583
entity, a copy of the agreement of merger or consolidation; 1584

(d) The effective date of the merger or consolidation, which 1585
date may be on or after the date of the filing of the certificate; 1586

(e) The signature of each representative authorized to sign 1587
the certificate on behalf of each constituent entity and the 1588
office held or the capacity in which the representative is acting; 1589

(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 1621
section 1701.791 of the Revised Code. 1622

(5) If a foreign or domestic corporation licensed to transact 1623
business in this state is a constituent entity and the surviving 1624
or new entity resulting from the merger or consolidation is not a 1625
foreign or domestic corporation that is to be licensed to transact 1626
business in this state, the certificate of merger or consolidation 1627
shall be accompanied by the affidavits, receipts, certificates, or 1628
other evidence required by division (H) of section 1701.86 of the 1629
Revised Code, with respect to each domestic constituent 1630
corporation, and by the affidavits, receipts, certificates, or 1631
other evidence required by division (C) or (D) of section 1703.17 1632
of the Revised Code, with respect to each foreign constituent 1633
corporation licensed to transact business in this state. 1634

(C) If any constituent entity in a merger or consolidation is 1635
organized or formed under the laws of a state other than this 1636
state or under any chapter of the Revised Code other than this 1637
chapter, there also shall be filed in the proper office all 1638
documents that are required to be filed in connection with the 1639
merger or consolidation by the laws of that state or by that 1640
chapter. 1641

(D) Upon the filing of a certificate of merger or 1642
consolidation and other filings as described in division (C) of 1643
this section or at such later date as the certificate of merger or 1644
consolidation specifies, the merger or consolidation is effective. 1645

(E) The secretary of state shall furnish, upon request and 1646
payment of the fee specified in division (D) of section 111.16 of 1647
the Revised Code, the secretary of state's certificate setting 1648
forth the name and the form of entity of each constituent entity 1649
and the states under the laws of which each constituent entity 1650
existed prior to the merger or consolidation, the name and the 1651

form of entity of the surviving or new entity and the state under 1652
the laws of which the surviving entity exists or the new entity is 1653
to exist, the date of filing of the certificate of merger or 1654
consolidation with the secretary of state, and the effective date 1655
of the merger or consolidation. The certificate of the secretary 1656
of state, or a copy of the certificate of merger or consolidation 1657
certified by the secretary of state, may be filed for record in 1658
the office of the recorder of any county in this state and, if 1659
filed, shall be recorded in the records of deeds for that county. 1660
For that recording, the county recorder shall charge and collect 1661
the same fee as in the case of deeds. 1662

Sec. 1701.811. (A) Upon the adoption of a declaration of 1663
conversion pursuant to section 1701.782 or 1701.792 of the Revised 1664
Code, or at a later time as authorized by the declaration of 1665
conversion, a certificate of conversion that is signed by an 1666
authorized representative of the converting entity shall be filed 1667
with the secretary of state. The certificate shall be on a form 1668
prescribed by the secretary of state and shall set forth only the 1669
information required by this section. 1670

(B)(1) The certificate of conversion shall set forth all of 1671
the following: 1672

(a) The name and the form of entity of the converting entity 1673
and the state under the laws of which the converting entity 1674
exists; 1675

(b) A statement that the converting entity has complied with 1676
all of the laws under which it exists and that the laws permit the 1677
conversion; 1678

(c) The name and mailing address of the person or entity that 1679
is to provide a copy of the declaration of conversion in response 1680
to any written request made by a shareholder, partner, or member 1681

<u>of the converting entity;</u>	1682
<u>(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;</u>	1683 1684 1685
<u>(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;</u>	1686 1687 1688 1689
<u>(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;</u>	1690 1691 1692 1693
<u>(g) The name and the form of the converted entity and the state under the laws of which the converted entity will exist;</u>	1694 1695
<u>(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.</u>	1696 1697 1698
<u>(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 new entity shall be filed with the certificate of conversion.</u>	1699 1700 1701 1702 1703
<u>(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), (10), or (11) of section 1701.791 of the Revised Code.</u>	1704 1705 1706 1707 1708
<u>(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,</u>	1709 1710 1711

certificates, or other evidence required by division (H) of 1712
section 1701.86 of the Revised Code with respect to a converting 1713
domestic corporation, or by the affidavits, receipts, 1714
certificates, or other evidence required by division (C) or (D) of 1715
section 1703.17 of the Revised Code with respect to a foreign 1716
corporation. 1717

(C) If the converting entity or the converted entity is 1718
organized or formed under the laws of a state other than this 1719
state or under any chapter of the Revised Code other than this 1720
chapter, all documents required to be filed in connection with the 1721
conversion by the laws of that state or that chapter shall be 1722
filed in the proper office. 1723

(D) Upon the filing of a certificate of conversion and other 1724
filings required by division (C) of this section or at any later 1725
date that the certificate of conversion specifies, the conversion 1726
is effective, subject to the limitation that no conversion will be 1727
effective if there are reasonable grounds to believe that the 1728
conversion would render the converted entity unable to pay its 1729
obligations as they become due in the usual course of its affairs. 1730

(E) The secretary of state shall furnish, upon request and 1731
payment of the fee specified in division (K)(2) of section 111.16 1732
of the Revised Code, the secretary of state's certificate setting 1733
forth all of the following: 1734

(1) The name and form of entity of the converting entity and 1735
the state under the laws of which it existed prior to the 1736
conversion; 1737

(2) The name and the form of entity of the converted entity 1738
and the state under the laws of which it will exist; 1739

(3) The date of filing of the certificate of conversion with 1740
the secretary of state and the effective date of the conversion. 1741

(F) The certificate of the secretary of state, or a copy of 1742
the certificate of conversion certified by the secretary of state, 1743
may be filed for record in the office of the recorder of any 1744
county in this state and, if filed, shall be recorded in the 1745
records of deeds for that county. For the recording, the county 1746
recorder shall charge and collect the same fee as in the case of 1747
deeds. 1748

Sec. 1701.821. (A) Upon a conversion becoming effective, all 1749
of the following apply: 1750

(1) The converting entity is continued in the converted 1751
entity. 1752

(2) The converted entity exists, and the converting entity 1753
ceases to exist. 1754

(3) The converted entity possesses both of the following, and 1755
both of the following continue in the converted entity without any 1756
further act or deed: 1757

(a) Except to the extent limited by the requirements of 1758
applicable law, both of the following: 1759

(i) All assets and property of every description of the 1760
converting entity and every interest in the assets and property of 1761
the converted entity, wherever the assets, property, and interests 1762
are located. Title to any real estate or any interest in real 1763
estate that was vested in the converting entity does not revert or 1764
in any way is impaired by reason of the conversion. 1765

(ii) The rights, privileges, immunities, powers, franchises, 1766
and authority, whether of a public or a private nature, of the 1767
converting entity. 1768

(b) All obligations belonging or due to the converting 1769
entity. 1770

(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. 1771
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(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. 1782
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(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. 1799
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(D) In the case of a converting or converted entity organized 1803
or existing under the laws of any state other than this state, 1804
this section is subject to the laws of the state under which that 1805
entity exists or in which it has property. 1806

Sec. 1701.831. (A) Unless the articles ~~or~~, the regulations 1807
adopted by the shareholders, or the regulations adopted by the 1808
directors pursuant to division (A)(1) of section 1701.10 of the 1809
Revised Code of the issuing public corporation provide that this 1810
section does not apply to control share acquisitions of shares of 1811
such corporation, any control share acquisition of an issuing 1812
public corporation shall be made only with the prior authorization 1813
of the shareholders of such corporation in accordance with this 1814
section. 1815

(B) Any person who proposes to make a control share 1816
acquisition shall deliver an acquiring person statement to the 1817
issuing public corporation at the issuing public corporation's 1818
principal executive offices. Such acquiring person statement shall 1819
set forth all of the following: 1820

(1) The identity of the acquiring person; 1821

(2) A statement that the acquiring person statement is given 1822
pursuant to this section; 1823

(3) The number of shares of the issuing public corporation 1824
owned, directly or indirectly, by the acquiring person; 1825

(4) The range of voting power, described in division 1826
(Z)(1)(a), (b), or (c) of section 1701.01 of the Revised Code, 1827
under which the proposed control share acquisition would, if 1828
consummated, fall; 1829

(5) A description in reasonable detail of the terms of the 1830
proposed control share acquisition; 1831

(6) Representations of the acquiring person, together with a 1832

statement in reasonable detail of the facts upon which they are 1833
based, that the proposed control share acquisition, if 1834
consummated, will not be contrary to law, and that the acquiring 1835
person has the financial capacity to make the proposed control 1836
share acquisition. 1837

(C)(1) Within ten days after receipt of an acquiring person 1838
statement that complies with division (B) of this section, the 1839
directors of the issuing public corporation shall call a special 1840
meeting of shareholders of the issuing public corporation for the 1841
purpose of voting on the proposed control share acquisition. 1842
Subject to division (C)(2) of this section, unless the acquiring 1843
person and the issuing public corporation agree in writing to 1844
another date, such special meeting of shareholders shall be held 1845
within fifty days after receipt by the issuing public corporation 1846
of the acquiring person statement. If the acquiring person so 1847
requests in writing at the time of delivery of the acquiring 1848
person statement, such special meetings shall be held no sooner 1849
than thirty days after receipt by the issuing public corporation 1850
of the acquiring person statement. Subject to division (C)(2) of 1851
this section, such special meeting of shareholders shall be held 1852
no later than any other special meeting of shareholders that is 1853
called, after receipt by the issuing public corporation of the 1854
acquiring person statement, in compliance with this section or 1855
section 1701.76, 1701.78, 1701.781, 1701.79, 1701.791, 1701.801, 1856
or 1701.83 of the Revised Code. 1857

(2) If, in connection with a proposed control share 1858
acquisition, the acquiring person changes the percentage of the 1859
class of shares being sought, the consideration offered, or the 1860
security dealer's soliciting fee; extends the expiration date of a 1861
tender offer for the shares being sought; or otherwise changes the 1862
terms of the proposed control share acquisition, then the 1863
directors of the issuing public corporation may reschedule the 1864

special meeting of shareholders required by division (C)(1) of 1865
this section. If the proposed control share acquisition is to be 1866
made pursuant to a tender offer, then the meeting may be 1867
rescheduled to a date that is not later than the expiration date 1868
of the offer. If the proposed control share acquisition is to be 1869
made other than pursuant to a tender offer, the meeting may be 1870
rescheduled to a date that is not later than ten business days 1871
after notice of the change is first given to the shareholders. 1872

(D) Notice of the special meeting of shareholders shall be 1873
given as promptly as reasonably practicable by the issuing public 1874
corporation to all shareholders of record as of the record date 1875
set for such meeting, whether or not entitled to vote at the 1876
meeting. The notice shall include or be accompanied by both of the 1877
following: 1878

(1) A copy of the acquiring person statement delivered to the 1879
issuing public corporation pursuant to this section; 1880

(2) A statement by the issuing public corporation, authorized 1881
by its directors, of its position or recommendation, or that it is 1882
taking no position or making no recommendation, with respect to 1883
the proposed control share acquisition. 1884

(E) The acquiring person may make the proposed control share 1885
acquisition if both of the following occur: 1886

(1) The shareholders of the issuing public corporation who 1887
hold shares as of the record date of such corporation entitling 1888
them to vote in the election of directors authorize the 1889
acquisition at the special meeting held for that purpose at which 1890
a quorum is present by an affirmative vote of a majority of the 1891
voting power of such corporation in the election of directors 1892
represented at the meeting in person or by proxy, and a majority 1893
of the portion of the voting power excluding the voting power of 1894
interested shares represented at the meeting in person or by 1895

proxy. A quorum shall be deemed to be present at the special 1896
meeting if at least a majority of the voting power of the issuing 1897
public corporation in the election of directors is represented at 1898
the meeting in person or by proxy. 1899

(2) The acquisition is consummated, in accordance with the 1900
terms so authorized, no later than three hundred sixty days 1901
following shareholder authorization of the control share 1902
acquisition. 1903

(F) Except as expressly provided in this section, nothing in 1904
this section shall be construed to affect or impair any right, 1905
remedy, obligation, duty, power, or authority of any acquiring 1906
person, any issuing public corporation, the directors of any 1907
acquiring person or issuing public corporation, or any other 1908
person under the laws of this or any other state or of the United 1909
States. 1910

(G) If any application of any provision of this section is 1911
for any reason held to be illegal or invalid, the illegality or 1912
invalidity shall not affect any legal and valid provision or 1913
application of this section, and the parts and applications of 1914
this section are severable. 1915

Sec. 1701.84. The following are entitled to relief as 1916
dissenting shareholders under section 1701.85 of the Revised Code: 1917

(A) Shareholders of a domestic corporation that is being 1918
merged or consolidated into a surviving or new entity, domestic or 1919
foreign, pursuant to section 1701.78, 1701.781, 1701.79, 1701.791, 1920
or 1701.801 of the Revised Code; 1921

(B) In the case of a merger into a domestic corporation, 1922
shareholders of the surviving corporation who under section 1923
1701.78 or 1701.781 of the Revised Code are entitled to vote on 1924
the adoption of an agreement of merger, but only as to the shares 1925

so entitling them to vote; 1926

(C) Shareholders, other than the parent corporation, of a 1927
domestic subsidiary corporation that is being merged into the 1928
domestic or foreign parent corporation pursuant to section 1701.80 1929
of the Revised Code; 1930

(D) In the case of a combination or a majority share 1931
acquisition, shareholders of the acquiring corporation who under 1932
section 1701.83 of the Revised Code are entitled to vote on such 1933
transaction, but only as to the shares so entitling them to vote; 1934

(E) Shareholders of a domestic subsidiary corporation into 1935
which one or more domestic or foreign corporations are being 1936
merged pursuant to section 1701.801 of the Revised Code; 1937

(F) Shareholders of a domestic corporation that is being 1938
converted pursuant to section 1701.792 of the Revised Code. 1939

Sec. 1701.85. (A)(1) A shareholder of a domestic corporation 1940
is entitled to relief as a dissenting shareholder in respect of 1941
the proposals described in sections 1701.74, 1701.76, and 1701.84 1942
of the Revised Code, only in compliance with this section. 1943

(2) If the proposal must be submitted to the shareholders of 1944
the corporation involved, the dissenting shareholder shall be a 1945
record holder of the shares of the corporation as to which ~~he~~ the 1946
dissenting shareholder seeks relief as of the date fixed for the 1947
determination of shareholders entitled to notice of a meeting of 1948
the shareholders at which the proposal is to be submitted, and 1949
such shares shall not have been voted in favor of the proposal. 1950
Not later than ten days after the date on which the vote on the 1951
proposal was taken at the meeting of the shareholders, the 1952
dissenting shareholder shall deliver to the corporation a written 1953
demand for payment to ~~him~~ the dissenting shareholder of the fair 1954
cash value of the shares as to which ~~he~~ the dissenting shareholder 1955

seeks relief, which demand shall state ~~his~~ the dissenting 1956
shareholder's address, the number and class of such shares, and 1957
the amount claimed by ~~him~~ the dissenting shareholder as the fair 1958
cash value of the shares. 1959

(3) The dissenting shareholder entitled to relief under 1960
division (C) of section 1701.84 of the Revised Code in the case of 1961
a merger pursuant to section 1701.80 of the Revised Code and a 1962
dissenting shareholder entitled to relief under division (E) of 1963
section 1701.84 of the Revised Code in the case of a merger 1964
pursuant to section 1701.801 of the Revised Code shall be a record 1965
holder of the shares of the corporation as to which ~~he~~ the 1966
dissenting shareholder seeks relief as of the date on which the 1967
agreement of merger was adopted by the directors of that 1968
corporation. Within twenty days after ~~he~~ the dissenting 1969
shareholder has been sent the notice provided in section 1701.80 1970
or 1701.801 of the Revised Code, the dissenting shareholder shall 1971
deliver to the corporation a written demand for payment with the 1972
same information as that provided for in division (A)(2) of this 1973
section. 1974

(4) In the case of a merger or consolidation, a demand served 1975
on the constituent corporation involved constitutes service on the 1976
surviving or the new entity, whether the demand is served before, 1977
on, or after the effective date of the merger or consolidation. In 1978
the case of a conversion, a demand served on the converting 1979
corporation constitutes service on the converted entity, whether 1980
the demand is served before, on, or after the effective date of 1981
the conversion. 1982

(5) If the corporation sends to the dissenting shareholder, 1983
at the address specified in ~~his~~ the dissenting shareholder's 1984
demand, a request for the certificates representing the shares as 1985
to which ~~he~~ the dissenting shareholder seeks relief, the 1986
dissenting shareholder, within fifteen days from the date of the 1987

sending of such request, shall deliver to the corporation the 1988
certificates requested so that the corporation may ~~forthwith~~ 1989
endorse on them a legend to the effect that demand for the fair 1990
cash value of such shares has been made. The corporation promptly 1991
shall return ~~such~~ the endorsed certificates to the dissenting 1992
shareholder. A dissenting shareholder's failure to deliver ~~such~~ 1993
the certificates terminates ~~his~~ the dissenting shareholder's 1994
rights as a dissenting shareholder, at the option of the 1995
corporation, exercised by written notice sent to the dissenting 1996
shareholder within twenty days after the lapse of the fifteen-day 1997
period, unless a court for good cause shown otherwise directs. If 1998
shares represented by a certificate on which such a legend has 1999
been endorsed are transferred, each new certificate issued for 2000
them shall bear a similar legend, together with the name of the 2001
original dissenting holder of ~~such~~ the shares. Upon receiving a 2002
demand for payment from a dissenting shareholder who is the record 2003
holder of uncertificated securities, the corporation shall make an 2004
appropriate notation of the demand for payment in its shareholder 2005
records. If uncertificated shares for which payment has been 2006
demanded are to be transferred, any new certificate issued for the 2007
shares shall bear the legend required for certificated securities 2008
as provided in this paragraph. A transferee of the shares so 2009
endorsed, or of uncertificated securities where such notation has 2010
been made, acquires only ~~such~~ the rights in the corporation as the 2011
original dissenting holder of such shares had immediately after 2012
the service of a demand for payment of the fair cash value of the 2013
shares. A request under this paragraph by the corporation is not 2014
an admission by the corporation that the shareholder is entitled 2015
to relief under this section. 2016

(B) Unless the corporation and the dissenting shareholder 2017
have come to an agreement on the fair cash value per share of the 2018
shares as to which the dissenting shareholder seeks relief, the 2019
dissenting shareholder or the corporation, which in case of a 2020

merger or consolidation may be the surviving or new entity, or in 2021
the case of a conversion maybe the converted entity, within three 2022
months after the service of the demand by the dissenting 2023
shareholder, may file a complaint in the court of common pleas of 2024
the county in which the principal office of the corporation that 2025
issued the shares is located or was located when the proposal was 2026
adopted by the shareholders of the corporation, or, if the 2027
proposal was not required to be submitted to the shareholders, was 2028
approved by the directors. Other dissenting shareholders, within 2029
that three-month period, may join as plaintiffs or may be joined 2030
as defendants in any such proceeding, and any two or more such 2031
proceedings may be consolidated. The complaint shall contain a 2032
brief statement of the facts, including the vote and the facts 2033
entitling the dissenting shareholder to the relief demanded. No 2034
answer to ~~such~~ a complaint is required. Upon the filing of ~~such~~ a 2035
complaint, the court, on motion of the petitioner, shall enter an 2036
order fixing a date for a hearing on the complaint and requiring 2037
that a copy of the complaint and a notice of the filing and of the 2038
date for hearing be given to the respondent or defendant in the 2039
manner in which summons is required to be served or substituted 2040
service is required to be made in other cases. On the day fixed 2041
for the hearing on the complaint or any adjournment of it, the 2042
court shall determine from the complaint and from ~~such~~ evidence ~~as~~ 2043
~~is~~ submitted by either party whether the dissenting shareholder is 2044
entitled to be paid the fair cash value of any shares and, if so, 2045
the number and class of such shares. If the court finds that the 2046
dissenting shareholder is so entitled, the court may appoint one 2047
or more persons as appraisers to receive evidence and to recommend 2048
a decision on the amount of the fair cash value. The appraisers 2049
have ~~such~~ power and authority ~~as is~~ specified in the order of 2050
their appointment. The court thereupon shall make a finding as to 2051
the fair cash value of a share and shall render judgment against 2052
the corporation for the payment of it, with interest at ~~such a~~ 2053

rate and from ~~such~~ a date as the court considers equitable. The 2054
costs of the proceeding, including reasonable compensation to the 2055
appraisers to be fixed by the court, shall be assessed or 2056
apportioned as the court considers equitable. The proceeding is a 2057
special proceeding and final orders in it may be vacated, 2058
modified, or reversed on appeal pursuant to the Rules of Appellate 2059
Procedure and, to the extent not in conflict with those rules, 2060
Chapter 2505. of the Revised Code. If, during the pendency of any 2061
proceeding instituted under this section, a suit or proceeding is 2062
or has been instituted to enjoin or otherwise to prevent the 2063
carrying out of the action as to which the shareholder has 2064
dissented, the proceeding instituted under this section shall be 2065
stayed until the final determination of the other suit or 2066
proceeding. Unless any provision in division (D) of this section 2067
is applicable, the fair cash value of the shares that is agreed 2068
upon by the parties or fixed under this section shall be paid 2069
within thirty days after the date of final determination of such 2070
value under this division, the effective date of the amendment to 2071
the articles, or the consummation of the other action involved, 2072
whichever occurs last. Upon the occurrence of the last such event, 2073
payment shall be made immediately to a holder of uncertificated 2074
securities entitled to ~~such~~ payment. In the case of holders of 2075
shares represented by certificates, payment shall be made only 2076
upon and simultaneously with the surrender to the corporation of 2077
the certificates representing the shares for which the payment is 2078
made. 2079

(C) If the proposal was required to be submitted to the 2080
shareholders of the corporation, fair cash value as to those 2081
shareholders shall be determined as of the day prior to the day on 2082
which the vote by the shareholders was taken and, in the case of a 2083
merger pursuant to section 1701.80 or 1701.801 of the Revised 2084
Code, fair cash value as to shareholders of a constituent 2085
subsidiary corporation shall be determined as of the day before 2086

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 2149
prima-facie evidence of ~~such~~ the amendment or of the facts stated 2150
in any such certificate, and of the observance and performance of 2151
all antecedent conditions necessary to the action which such 2152
certificate purports to evidence. 2153

(B) A copy of amended articles filed in the office of the 2154
secretary of state, certified by the secretary of state, shall be 2155
accepted in this state and other jurisdictions in lieu of the 2156
original articles, amendments thereto, and prior amended articles. 2157

(C) The original or a copy of the record of minutes of the 2158
proceedings of the incorporators of a corporation, or of the 2159
proceedings or meetings of the shareholders or any class of 2160
shareholders, or of the directors, or of any committee thereof, 2161
including any written consent, waiver, release, or agreement 2162
entered in ~~such~~ the record ~~or~~ of minutes, or the original or a 2163
copy of a statement that no specified proceeding was had or that 2164
no specified consent, waiver, release, or agreement exists, shall, 2165
when certified to be true by the secretary or an assistant 2166
secretary of a corporation, be received in the courts as 2167
prima-facie evidence of the facts stated therein. Every meeting 2168
referred to in ~~such~~ the certified original or copy shall be deemed 2169
duly called and held, ~~and~~ all motions and resolutions adopted and 2170
proceedings had at such meeting shall be deemed duly adopted and 2171
had, and all elections of directors and all elections or 2172
appointments of officers chosen at such meeting shall be deemed 2173
valid, until the contrary is proved; ~~and whenever.~~ Whenever a 2174
person who is not a shareholder of a corporation has acted in good 2175
faith in reliance upon any ~~such~~ certified original or copy, it is 2176
conclusive in ~~his~~ the person's favor. 2177

(D) A certificate issued by the secretary of state confirming 2178
that a corporation is in good standing, as defined in division (E) 2179
of this section, is, for seven days after the date on the 2180

<u>certificate, conclusive evidence of both of the following:</u>	2181
<u>(1) The domestic corporation is in good standing as defined</u>	2182
<u>in division (E) of this section, provided that both of the</u>	2183
<u>following apply:</u>	2184
<u>(a) The person relying on the certificate had no knowledge</u>	2185
<u>that the corporation's articles had been canceled.</u>	2186
<u>(b) The certificate is not presented as evidence against the</u>	2187
<u>state.</u>	2188
<u>(2) A foreign corporation is qualified to do business in this</u>	2189
<u>state.</u>	2190
<u>(E) For purposes of division (D) of this section, "good</u>	2191
<u>standing" means that the authority of the corporation to carry on</u>	2192
<u>business is not limited by section 1701.88 of the Revised Code.</u>	2193
Sec. 1704.02. An issuing public corporation shall not engage	2194
in a Chapter 1704. transaction for three years after an interested	2195
shareholder's share acquisition date unless either of the	2196
following applies:	2197
(A) Prior to the interested shareholder's share acquisition	2198
date, the directors of the issuing public corporation have	2199
approved, for the purposes of this chapter, the Chapter 1704.	2200
transaction or the purchase of shares by the interested	2201
shareholder on the interested shareholder's share acquisition	2202
date;	2203
(B) Any of the provisions of section 1704.05 of the Revised	2204
Code makes this chapter inapplicable, except that if the Chapter	2205
1704. transaction is of a type described in section 1701.76,	2206
1701.78, 1701.79, 1701.80, 1701.801, <u>1701.802</u> , or 1701.86 of the	2207
Revised Code, there also must be compliance with the provisions of	2208
that section.	2209

Sec. 1704.03. (A) At any time after the three-year period 2210
described in section 1704.02 of the Revised Code, the issuing 2211
public corporation may engage in a Chapter 1704. transaction, 2212
provided that if the Chapter 1704. transaction is of a type 2213
described in section 1701.76, 1701.78, 1701.79, 1701.80, 1701.801, 2214
1701.802, or 1701.86 of the Revised Code, there is compliance with 2215
the provisions of that section, and provided that at least one of 2216
the following is satisfied: 2217

(1) Any of the provisions of section 1704.05 of the Revised 2218
Code makes this chapter inapplicable; 2219

(2) Prior to the interested shareholder's share acquisition 2220
date, the directors of the issuing public corporation had approved 2221
the purchase of shares by the interested shareholder on the 2222
interested shareholder's share acquisition date; 2223

(3) The Chapter 1704. transaction is approved, at a meeting 2224
held for that purpose, by the affirmative vote of the holders of 2225
shares of the issuing public corporation entitling them to 2226
exercise at least two-thirds of the voting power of the issuing 2227
public corporation in the election of directors, or of such 2228
different proportion as the articles may provide, provided the 2229
Chapter 1704. transaction also is ~~also~~ approved by the affirmative 2230
vote of the holders of at least a majority of the disinterested 2231
shares; 2232

(4) The Chapter 1704. transaction meets both of the following 2233
conditions: 2234

(a) It results in the receipt per share by the holders of all 2235
outstanding shares of the issuing public corporation not 2236
beneficially owned by the interested shareholder of an amount of 2237
cash that, when added to the fair market value₇ as of the 2238
consummation date of the Chapter 1704. transaction₇ of noncash 2239

consideration, aggregates at least the higher of the following:	2240
(i) The figure determined under division (B)(1) of this section;	2241 2242
(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.	2243 2244 2245 2246 2247 2248 2249 2250
(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.	2251 2252 2253 2254 2255 2256 2257 2258 2259 2260 2261 2262
(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:	2263 2264 2265 2266 2267
(a) The fair market value per share on the announcement date of the Chapter 1704. transaction;	2268 2269
(b) The fair market value per share on the interested	2270

shareholder's share acquisition date; 2271

(c) The highest price per share paid, including brokerage 2272
commissions, transfer taxes, and soliciting dealers' fees, by the 2273
interested shareholder, or by an affiliate or associate of the 2274
interested shareholder, for shares of the same class or series 2275
within the three years immediately before and including the 2276
announcement date of the Chapter 1704. transaction; 2277

(d) The highest price per share paid, including brokerage 2278
commissions, transfer taxes, and soliciting dealers' fees, by the 2279
interested shareholder, or by an affiliate or associate of the 2280
interested shareholder, for shares of the same class or series 2281
within the three years immediately before and including the 2282
interested shareholder's share acquisition date. 2283

(2) Each determination under division (B)(1)(a), (b), (c), or 2284
(d) of this section shall include interest compounded annually 2285
from the earliest date as of which the per share fair market value 2286
was determined or on which that highest per share purchase price 2287
was paid through the consummation date of the Chapter 1704. 2288
transaction, at the rate of interest paid on one-year United 2289
States treasury obligations from time to time in effect, less the 2290
aggregate amount of any cash and the fair market value, as of the 2291
payment date, of any noncash dividends or other distributions paid 2292
per share since that date, up to the amount of the interest. 2293

Sec. 1705.09. (A) The contributions of a member may be made 2294
in cash, property, services rendered, a promissory note, or any 2295
other binding obligation to contribute cash or property or to 2296
perform services; by providing any other benefit to the limited 2297
liability company; or by any combination of these. 2298

(B) A promise by a member to contribute to the limited 2299
liability company is not enforceable unless it is set forth in a 2300

writing signed by the member.

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(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.

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(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.

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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.

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Sec. 1705.361. (A) Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as

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provided in this section, a domestic or foreign entity other than 2331
a domestic limited liability company may be converted into a 2332
domestic limited liability company. The conversion also must be 2333
permitted by the chapter of the Revised Code or by the laws under 2334
which the converting entity exists. 2335

(B)(1) The written declaration of conversion shall set forth 2336
all of the following: 2337

(a) The name and form of entity that is being converted, the 2338
name of the entity into which the entity will be converted, and 2339
the jurisdiction of formation of the converting entity; 2340

(b) The articles of organization of the converted domestic 2341
limited liability company; 2342

(c) The operating agreement of the converted domestic limited 2343
liability company or a provision that a written agreement of the 2344
converting entity, a copy of which is attached to the declaration 2345
of conversion, with any amendments set forth in the declaration of 2346
conversion, will be the operating agreement of the converted 2347
entity; 2348

(d) If management of the converted entity is not reserved to 2349
its members, the names of the managers of the converted entity; 2350

(e) All statements and matters required to be set forth in an 2351
instrument of conversion by the laws under which the converting 2352
entity exists; 2353

(f) The terms of the conversion; the mode of carrying them 2354
into effect; and the manner and basis of converting the interests 2355
or shares of the converting entity into, or substituting the 2356
interests or shares in the converting entity for, interests, 2357
evidences of indebtedness, other securities, cash, rights, or any 2358
other property or any combination of interests, evidences of 2359
indebtedness, other securities, cash, rights, or any other 2360

<u>property of the converted company.</u>	2361
<u>(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.</u>	2362 2363 2364 2365 2366
<u>(C) The written declaration of conversion may set forth any of the following:</u>	2367 2368
<u>(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;</u>	2369 2370 2371
<u>(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;</u>	2372 2373 2374 2375
<u>(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;</u>	2376 2377 2378
<u>(4) The parties to the declaration of conversion in addition to the converting entity;</u>	2379 2380
<u>(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity.</u>	2381 2382
<u>(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.</u>	2383 2384 2385 2386 2387
<u>Sec. 1705.371.</u> (A) <u>Subject to division (B)(2) of this section, pursuant to a written declaration of conversion as</u>	2388 2389

provided in this section, a domestic limited liability company may 2390
be converted into a domestic or foreign entity other than a 2391
domestic limited liability company. The conversion also must be 2392
permitted by the chapter of the Revised Code or by the laws under 2393
which the converted entity will exist. 2394

(B)(1) The written declaration of conversion shall set forth 2395
all of the following: 2396

(a) The name of the domestic limited liability company that 2397
is being converted, the name of the entity into which the entity 2398
will be converted, the form of the converted entity, and the 2399
jurisdiction of formation of the converted entity; 2400

(b) If the converted entity is a domestic entity, the 2401
complete terms of all documents required under the applicable 2402
chapter of the Revised Code to form the converted entity; 2403

(c) If the converted entity is a foreign entity, all of the 2404
following: 2405

(i) The complete terms of all documents required under the 2406
law of its formation to form the converted entity; 2407

(ii) The consent of the converted entity to be sued and 2408
served with process in this state, and the irrevocable appointment 2409
of the secretary of state as the agent of the converted entity to 2410
accept service of process in this state to enforce against the 2411
converted entity any obligation of the converting company or to 2412
enforce the rights of a dissenting member of the converting 2413
company; 2414

(iii) If the converted entity desires to transact business in 2415
this state, the information required to qualify or be licensed 2416
under the applicable chapter of the Revised Code. 2417

(d) All other statements and matters required to be set forth 2418
in the declaration of conversion by the applicable chapter of the 2419

Revised Code if the converted entity is a domestic entity, or by 2420
the laws under which the converted entity will be formed, if the 2421
converted entity is a foreign entity; 2422

(e) The terms of the conversion; the mode of carrying them 2423
into effect; and the manner and basis of converting the interests 2424
or shares of the converting company into, or substituting the 2425
interests in the converting company for, interests, evidences of 2426
indebtedness, other securities, cash, rights, or any other 2427
property or any combination of interests, evidences of 2428
indebtedness, other securities, cash, rights, or any other 2429
property of the converted entity. 2430

(2) No conversion or substitution described in this section 2431
shall be effected if there are reasonable grounds to believe that 2432
the conversion or substitution would render the converted entity 2433
unable to pay its obligations as they become due in the usual 2434
course of its affairs. 2435

(C) The written declaration of conversion may set forth any 2436
of the following: 2437

(1) The effective date of the conversion, which date may be 2438
on or after the date of the filing of the certificate of 2439
conversion pursuant to section 1705.381 of the Revised Code; 2440

(2) A provision authorizing the converting company to abandon 2441
the proposed conversion by action of the members or managers of 2442
the converting company taken prior to the filing of the 2443
certificate of conversion pursuant to section 1705.381 of the 2444
Revised Code; 2445

(3) A statement of, or a statement of the method to be used 2446
to determine, the fair value of the assets owned by the converting 2447
company at the time of the conversion; 2448

(4) The parties to the declaration of conversion in addition 2449

to the converting company; 2450

(5) Any additional provision necessary or desirable with 2451
respect to the proposed conversion or the converted entity. 2452

(D) The members of the converting domestic limited liability 2453
company and, if management is not reserved to its members, the 2454
managers of the converting entity must adopt the declaration of 2455
conversion in order to effect the conversion. 2456

(E)(1) All members, whether or not they are entitled to vote 2457
or act, shall be given written notice of any meeting of members or 2458
of any proposed action by members, which meeting or action is to 2459
adopt a declaration of conversion. The notice shall be given to 2460
the members either as provided in writing in the operating 2461
agreement or by mail at the members' addresses as they appear on 2462
the records of the company, or in person. Unless the operating 2463
agreement provides a shorter or longer period, notice described in 2464
division (E)(1) of this section shall be given not less than seven 2465
and not more than sixty days before the meeting or the effective 2466
date of the action. 2467

(2) The notice described in division (E)(1) of this section 2468
shall be accompanied by a copy or a summary of the material 2469
provisions of the declaration of conversion. 2470

(F) The unanimous vote or action by the members of a 2471
converting company, or a different number or proportion as 2472
provided in writing in the operating agreement, is required to 2473
adopt a declaration of conversion. 2474

If the declaration of conversion would have an effect or 2475
authorize any action that under any applicable provision of law or 2476
the operating agreement could be effected or authorized only by or 2477
pursuant to a specified vote or action of the members, or of any 2478
class or group of members, the declaration of conversion also must 2479
be adopted or approved by the same vote or action as would be 2480

required to effect that change or to authorize that action. 2481

(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. 2482
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(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: 2488
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(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; 2495
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(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; 2499
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(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. 2504
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Sec. 1705.381. (A) Upon the adoption of a declaration of conversion pursuant to section 1705.361 or 1705.371 of the Revised 2509
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Code, or at a later time as authorized by the declaration of 2511
conversion, a certificate of conversion that is signed by an 2512
authorized representative of the converting entity shall be filed 2513
with the secretary of state. The certificate shall be on a form 2514
prescribed by the secretary of state and shall set forth only the 2515
information required by this section. 2516

(B)(1) The certificate of conversion shall set forth all of 2517
the following: 2518

(a) The name and the form of entity of the converting entity 2519
and the state under the laws of which the converting entity 2520
exists; 2521

(b) A statement that the converting entity has complied with 2522
all of the laws under which it exists and that those laws permit 2523
the conversion; 2524

(c) The name and mailing address of the person or entity that 2525
is to provide a copy of the declaration of conversion in response 2526
to any written request made by a shareholder, partner, or member 2527
of the converting entity; 2528

(d) The effective date of the conversion, which date may be 2529
on or after the date of the filing of the certificate pursuant to 2530
this section; 2531

(e) The signature of the representative or representatives 2532
authorized to sign the certificate on behalf of the converting 2533
entity and the office held or the capacity in which the 2534
representative is acting; 2535

(f) A statement that the declaration of conversion is 2536
authorized on behalf of the converting entity and that each person 2537
signing the certificate on behalf of the converting entity is 2538
authorized to do so; 2539

(g) The name and the form of the converted entity and the 2540

state under the laws of which the converted entity will exist; 2541

(h) If the converted entity is a foreign entity that will not 2542
be licensed in this state, the name and address of the statutory 2543
agent upon whom any process, notice or demand may be served. 2544

(2) In the case of a conversion into a new domestic 2545
corporation, limited liability company, limited partnership, or 2546
other partnership, any organizational document that would be filed 2547
upon the creation of the converted entity shall be filed with the 2548
certificate of conversion. 2549

(3) If the converted entity is a foreign entity that desires 2550
to transact business in this state, the certificate of conversion 2551
shall be accompanied by the information required by division 2552
(B)(8), (9), (10), or (11) of section 1705.37 of the Revised Code. 2553

(4) If a foreign or domestic corporation licensed to transact 2554
business in this state is the converting entity, the certificate 2555
of conversion shall be accompanied by the affidavits, receipts, 2556
certificates, or other evidence required by division (H) of 2557
section 1701.86 of the Revised Code with respect to a converting 2558
domestic corporation or by the affidavits, receipts, certificates, 2559
or other evidence required by division (C) or (D) of section 2560
1703.17 of the Revised Code with respect to a foreign corporation. 2561

(C) If the converting entity or the converted entity is 2562
organized or formed under the laws of a state other than this 2563
state or under any chapter of the Revised Code other than this 2564
chapter, all documents required to be filed in connection with the 2565
conversion by the laws of that state or that chapter shall be 2566
filed in the proper office. 2567

(D) Upon the filing of a certificate of conversion and other 2568
filings required by division (C) of this section or at any later 2569
date that the certificate of conversion specifies, the conversion 2570
is effective, subject to the limitation that no conversion will be 2571

effective if there are reasonable grounds to believe that the 2572
conversion would render the converted entity unable to pay its 2573
obligations as they become due in the usual course of its affairs. 2574

(E) The secretary of state shall furnish, upon request and 2575
payment of the fee specified in division (K)(2) of section 111.16 2576
of the Revised Code, the secretary of state's certificate setting 2577
forth all of the following: 2578

(1) The name and form of entity of the converting entity and 2579
the state under the laws of which it existed prior to the 2580
conversion; 2581

(2) The name and the form of entity of the converted entity 2582
and the state under the law of which it will exist; 2583

(3) The date of filing of the certificate of conversion with 2584
the secretary of state and the effective date of the conversion. 2585

(F) The certificate of the secretary of state, or a copy of 2586
the certificate of conversion certified by the secretary of state, 2587
may be filed for record in the office of the recorder of any 2588
county in this state and, if filed, shall be recorded in the 2589
records of deeds for that county. For the recording, the county 2590
recorder shall charge and collect the same fee as in the case of 2591
deeds. 2592

Sec. 1705.391. (A) Upon a conversion becoming effective, all 2593
of the following apply: 2594

(1) The converting entity is continued in the converted 2595
entity. 2596

(2) The converted entity exists, and the converting entity 2597
ceases to exist. 2598

(3) The converted entity possesses both of the following, and 2599
both of the following continue in the converted entity without any 2600

further act or deed: 2601

(a) Except to the extent limited by the requirements of 2602
applicable law, both of the following: 2603

(i) All assets and property of every description of the 2604
converting entity and every interest in the assets and property of 2605
the converting entity, wherever the assets, property, and 2606
interests are located. Title to any real estate or any interest in 2607
real estate that was vested in the converting entity does not 2608
revert or in any way is impaired by reason of the conversion. 2609

(ii) The rights, privileges, immunities, powers, franchises, 2610
and authority, whether of a public or a private nature, of the 2611
converting entity. 2612

(b) All obligations belonging or due to the converting 2613
entity. 2614

(4) All the rights of creditors of the converting entity are 2615
preserved unimpaired, and all liens upon the property of the 2616
converting entity are preserved unimpaired. If a general partner 2617
of a converting partnership is not a general partner of the entity 2618
resulting from the conversion, then the former general partner has 2619
no liability for any obligation incurred after the conversion 2620
except to the extent that a former creditor of the converting 2621
partnership in which the former general partner was a general 2622
partner extends credit to the converted entity reasonably 2623
believing that the former general partner continues as a general 2624
partner of the converted entity. 2625

(B) In the case of a conversion into a foreign corporation, 2626
limited liability company, or partnership that is not licensed or 2627
registered to transact business in this state, if the converted 2628
entity intends to transact business in this state, and the 2629
certificate of conversion is accompanied by the information 2630
described in division (B)(4) of section 1705.38 of the Revised 2631

Code, then on the effective date of the conversion, the converted 2632
entity is considered to have complied with the requirements for 2633
procuring a license or for registration to transact business in 2634
this state as a foreign corporation, limited liability company, 2635
limited partnership, or limited liability partnership as the case 2636
may be. In such a case, a copy of the certificate of conversion 2637
certified by the secretary of state constitutes the license 2638
certificate prescribed for a foreign corporation or the 2639
application for registration prescribed for a foreign limited 2640
liability company, foreign limited partnership, or foreign limited 2641
liability partnership. 2642

(C) Any action to set aside any conversion on the ground that 2643
any section of the Revised Code applicable to the conversion has 2644
not been complied with shall be brought within ninety days after 2645
the effective date of the conversion or is forever barred. 2646

(D) In the case of a converting or converted entity organized 2647
or existing under the laws of any state other than this state, 2648
this section is subject to the laws of the state under which that 2649
entity exists or in which it has property. 2650

Sec. 1705.40. Unless otherwise provided in writing in the 2651
operating agreement of a constituent domestic limited liability 2652
company, the following are entitled to relief as dissenting 2653
members as provided in section 1705.41 of the Revised Code: 2654

(A) Members of a domestic limited liability company that is 2655
being merged or consolidated into a surviving or new domestic or 2656
foreign entity pursuant to section 1705.36 or 1705.37 of the 2657
Revised Code; 2658

(B) In the case of a merger into a domestic limited liability 2659
company, members of the surviving domestic limited liability 2660
company who, under section 1705.36 of the Revised Code, are 2661

entitled to vote or act on the adoption or approval of the 2662
agreement of merger, but only as to the membership interests 2663
entitling them to so vote or act; 2664

(C) Members of a domestic limited liability company that is 2665
being converted pursuant to section 1705.371 of the Revised Code. 2666

Sec. 1705.41. (A) A member of a domestic limited liability 2667
company is entitled to relief as a dissenting member as described 2668
in section 1705.40 of the Revised Code only in compliance with 2669
this section. 2670

(B) If a proposal of merger or, consolidation proposal, or 2671
conversion is to be submitted to the members of a domestic limited 2672
liability company at a meeting, a dissenting member must be a 2673
member and a record holder of the membership interests as to which 2674
~~he~~ the dissenting member seeks relief as of the date fixed for the 2675
determination of members entitled to notice of the meeting, and 2676
those membership interests must not have been voted in favor of 2677
the proposal. Not later than ten days after the date on which the 2678
vote on the proposal was taken at the meeting of the members, the 2679
dissenting member shall deliver to the company a written demand 2680
for payment to ~~him~~ the dissenting member of the fair cash value of 2681
the membership interests as to which ~~he~~ the dissenting member 2682
seeks relief. The demand shall state the address of the dissenting 2683
member, the number and class of the membership interests, and the 2684
amount claimed by the dissenting member as the fair cash value of 2685
the membership interests. 2686

(C) If the proposal of merger or, consolidation proposal, or 2687
conversion is to be submitted to the members of a domestic limited 2688
liability company for their written approval or other action 2689
without a meeting, a dissenting member must be a member and a 2690
record holder of the membership interests as to which ~~he~~ the 2691
dissenting member seeks relief as of the date that the written 2692

request for approval or other action is sent to the members 2693
entitled to act or otherwise approve the proposal, and the 2694
dissenting member must not have indicated ~~his~~ the dissenting 2695
member's approval of the proposal in ~~his~~ the dissenting member's 2696
capacity as record holder of the membership interests. Not later 2697
than fifteen days after the date on which the request for approval 2698
or other action was mailed to the members, the dissenting member 2699
shall deliver to the company a written demand for payment to ~~him~~ 2700
the dissenting member of the fair cash value of the membership 2701
interests as to which ~~he~~ the dissenting member seeks relief. The 2702
demand shall state the address of the dissenting member, the 2703
number and class of the membership interests, and the amount 2704
claimed by the dissenting member as the fair cash value of the 2705
membership interests. 2706

(D) A written demand for payment of the fair cash value of 2707
membership interests that is served on a domestic limited 2708
liability company under this section constitutes service on the 2709
surviving or new entity resulting from the merger or consolidation 2710
or on the entity resulting from a conversion, whether the demand 2711
is served before, on, or after the effective date of the merger 2712
~~or~~, consolidation, or conversion. 2713

(E)(1) If the membership interests as to which a dissenting 2714
member seeks relief are represented by certificates and if the 2715
domestic limited liability company sends to the dissenting member 2716
at the address specified in ~~his~~ the dissenting member's demand for 2717
payment of the fair cash value of those interests a request for 2718
the certificates representing those interests, the dissenting 2719
member shall deliver the requested certificates to the company 2720
within fifteen days from the date on which the request is sent to 2721
~~him~~ the dissenting member so that the company may endorse a legend 2722
on the certificates to the effect that a demand for the fair cash 2723
value of those membership interests has been made. The company 2724

promptly shall return the endorsed certificates to the dissenting member. 2725
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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. 2727
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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. 2734
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(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. 2739
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(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. 2748
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(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. 2788
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(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. 2790
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(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. 2794
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(4) All of the following apply: 2797

(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. 2798
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(b) The company and the dissenting member have not agreed upon the fair cash value of the membership interests. 2803
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(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. 2805
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(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 2808
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interests of the class of those interests or any dividend, 2818
distribution, or interest is paid in money upon any securities 2819
issued in extinguishment of or in substitution for those 2820
interests, an amount equal to the dividend, distribution, or 2821
interest that, except for the suspension, would have been payable 2822
upon those interests or those securities shall be paid to the 2823
record holder of those interests or securities as a credit upon 2824
the fair cash value of those interests. If the right to receive 2825
the fair cash value of those interests is terminated other than by 2826
the purchase of those interests by the company, all rights of the 2827
dissenting member shall be restored and all distributions that, 2828
except for the suspension, would have been made shall be made to 2829
the record holder of those interests at the time of termination. 2830

Sec. 1705.42. (A)(1) When authorized by division (F) of 2831
section 1705.41 of the Revised Code, a dissenting member of a 2832
domestic limited liability company may file a complaint for the 2833
relief described in this section. The complaint shall contain a 2834
brief statement of the relevant facts, including the vote or 2835
action by the members of that company pertaining to the merger ~~or~~ 2836
consolidation, or conversion and the facts entitling the 2837
dissenting member to the relief described in this section, and a 2838
demand for that relief. When authorized by division (F) of section 2839
1705.41 of the Revised Code, the company, or a surviving or new 2840
entity or converted entity, also may file a complaint under this 2841
section. Notwithstanding the Rules of Civil Procedure, no answer 2842
to a complaint filed under this section is required. 2843

(2) Upon the filing of the complaint and upon motion of the 2844
complainant, the court shall enter an order that fixes a date for 2845
a hearing on the complaint and that requires the service of a copy 2846
of the complaint and a notice of its filing and the date for the 2847
hearing on the defendants in the manner prescribed in the Rules of 2848
Civil Procedure for the service of process. On the date fixed for 2849

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. 2882

(4) Unless division (G) of section 1705.41 of the Revised 2883
Code is applicable, the fair cash value of the membership 2884
interests that is agreed upon by the dissenting member and the 2885
limited liability company or fixed by a court in a proceeding 2886
under this section shall be paid within thirty days after the 2887
later of the final determination of the fair cash value in a 2888
proceeding under this section or the date of the consummation of 2889
the merger ~~or~~, consolidation, or conversion. Upon the occurrence 2890
of the later event, payment of the fair cash value shall be made 2891
to those entitled to the payment as follows: 2892

(a) Immediately to the holders of uncertificated membership 2893
interests; 2894

(b) Upon and simultaneously with the surrender to the limited 2895
liability company of certificates representing the membership 2896
interests to the holders of certificated membership interests. 2897

(B) If the proposal of merger or consolidation proposal, or 2898
conversion was submitted to the members of a domestic limited 2899
liability company at a meeting, the fair cash value of the 2900
membership interests as to any of those members that seek relief 2901
shall be determined as of the day before the day on which the vote 2902
on the proposal was taken. If the proposal of merger or, 2903
consolidation proposal, or conversion was submitted to the members 2904
of a domestic limited liability company for written approval or 2905
other action without a meeting, the fair cash value of the 2906
membership interests as to which those members seek relief shall 2907
be determined as of the day before the day on which the request 2908
for approval or other action was sent. 2909

The fair cash value of a membership interest for purposes of 2910
this section is the amount that a willing seller who is under no 2911
compulsion to sell would be willing to accept and that a willing 2912

buyer who is under no compulsion to purchase would be willing to 2913
pay, but the fair cash value paid to any member shall not exceed 2914
the amount specified in the demand for payment of that member. In 2915
computing the fair cash value of a membership interest, any 2916
appreciation or depreciation in market value resulting from the 2917
merger ~~or~~, consolidation, or conversion shall be excluded. 2918

Sec. 1707.01. As used in this chapter: 2919

(A) Whenever the context requires it, "division" or "division 2920
of securities" may be read as "director of commerce" or as 2921
"commissioner of securities." 2922

(B) "Security" means any certificate or instrument, or any 2923
oral, written, or electronic agreement, understanding, or 2924
opportunity, that represents title to or interest in, or is 2925
secured by any lien or charge upon, the capital, assets, profits, 2926
property, or credit of any person or of any public or governmental 2927
body, subdivision, or agency. It includes shares of stock, 2928
certificates for shares of stock, an uncertificated security, 2929
membership interests in limited liability companies, voting-trust 2930
certificates, warrants and options to purchase securities, 2931
subscription rights, interim receipts, interim certificates, 2932
promissory notes, all forms of commercial paper, evidences of 2933
indebtedness, bonds, debentures, land trust certificates, fee 2934
certificates, leasehold certificates, syndicate certificates, 2935
endowment certificates, interests in or under profit-sharing or 2936
participation agreements, interests in or under oil, gas, or 2937
mining leases, preorganization or reorganization subscriptions, 2938
preorganization certificates, reorganization certificates, 2939
interests in any trust or pretended trust, any investment 2940
contract, any life settlement interest, any instrument evidencing 2941
a promise or an agreement to pay money, warehouse receipts for 2942
intoxicating liquor, and the currency of any government other than 2943

those of the United States and Canada, but sections 1707.01 to 2944
1707.45 of the Revised Code do not apply to the sale of real 2945
estate. 2946

(C)(1) "Sale" has the full meaning of "sale" as applied by or 2947
accepted in courts of law or equity, and includes every 2948
disposition, or attempt to dispose, of a security or of an 2949
interest in a security. "Sale" also includes a contract to sell, 2950
an exchange, an attempt to sell, an option of sale, a solicitation 2951
of a sale, a solicitation of an offer to buy, a subscription, or 2952
an offer to sell, directly or indirectly, by agent, circular, 2953
pamphlet, advertisement, or otherwise. 2954

(2) "Sell" means any act by which a sale is made. 2955

(3) The use of advertisements, circulars, or pamphlets in 2956
connection with the sale of securities in this state exclusively 2957
to the purchasers specified in division (D) of section 1707.03 of 2958
the Revised Code is not a sale when the advertisements, circulars, 2959
and pamphlets describing and offering those securities bear a 2960
readily legible legend in substance as follows: "This offer is 2961
made on behalf of dealers licensed under sections 1707.01 to 2962
1707.45 of the Revised Code, and is confined in this state 2963
exclusively to institutional investors and licensed dealers." 2964

(4) The offering of securities by any person in conjunction 2965
with a licensed dealer by use of advertisement, circular, or 2966
pamphlet is not a sale if that person does not otherwise attempt 2967
to sell securities in this state. 2968

(5) Any security given with, or as a bonus on account of, any 2969
purchase of securities is conclusively presumed to constitute a 2970
part of the subject of that purchase and has been "sold." 2971

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person 2972
acting in a representative capacity, includes sale on behalf of 2973
such party by an agent, including a licensed dealer or 2974

salesperson.	2975
(D) "Person," except as otherwise provided in this chapter,	2976
means a natural person, firm, partnership, limited partnership,	2977
partnership association, syndicate, joint-stock company,	2978
unincorporated association, trust or trustee except where the	2979
trust was created or the trustee designated by law or judicial	2980
authority or by a will, and a corporation or limited liability	2981
company organized under the laws of any state, any foreign	2982
government, or any political subdivision of a state or foreign	2983
government.	2984
(E)(1) "Dealer," except as otherwise provided in this	2985
chapter, means every person, other than a salesperson, who engages	2986
or professes to engage, in this state, for either all or part of	2987
the person's time, directly or indirectly, either in the business	2988
of the sale of securities for the person's own account, or in the	2989
business of the purchase or sale of securities for the account of	2990
others in the reasonable expectation of receiving a commission,	2991
fee, or other remuneration as a result of engaging in the purchase	2992
and sale of securities. "Dealer" does not mean any of the	2993
following:	2994
(a) Any issuer, including any officer, director, employee, or	2995
trustee of, or member or manager of, or partner in, or any general	2996
partner of, any issuer, that sells, offers for sale, or does any	2997
act in furtherance of the sale of a security that represents an	2998
economic interest in that issuer, provided no commission, fee, or	2999
other similar remuneration is paid to or received by the issuer	3000
for the sale;	3001
(b) Any licensed attorney, public accountant, or firm of such	3002
attorneys or accountants, whose activities are incidental to the	3003
practice of the attorney's, accountant's, or firm's profession;	3004
(c) Any person that, for the account of others, engages in	3005

the purchase or sale of securities that are issued and outstanding 3006
before such purchase and sale, if a majority or more of the equity 3007
interest of an issuer is sold in that transaction, and if, in the 3008
case of a corporation, the securities sold in that transaction 3009
represent a majority or more of the voting power of the 3010
corporation in the election of directors; 3011

(d) Any person that brings an issuer together with a 3012
potential investor and whose compensation is not directly or 3013
indirectly based on the sale of any securities by the issuer to 3014
the investor; 3015

(e) Any bank; 3016

(f) Any person that the division of securities by rule 3017
exempts from the definition of "dealer" under division (E)(1) of 3018
this section. 3019

(2) "Licensed dealer" means a dealer licensed under this 3020
chapter. 3021

(F)(1) "Salesman" or "salesperson" means every natural 3022
person, other than a dealer, who is employed, authorized, or 3023
appointed by a dealer to sell securities within this state. 3024

(2) The general partners of a partnership, and the executive 3025
officers of a corporation or unincorporated association, licensed 3026
as a dealer are not salespersons within the meaning of this 3027
definition, nor are ~~such~~ clerical or other employees of an issuer 3028
or dealer ~~as that~~ are employed for work to which the sale of 3029
securities is secondary and incidental; but the division of 3030
securities may require a license from any such partner, executive 3031
officer, or employee if it determines that protection of the 3032
public necessitates the licensing. 3033

(3) "Licensed salesperson" means a salesperson licensed under 3034
this chapter. 3035

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security. 3036
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(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. 3038
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(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. 3044
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(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. 3048
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(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. 3058
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(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade 3064
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names, licenses, franchises, any other assets treated as 3067
intangible according to generally accepted accounting principles, 3068
and securities, accounts receivable, or contract rights having no 3069
readily determinable value. 3070

(2) "Tangible property" means all property other than 3071
intangible property and includes securities, accounts receivable, 3072
and contract rights, when the securities, accounts receivable, or 3073
contract rights have a readily determinable value. 3074

(M) "Public utilities" means those utilities defined in 3075
sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised 3076
Code; in the case of a foreign corporation, it means those 3077
utilities defined as public utilities by the laws of its domicile; 3078
and in the case of any other foreign issuer, it means those 3079
utilities defined as public utilities by the laws of the situs of 3080
its principal place of business. The term always includes 3081
railroads whether or not they are ~~se~~ defined as public utilities. 3082

(N) "State" means any state of the United States, any 3083
territory or possession of the United States, the District of 3084
Columbia, and any province of Canada. 3085

(O) "Bank" means any bank, trust company, savings and loan 3086
association, savings bank, or credit union that is incorporated or 3087
organized under the laws of the United States, any state of the 3088
United States, Canada, or any province of Canada and that is 3089
subject to regulation or supervision by that country, state, or 3090
province. 3091

(P) "Include," when used in a definition, does not exclude 3092
other things or persons otherwise within the meaning of the term 3093
defined. 3094

(Q)(1) "Registration by description" means that the 3095
requirements of section 1707.08 of the Revised Code have been 3096
complied with. 3097

(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 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. 3159

(W) "Offeror" means a person who makes, or in any way 3160
participates or aids in making, a control bid and includes persons 3161
acting jointly or in concert, or who intend to exercise jointly or 3162
in concert any voting rights attached to the securities for which 3163
the control bid is made and also includes any subject company 3164
making a control bid for its own securities. 3165

(X)(1) "Investment adviser" means any person who, for 3166
compensation, engages in the business of advising others, either 3167
directly or through publications or writings, as to the value of 3168
securities or as to the advisability of investing in, purchasing, 3169
or selling securities, or who, for compensation and as a part of 3170
regular business, issues or promulgates analyses or reports 3171
concerning securities. 3172

(2) "Investment adviser" does not mean any of the following: 3173

(a) Any attorney, accountant, engineer, or teacher, whose 3174
performance of investment advisory services described in division 3175
(X)(1) of this section is solely incidental to the practice of the 3176
attorney's, accountant's, engineer's, or teacher's profession; 3177

(b) A publisher of any bona fide newspaper, news magazine, or 3178
business or financial publication of general and regular 3179
circulation; 3180

(c) A person who acts solely as an investment adviser 3181
representative; 3182

(d) A bank holding company, as defined in the "Bank Holding 3183
Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an 3184
investment company; 3185

(e) A bank, or any receiver, conservator, or other 3186
liquidating agent of a bank; 3187

(f) Any licensed dealer or licensed salesperson whose 3188

performance of investment advisory services described in division 3189
(X)(1) of this section is solely incidental to the conduct of the 3190
dealer's or salesperson's business as a licensed dealer or 3191
licensed salesperson and who receives no special compensation for 3192
the services; 3193

(g) Any person, the advice, analyses, or reports of which do 3194
not relate to securities other than securities that are direct 3195
obligations of, or obligations guaranteed as to principal or 3196
interest by, the United States, or securities issued or guaranteed 3197
by corporations in which the United States has a direct or 3198
indirect interest, and that have been designated by the secretary 3199
of the treasury as exempt securities as defined in the "Securities 3200
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c; 3201

(h) Any person that is excluded from the definition of 3202
investment adviser pursuant to section 202(a)(11)(A) to (E) of the 3203
"Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that 3204
has received an order from the securities and exchange commission 3205
under section 202(a)(11)(F) of the "Investment Advisers Act of 3206
1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not 3207
within the intent of section 202(a)(11) of the Investment Advisers 3208
Act of 1940. 3209

(i) A person who acts solely as a state retirement system 3210
investment officer; 3211

(j) Any other person that the division designates by rule, if 3212
the division finds that the designation is necessary or 3213
appropriate in the public interest or for the protection of 3214
investors or clients and consistent with the purposes fairly 3215
intended by the policy and provisions of this chapter. 3216

(Y)(1) "Subject company" means an issuer that satisfies both 3217
of the following: 3218

(a) Its principal place of business or its principal 3219

executive office is located in this state, or it owns or controls 3220
assets located within this state that have a fair market value of 3221
at least one million dollars. 3222

(b) More than ten per cent of its beneficial or record equity 3223
security holders are resident in this state, more than ten per 3224
cent of its equity securities are owned beneficially or of record 3225
by residents in this state, or more than one thousand of its 3226
beneficial or record equity security holders are resident in this 3227
state. 3228

(2) The division of securities may adopt rules to establish 3229
more specific application of the provisions set forth in division 3230
(Y)(1) of this section. Notwithstanding the provisions set forth 3231
in division (Y)(1) of this section and any rules adopted under 3232
this division, the division, by rule or in an adjudicatory 3233
proceeding, may make a determination that an issuer does not 3234
constitute a "subject company" under division (Y)(1) of this 3235
section if appropriate review of control bids involving the issuer 3236
is to be made by any regulatory authority of another jurisdiction. 3237

(Z) "Beneficial owner" includes any person who directly or 3238
indirectly through any contract, arrangement, understanding, or 3239
relationship has or shares, or otherwise has or shares, the power 3240
to vote or direct the voting of a security or the power to dispose 3241
of, or direct the disposition of, the security. "Beneficial 3242
ownership" includes the right, exercisable within sixty days, to 3243
acquire any security through the exercise of any option, warrant, 3244
or right, the conversion of any convertible security, or 3245
otherwise. Any security subject to any such option, warrant, 3246
right, or conversion privilege held by any person shall be deemed 3247
to be outstanding for the purpose of computing the percentage of 3248
outstanding securities of the class owned by that person, but 3249
shall not be deemed to be outstanding for the purpose of computing 3250
the percentage of the class owned by any other person. A person 3251

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; 3283

(c) Any other person that the division designates by rule, if 3284
the division finds that the designation is necessary or 3285
appropriate in the public interest or for the protection of 3286
investors or clients and is consistent with the provisions fairly 3287
intended by the policy and provisions of this chapter. 3288

(2) For the purpose of the calculation of clients in division 3289
(CC)(1) of this section, a natural person and the following 3290
persons are deemed a single client: Any minor child of the natural 3291
person; any relative, spouse, or relative of the spouse of the 3292
natural person who has the same principal residence as the natural 3293
person; all accounts of which the natural person or the persons 3294
referred to in division (CC)(2) of this section are the only 3295
primary beneficiaries; and all trusts of which the natural person 3296
or persons referred to in division (CC)(2) of this section are the 3297
only primary beneficiaries. Persons who are not residents of the 3298
United States need not be included in the calculation of clients 3299
under division (CC)(1) of this section. 3300

(3) If subsequent to March 18, 1999, amendments are enacted 3301
or adopted defining "investment adviser representative" for 3302
purposes of the Investment Advisers Act of 1940 or additional 3303
rules or regulations are promulgated by the securities and 3304
exchange commission regarding the definition of "investment 3305
adviser representative" for purposes of the Investment Advisers 3306
Act of 1940, the division of securities shall, by rule, adopt the 3307
substance of the amendments, rules, or regulations, unless the 3308
division finds that the amendments, rules, or regulations are not 3309
necessary for the protection of investors or in the public 3310
interest. 3311

(DD) "Supervised person" means a natural person who is any of 3312
the following: 3313

(1) A partner, officer, or director of an investment adviser,	3314
or other person occupying a similar status or performing similar	3315
functions with respect to an investment adviser;	3316
(2) An employee of an investment adviser;	3317
(3) A person who provides investment advisory services	3318
described in division (X)(1) of this section on behalf of the	3319
investment adviser and is subject to the supervision and control	3320
of the investment adviser.	3321
(EE) "Excepted person" means a natural person to whom any of	3322
the following applies:	3323
(1) Immediately after entering into the investment advisory	3324
contract with the investment adviser, the person has at least	3325
seven hundred fifty thousand dollars under the management of the	3326
investment adviser.	3327
(2) The investment adviser reasonably believes either of the	3328
following at the time the investment advisory contract is entered	3329
into with the person:	3330
(a) The person has a net worth, together with assets held	3331
jointly with a spouse, of more than one million five hundred	3332
thousand dollars.	3333
(b) The person is a qualified purchaser as defined in	3334
division (FF) of this section.	3335
(3) Immediately prior to entering into an investment advisory	3336
contract with the investment adviser, the person is either of the	3337
following:	3338
(a) An executive officer, director, trustee, general partner,	3339
or person serving in a similar capacity, of the investment	3340
adviser;	3341
(b) An employee of the investment adviser, other than an	3342
employee performing solely clerical, secretarial, or	3343

administrative functions or duties for the investment adviser, 3344
which employee, in connection with the employee's regular 3345
functions or duties, participates in the investment activities of 3346
the investment adviser, provided that, for at least twelve months, 3347
the employee has been performing such nonclerical, nonsecretarial, 3348
or nonadministrative functions or duties for or on behalf of the 3349
investment adviser or performing substantially similar functions 3350
or duties for or on behalf of another company. 3351

If subsequent to March 18, 1999, amendments are enacted or 3352
adopted defining "excepted person" for purposes of the Investment 3353
Advisers Act of 1940 or additional rules or regulations are 3354
promulgated by the securities and exchange commission regarding 3355
the definition of "excepted person" for purposes of the Investment 3356
Advisers Act of 1940, the division of securities shall, by rule, 3357
adopt the substance of the amendments, rules, or regulations, 3358
unless the division finds that the amendments, rules, or 3359
regulations are not necessary for the protection of investors or 3360
in the public interest. 3361

(FF)(1) "Qualified purchaser" means either of the following: 3362

(a) A natural person who owns not less than five million 3363
dollars in investments as defined by rule by the division of 3364
securities; 3365

(b) A natural person, acting for the person's own account or 3366
accounts of other qualified purchasers, who in the aggregate owns 3367
and invests on a discretionary basis, not less than twenty-five 3368
million dollars in investments as defined by rule by the division 3369
of securities. 3370

(2) If subsequent to March 18, 1999, amendments are enacted 3371
or adopted defining "qualified purchaser" for purposes of the 3372
Investment Advisers Act of 1940 or additional rules or regulations 3373
are promulgated by the securities and exchange commission 3374

regarding the definition of "qualified purchaser" for purposes of 3375
the Investment Advisers Act of 1940, the division of securities 3376
shall, by rule, adopt the amendments, rules, or regulations, 3377
unless the division finds that the amendments, rules, or 3378
regulations are not necessary for the protection of investors or 3379
in the public interest. 3380

(GG)(1) "Purchase" has the full meaning of "purchase" as 3381
applied by or accepted in courts of law or equity and includes 3382
every acquisition of, or attempt to acquire, a security or an 3383
interest in a security. "Purchase" also includes a contract to 3384
purchase, an exchange, an attempt to purchase, an option to 3385
purchase, a solicitation of a purchase, a solicitation of an offer 3386
to sell, a subscription, or an offer to purchase, directly or 3387
indirectly, by agent, circular, pamphlet, advertisement, or 3388
otherwise. 3389

(2) "Purchase" means any act by which a purchase is made. 3390

(3) Any security given with, or as a bonus on account of, any 3391
purchase of securities is conclusively presumed to constitute a 3392
part of the subject of that purchase. 3393

(HH) "Life settlement interest" means the entire interest or 3394
any fractional interest in an insurance policy or certificate of 3395
insurance, or in an insurance benefit under such a policy or 3396
certificate, that is the subject of a life settlement contract. 3397

For purposes of this division, "life settlement contract" 3398
means an agreement for the purchase, sale, assignment, transfer, 3399
devise, or bequest of any portion of the death benefit or 3400
ownership of any life insurance policy or contract, in return for 3401
consideration or any other thing of value that is less than the 3402
expected death benefit of the life insurance policy or contract. 3403
"Life settlement contract" includes a viatical settlement contract 3404
as defined in section 3916.01 of the Revised Code, but does not 3405

include any of the following:	3406
(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;	3407 3408 3409
(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;	3410 3411
(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;	3412 3413
(4) Any agreement between an insurer and a reinsurer;	3414
(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;	3415 3416 3417 3418
(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.	3419 3420 3421 3422
(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.	3423 3424 3425 3426
(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.	3427 3428 3429 3430 3431 3432
Sec. 1707.041. (A)(1) No control bid for any securities of a subject company shall be made pursuant to a tender offer or	3433 3434

request or invitation for tenders until the offeror files with the 3435
division of securities the information prescribed in division 3436
(A)(2) of this section. The offeror shall deliver a copy of the 3437
information specified in division (A)(2) of this section, by 3438
personal service, to the subject company at its principal office 3439
not later than the time of the filing with the division. The 3440
offeror shall send or deliver to all offerees in this state, as 3441
soon as practicable after the filing, the material terms of the 3442
proposed offer and the information specified in division (A)(2) of 3443
this section. 3444

(2) The information to be filed with the division, with the 3445
subject company, and with any other offeror, pursuant to division 3446
(A)(1) of this section, shall include: 3447

(a) Copies of all prospectuses, brochures, advertisements, 3448
circulars, letters, or other matter by means of which the offeror 3449
proposes to disclose to offerees all information material to a 3450
decision to accept or reject the offer; 3451

(b) The identity and background of all persons on whose 3452
behalf the acquisition of any equity security of the subject 3453
company has been or is to be effected; 3454

(c) The source and amount of funds or other consideration 3455
used or to be used in acquiring any equity security, including a 3456
statement describing any securities, other than the existing 3457
capital stock or long term debt of the offeror, which are being 3458
offered in exchange for the equity securities of the subject 3459
company; 3460

(d) A statement of any plans or proposals that the offeror, 3461
upon gaining control, may have to liquidate the subject company, 3462
sell its assets, effect a merger or consolidation of it, 3463
establish, terminate, convert, or amend employee benefit plans, 3464
close any plant or facility of the subject company or of any of 3465

its subsidiaries or affiliates, change or reduce the work force of 3466
the subject company or any of its subsidiaries or affiliates, or 3467
make any other major change in its business, corporate structure, 3468
management personnel, or policies of employment; 3469

(e) The number of shares of any equity security of the 3470
subject company of which each offeror is beneficial or record 3471
owner or has a right to acquire, directly or indirectly, together 3472
with the name and address of each person defined in this section 3473
as an offeror; 3474

(f) Particulars as to any contracts, arrangements, or 3475
understandings to which an offeror is party with respect to any 3476
equity security of the subject company, including transfers of any 3477
equity security, joint ventures, loan or option arrangements, puts 3478
and calls, guarantees of loan, guarantees against loss, guarantees 3479
of profits, division of losses or profits, or the giving or 3480
withholding of proxies, naming the persons with whom such 3481
contracts, arrangements, or understandings have been entered into; 3482

(g) Complete information on the organization and operations 3483
of the offeror, including the year of organization; the form of 3484
organization; the jurisdiction in which it is organized; a 3485
description of each class of the offeror's capital stock and of 3486
its long term debt; financial statements for the current period 3487
and for the three most recent annual accounting periods, unless 3488
the division by rule determines that the financial statements are 3489
not material or permits the filing of financial statements for 3490
less than the three most recent annual accounting periods; a brief 3491
description of the location and general character of the principal 3492
physical properties of the offeror and its subsidiaries; a 3493
description of pending legal proceedings other than routine 3494
litigation to which the offeror or any of its subsidiaries is a 3495
party or of which any of their property is the subject; a brief 3496
description of the business done and projected by the offeror and 3497

its subsidiaries and the general development of such business over 3498
the past three years; the names of all directors and executive 3499
officers together with biographical summaries of each for the 3500
preceding three years to date; and the approximate amount of any 3501
material interest, direct or indirect, of any of the directors or 3502
officers in any material transaction during the past three years, 3503
or in any proposed material transactions, to which the offeror or 3504
any of its subsidiaries was or is to be a party; 3505

(h) Such other and further documents, exhibits, data, and 3506
information as ~~may be~~ required by regulations of the division, or 3507
as ~~may be~~ necessary to make fair, full, and effective disclosure 3508
to offerees of all information material to a decision to accept or 3509
reject the offer. 3510

(3) Within five calendar days of the date of filing by an 3511
offeror of information specified in division (A)(2) of this 3512
section, the division may by order summarily suspend the 3513
continuation of the control bid if the division determines that 3514
all of the information specified has not been provided by the 3515
offeror or that the control bid materials provided to offerees do 3516
not provide full disclosure to offerees of all material 3517
information concerning the control bid. Such a suspension shall 3518
remain in effect only until the determination following a hearing 3519
held pursuant to division (A)(4) of this section. 3520

(4) A hearing shall be scheduled and held by the division 3521
with respect to each suspension imposed under division (A)(3) of 3522
this section. The hearing shall be held within ten calendar days 3523
of the date on which the suspension is imposed. Chapter 119. of 3524
the Revised Code does not apply to a hearing held under ~~this~~ 3525
division (A)(4) of this section. The division may allow any 3526
interested party to appear at and participate in the hearing in a 3527
manner considered appropriate by the division. The determination 3528
of the division made following the hearing shall be made within 3529

three calendar days after the hearing has been completed, and no 3530
later than fourteen calendar days after the date on which the 3531
suspension is imposed. The division, by rule or order, may 3532
prescribe time limits for conducting the hearing and for the 3533
making of the determination that are shorter than those specified 3534
in this division. If, based upon the hearing, the division 3535
determines that all of the information required to be provided by 3536
division (A)(2) of this section has not been provided by the 3537
offeror, that the control bid materials provided to offerees do 3538
not provide full disclosure to offerees of all material 3539
information concerning the control bid, or that the control bid is 3540
in material violation of any provision of this chapter, the 3541
division shall maintain the suspension of the continuation of the 3542
control bid, subject to the right of the offeror to correct 3543
disclosure and other deficiencies identified by the division and 3544
to reinstitute the control bid by filing new or amended 3545
information pursuant to this section. 3546

(5)(a) If an offeror increases or decreases the percentage of 3547
the class of securities being sought, the consideration offered, 3548
or the dealer's soliciting fee in connection with a control bid 3549
for any securities of a subject company pursuant to a tender offer 3550
or request or invitation for tenders, or makes any other change in 3551
the terms or conditions of the tender offer or request or 3552
invitation for tenders that requires the offeror to hold the 3553
tender offer or request or invitation for tenders open for at 3554
least ten business days from the date that notice of the change is 3555
first published or sent to security holders in this state, the 3556
offeror shall file with the division both of the following: 3557

(i) All material information, including all information sent 3558
or otherwise provided to offerees in this state, pertaining to the 3559
increase, decrease, or other change; 3560

(ii) All material information required to update the 3561

information filed with the division pursuant to division (A)(2) of 3562
this section. 3563

(b) The offeror shall file the information described in 3564
division (A)(5)(a) with the division not later than the date on 3565
which the information regarding the increase, decrease, or other 3566
change first is published or sent to offerees in this state. The 3567
offeror shall deliver a copy of the information, by personal 3568
services, to the subject company at its principal office not later 3569
than the time of the filing with the division. 3570

(6) Within three calendar days of the date of filing by an 3571
offeror of the information specified in division (A)(5) of this 3572
section, the division, by order, may summarily suspend the 3573
continuation of the control bid if the division determines that 3574
all of the information specified has not been provided by the 3575
offeror or that the information provided to offerees does not 3576
provide full disclosure to offerees of all material information 3577
concerning the increase, decrease, or other change. The suspension 3578
shall remain in effect only until the determination following a 3579
hearing held pursuant to division (A)(7) of this section. 3580

(7) The division shall schedule and hold, within three 3581
calendar days of the date on which the suspension is imposed, a 3582
hearing with respect to each suspension imposed under division 3583
(A)(6) of this section. Chapter 119. of the Revised Code does not 3584
apply to a hearing held under division (A)(7) of this section. The 3585
division may allow any interested party to appear at and 3586
participate in the hearing in a manner considered appropriate by 3587
the division. The division shall make a determination following 3588
the hearing within three calendar days after the hearing has been 3589
completed, and not later than nine calendar days after the date on 3590
which the information regarding the increase, decrease, or other 3591
change first is published or sent to offerees in this state. The 3592
division, by rule or order, may prescribe time limits for 3593

conducting the hearing and for the making of the determination 3594
that are shorter than those specified in this division. If, based 3595
upon the hearing, the division determines that all of the 3596
information required to be provided by division (A)(5) of this 3597
section has not been provided by the offeror; that the information 3598
provided to offerees does not provide full disclosure to offerees 3599
of all material information concerning the increase, decrease, or 3600
other change; or that the control bid is in material violation of 3601
any provision of this chapter, the division shall maintain the 3602
suspension of the continuation of the control bid, subject to the 3603
right of the offeror to correct disclosure and other deficiencies 3604
identified by the division and to reinstate the control bid by 3605
filing new or amended information pursuant to this section. 3606

(B)(1) No control bid shall be made pursuant to a tender 3607
offer or request or invitation for tenders unless division (A) of 3608
section 1707.14 of the Revised Code has been complied with, and no 3609
offeror shall make a control bid that is not made to all holders 3610
residing in this state of the equity security that is the subject 3611
of the control bid, or that is not made to ~~such~~ holders on the 3612
same terms as the control bid is made to holders of such equity 3613
security not residing in this state. 3614

(2) No offeror may make a control bid pursuant to a tender 3615
offer or request or invitation for tenders or acquire any equity 3616
security in this state pursuant to a control bid at any time 3617
during which any proceeding by the division alleging a violation 3618
of any provision of this chapter is pending against the offeror. 3619

(3) No offeror may acquire from any resident of this state, 3620
in any manner, any equity security of any class of a subject 3621
company at any time within two years following the last 3622
acquisition of any security of the same class pursuant to a 3623
control bid pursuant to a tender offer or request or invitation 3624
for tenders by that offeror, whether the acquisition was made by 3625

purchase, exchange, merger, consolidation, partial or complete 3626
liquidation, redemption, reverse stock split, recapitalization, 3627
reorganization, or any other similar transaction, unless the 3628
resident is afforded, at the time of the later acquisition, a 3629
reasonable opportunity to dispose of the security to the offeror 3630
upon substantially the same terms as those provided in the earlier 3631
control bid. 3632

(4) If an offeror makes a tender offer or request or 3633
invitation for tenders not subject to Rule 14D-1 or Rule 14D-4 of 3634
the securities and exchange commission under the "Securities 3635
Exchange Act of 1934," for less than all the outstanding equity 3636
securities of a class, and if a greater number of securities is 3637
deposited pursuant thereto within ten days after copies of the 3638
offer or request or invitation for tenders are first published or 3639
sent or given to security holders than the offeror is bound or 3640
willing to take up and pay for, the securities shall be taken up 3641
as nearly as may be pro rata, disregarding fractions, according to 3642
the number of securities deposited by each offeree. The preceding 3643
sentence applies to securities deposited within ten days after 3644
notice of an increase in the consideration offered to security 3645
holders, as described in the next sentence, is first published or 3646
sent or given to security holders. If the terms of a control bid 3647
are changed before its expiration by increasing the consideration 3648
offered to offerees, the offeror shall pay the increased 3649
consideration for all equity securities taken up, whether the same 3650
are deposited or taken up before or after the change in the terms 3651
of the control bid. 3652

(C) If the offeror or the subject company is a banking 3653
corporation or savings and loan association subject to regulation 3654
by the division of financial institutions, or is a public utility 3655
corporation subject to regulation by the public utilities 3656
commission, the division of securities shall immediately, upon 3657

receipt of the filing required under division (A) of this section, 3658
furnish a copy of the filing to the regulatory body having 3659
jurisdiction over the offeror or subject company. 3660

(D) An offeror is subject to the liabilities and penalties 3661
applicable to a seller, and an offeree is entitled to the remedies 3662
applicable to a purchaser, as set forth in sections 1707.041 to 3663
1707.44 of the Revised Code. 3664

(E) The division of securities may, pursuant to Chapter 119. 3665
of the Revised Code, prescribe reasonable rules: 3666

(1) Defining fraudulent, evasive, deceptive, or grossly 3667
unfair practices in connection with control bids, and defining the 3668
terms used in this section; 3669

(2) Exempting from this section control bids not made for the 3670
purpose of, and not having the effect of, changing or influencing 3671
the control of a subject company; 3672

(3) Covering ~~such~~ other matters as ~~are~~ necessary to give 3673
effect to this section. 3674

(F) If the offeror or a subject company is an insurance 3675
company subject to regulation under Title XXXIX of the Revised 3676
Code, the superintendent of insurance shall for all purposes of 3677
this section be substituted for the division of securities. This 3678
section shall not be construed to limit or modify in any way any 3679
responsibility, authority, power, or jurisdiction of the division 3680
of securities or the superintendent of insurance pursuant to any 3681
other section of the Revised Code. 3682

(G) This section does not apply when: 3683

(1) The offeror or the subject company is a public utility or 3684
a public utility holding company as defined in section 2 of the 3685
"Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 3686
U.S.C. 79, as amended, and the control bid is subject to approval 3687

by the appropriate federal agency as provided in such act; 3688

(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; 3689
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(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; 3694
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(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. 3699
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(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. 3702
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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. 78g, as amended, and the rules of the securities and exchange commission promulgated under those sections. 3707
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(B)(1) Subject to division (B)(2) of this section, every 3717

dealer required to be licensed under section 1707.14 of the 3718
Revised Code shall file with the division of securities any report 3719
or document that rules adopted pursuant to section 15 of the 3720
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o, as 3721
amended, and section 17 of the "Securities Exchange Act of 1934," 3722
48 Stat. 881, 15 U.S.C. 78g, as amended, require federally 3723
registered brokers or dealers to file with the securities and 3724
exchange commission. 3725

(2) Except as otherwise provided by rule or order of the 3726
division, if a dealer has filed a report or document described in 3727
division (B)(2) of this section with the securities and exchange 3728
commission, the document or report shall be deemed to also have 3729
been filed with the division. 3730

(C) The division by order or rule may permit, but not 3731
require, a dealer that is not required by federal law or the law 3732
of this state to register as a broker or dealer with the 3733
securities and exchange commission to do both of the following: 3734

(1) Elect one or more alternative financial and reporting 3735
provisions that are acceptable to the division. For purposes of 3736
division (C)(1) of this section, "alternative financial and 3737
reporting provision" means any capital, custody, margin, financial 3738
responsibility, record-making, record-keeping, bonding, financial 3739
reporting, or operational reporting provision that differs from 3740
those established by the securities and exchange commission. 3741

(2) Elect an exemption, the scope of which is acceptable to 3742
the division, from all or a specified part of the capital, 3743
custody, margin, financial responsibility, record-making, 3744
record-keeping, bonding, financial reporting, or operational 3745
reporting requirements contained in section 15 of the "Securities 3746
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78o, as amended, or 3747
section 17 of the "Securities Exchange Act of 1934," 48 Stat. 881, 3748

15 U.S.C. 78q, as amended, or the rules of the securities and 3749
exchange commission promulgated under those sections. 3750

(D) For purposes of division (C) of this section, in 3751
determining an acceptable alternative financial and reporting 3752
provision and in determining the acceptable scope of any exemption 3753
that is elected, the division shall consider the size, scope, and 3754
type of business of the dealers who will be permitted to elect the 3755
provision or exemption and shall consider the protection of 3756
investors and customers of the electing dealers. 3757

Sec. 1707.20. (A)(1) The division of securities may adopt, 3758
amend, and rescind such rules, forms, and orders as are necessary 3759
to carry out sections 1707.01 to 1707.45 of the Revised Code, 3760
including rules and forms governing registration statements, 3761
applications, and reports, and defining any terms, whether or not 3762
used in sections 1707.01 to 1707.45 of the Revised Code, insofar 3763
as the definitions are not inconsistent with these sections. For 3764
the purpose of rules and forms, the division may classify 3765
securities, persons, and matters within its jurisdiction, and 3766
prescribe different requirements for different classes. 3767

(2) The division may incorporate by reference into its rules 3768
any statute enacted by the United States congress or any rule, 3769
regulation, or form promulgated by the securities and exchange 3770
commission, or by another federal agency, in a manner that also 3771
incorporates all future amendments to the statute, rule, 3772
regulation, or form. 3773

(B) No rule, form, or order may be made, amended, or 3774
rescinded unless the division finds that the action is necessary 3775
or appropriate in the public interest or for the protection of 3776
investors, clients, prospective clients, or state retirement 3777
systems and consistent with the purposes fairly intended by the 3778
policy and provisions of sections 1707.01 to 1707.45 of the 3779

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 3811
other than as the establishment of the fact of registration. 3812

(2) No provision of sections 1707.01 to 1707.45 of the 3813
Revised Code imposing any liability, penalty, sanction, or 3814
disqualification applies to any act done or omitted in good faith 3815
in conformity with either of the following: 3816

(a) Any provision of sections 1707.01 to 1707.45 of the 3817
Revised Code that incorporates by reference a federal statute, 3818
rule, regulation, or form; 3819

(b) Any rule, form, or order of the division that 3820
incorporates by reference a federal statute, rule, regulation, or 3821
form. 3822

Division (E)(2) of this section applies notwithstanding that 3823
the incorporation by reference, or any application of the 3824
incorporated provision, is later determined by judicial or other 3825
authority to be unconstitutional or invalid for any reason. 3826

Sec. 1707.44. (A)(1) No person shall engage in any act or 3827
practice that violates division (A), (B), or (C) of section 3828
1707.14 of the Revised Code, and no salesperson shall sell 3829
securities in this state without being licensed pursuant to 3830
section 1707.16 of the Revised Code. 3831

(2) No person shall engage in any act or practice that 3832
violates division (A) of section 1707.141 or section 1707.161 of 3833
the Revised Code. 3834

(3) No person shall engage in any act or practice that 3835
violates section 1707.162 of the Revised Code. 3836

(B) No person shall knowingly make or cause to be made any 3837
false representation concerning a material and relevant fact, in 3838
any oral statement or in any prospectus, circular, description, 3839
application, or written statement, for any of the following 3840

purposes:	3841
(1) Registering securities or transactions, or exempting securities or transactions from registration, under this chapter;	3842 3843
(2) Securing the qualification of any securities under this chapter;	3844 3845
(3) Procuring the licensing of any dealer, salesperson, investment adviser, investment adviser representative, or state retirement system investment officer under this chapter;	3846 3847 3848
(4) Selling any securities in this state;	3849
(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities;	3850 3851 3852
(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.	3853 3854 3855
(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:	3856 3857 3858
(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;	3859 3860 3861 3862 3863 3864
(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;	3865 3866 3867
(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	3868 3869 3870

registration by description, by coordination, or by qualification 3871
under which it may be sold has been suspended or revoked; 3872

(4) The offer or sale is accompanied by a statement that the 3873
security offered or sold has been or is to be in any manner 3874
indorsed by the division. 3875

(D) No person who is an officer, director, or trustee of, or 3876
a dealer for, any issuer, and who knows such issuer to be 3877
insolvent in that the liabilities of the issuer exceed its assets, 3878
shall sell any securities of or for any such issuer, without 3879
disclosing the fact of the insolvency to the purchaser. 3880

(E) No person with intent to aid in the sale of any 3881
securities on behalf of the issuer, shall knowingly make any 3882
representation not authorized by such issuer or at material 3883
variance with statements and documents filed with the division by 3884
such issuer. 3885

(F) No person, with intent to deceive, shall sell, cause to 3886
be sold, offer for sale, or cause to be offered for sale, any 3887
securities of an insolvent issuer, with knowledge that ~~such the~~ 3888
issuer is insolvent in that the liabilities of the issuer exceed 3889
its assets, taken at their fair market value. 3890

(G) No person in purchasing or selling securities shall 3891
knowingly engage in any act or practice that is, in this chapter, 3892
declared illegal, defined as fraudulent, or prohibited. 3893

(H) No licensed dealer shall refuse to buy from, sell to, or 3894
trade with any person because the person appears on a blacklist 3895
issued by, or is being boycotted by, any foreign corporate or 3896
governmental entity, nor sell any securities of or for any issuer 3897
who is known in relation to the issuance or sale of the securities 3898
to have engaged in such practices. 3899

(I) No dealer in securities, knowing that the dealer's 3900

liabilities exceed the reasonable value of the dealer's assets, 3901
shall accept money or securities, except in payment of or as 3902
security for an existing debt, from a customer who is ignorant of 3903
the dealer's insolvency, and thereby cause the customer to lose 3904
any part of the customer's securities or the value of those 3905
securities, by doing either of the following without the 3906
customer's consent: 3907

(1) Pledging, selling, or otherwise disposing of such 3908
securities, when the dealer has no lien on or any special property 3909
in such securities; 3910

(2) Pledging such securities for more than the amount due, or 3911
otherwise disposing of such securities for the dealer's own 3912
benefit, when the dealer has a lien or indebtedness on such 3913
securities. 3914

It is an affirmative defense to a charge under this division 3915
that, at the time the securities involved were pledged, sold, or 3916
disposed of, the dealer had in the dealer's possession or control, 3917
and available for delivery, securities of the same kinds and in 3918
amounts sufficient to satisfy all customers entitled to the 3919
securities, upon demand and tender of any amount due on the 3920
securities. 3921

(J) No person, with purpose to deceive, shall make, issue, 3922
publish, or cause to be made, issued, or published any statement 3923
or advertisement as to the value of securities, or as to alleged 3924
facts affecting the value of securities, or as to the financial 3925
condition of any issuer of securities, when the person knows that 3926
~~such~~ the statement or advertisement is false in any material 3927
respect. 3928

(K) No person, with purpose to deceive, shall make, record, 3929
or publish or cause to be made, recorded, or published, a report 3930
of any transaction in securities which is false in any material 3931

respect. 3932

(L) No dealer shall engage in any act that violates the 3933
provisions of section 15(c) or 15(g) of the "Securities Exchange 3934
Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule 3935
or regulation promulgated by the securities and exchange 3936
commission thereunder. ~~If, subsequent to October 11, 1994,~~ 3937
~~additional amendments to section 15(c) or 15(g) are adopted, or~~ 3938
~~additional rules or regulations are promulgated pursuant to such~~ 3939
~~sections, the division of securities shall, by rule, adopt the~~ 3940
~~amendments, rules, or regulations, unless the division finds that~~ 3941
~~the amendments, rules, or regulations are not necessary for the~~ 3942
~~protection of investors or in the public interest.~~ 3943

(M)(1) No investment adviser or investment adviser 3944
representative shall do any of the following: 3945

(a) Employ any device, scheme, or artifice to defraud any 3946
person; 3947

(b) Engage in any act, practice, or course of business that 3948
operates or would operate as a fraud or deceit upon any person; 3949

(c) In acting as principal for the investment adviser's or 3950
investment adviser representative's own account, knowingly sell 3951
any security to or purchase any security from a client, or in 3952
acting as salesperson for a person other than such client, 3953
knowingly effect any sale or purchase of any security for the 3954
account of such client, without disclosing to the client in 3955
writing before the completion of the transaction the capacity in 3956
which the investment adviser or investment adviser representative 3957
is acting and obtaining the consent of the client to the 3958
transaction. Division (M)(1)(c) of this section does not apply to 3959
any investment adviser registered with the securities and exchange 3960
commission under section 203 of the "Investment Advisers Act of 3961
1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a 3962

licensed dealer or salesperson if the licensed dealer or 3963
salesperson is not acting as an investment adviser or investment 3964
adviser representative in relation to the transaction. 3965

(d) Engage in any act, practice, or course of business that 3966
is fraudulent, deceptive, or manipulative. The division of 3967
securities may adopt rules reasonably designed to prevent ~~such~~ 3968
acts, practices, or courses of business that are fraudulent, 3969
deceptive, or manipulative. 3970

(2) No investment adviser or investment adviser 3971
representative licensed or required to be licensed under this 3972
chapter shall take or have custody of any securities or funds of 3973
any person, except as provided in rules adopted by the division. 3974

(3) In the solicitation of clients or prospective clients, no 3975
person shall make any untrue statement of a material fact or omit 3976
to state a material fact necessary in order to make the statements 3977
made not misleading in light of the circumstances under which the 3978
statements were made. 3979

(N) No person knowingly shall influence, coerce, manipulate, 3980
or mislead any person engaged in the preparation, compilation, 3981
review, or audit of financial statements to be used in the 3982
purchase or sale of securities for the purpose of rendering the 3983
financial statements materially misleading. 3984

(O) No state retirement system investment officer shall do 3985
any of the following: 3986

(1) Employ any device, scheme, or artifice to defraud any 3987
state retirement system; 3988

(2) Engage in any act, practice, or course of business that 3989
operates or would operate as a fraud or deceit on any state 3990
retirement system; 3991

(3) Engage in any act, practice, or course of business that 3992

is fraudulent, deceptive, or manipulative. The division of 3993
securities may adopt rules reasonably designed to prevent such 3994
acts, practices, or courses of business as are fraudulent, 3995
deceptive, or manipulative; 3996

(4) Knowingly fail to comply with any policy adopted 3997
regarding the officer established pursuant to section 145.094, 3998
742.104, 3307.043, 3309.043, or ~~5505.066~~ 5505.065 of the Revised 3999
Code. 4000

Sec. 1775.01. As used in this chapter: 4001

(A) "Court" includes every court and judge having 4002
jurisdiction in the case. 4003

(B) "Business" includes every trade, occupation, or 4004
profession. 4005

(C) "Person" includes individuals, partnerships, trustees, 4006
executors, administrators, other fiduciaries, corporations, and 4007
other associations. 4008

(D) "Bankrupt" includes bankrupt under the federal bankruptcy 4009
act or insolvent under any state insolvency law. 4010

(E) "Conveyance" includes every assignment, lease, mortgage, 4011
or encumbrance. 4012

(F) "Real property" includes land and any interest or estate 4013
in land. 4014

(G) "Entity" means either of the following: 4015

(1) A for profit corporation existing under the laws of this 4016
state or any other state; 4017

(2) Any of the following organizations existing under the 4018
laws of this state, the United States, or any other state: 4019

(a) A business trust or association; 4020

<u>(b) A real estate investment trust;</u>	4021
<u>(c) A common law trust;</u>	4022
<u>(d) An unincorporated business or for profit organization,</u>	4023
<u>including a general or limited partnership;</u>	4024
<u>(e) A limited liability company.</u>	4025
Sec. 1775.05. (A) A partnership is an association <u>entity</u> of	4026
two or more persons to carry on as co-owners a business for profit	4027
and includes such an association <u>entity</u> that has limited liability	4028
as provided in this chapter and that is registered under section	4029
1775.61 of the Revised Code.	4030
(B) Any association <u>entity</u> formed under any other statute of	4031
this state, or any statute adopted by authority, other than the	4032
authority of this state, is not a partnership under sections	4033
1775.01 to 1775.65 of the Revised Code, unless such association	4034
<u>the entity</u> would have been a partnership in this state prior to	4035
September 14, 1949, but such sections apply to limited	4036
partnerships except in so far as the statutes relating to such	4037
<u>these</u> partnerships are inconsistent herewith.	4038
(C) Except as otherwise provided in the Ohio Constitution,	4039
the organization and internal affairs of a foreign limited	4040
liability partnership and the liability of the partners for the	4041
debts, obligations, or other liabilities of any kind of, or	4042
chargeable to, the foreign limited liability partnership shall be	4043
governed by the laws of the state under which the foreign limited	4044
liability partnership is organized.	4045
(D) For purposes of this chapter, "foreign limited liability	4046
partnership" means a limited liability partnership organized and	4047
registered as such pursuant to the laws of another state.	4048
Sec. 1775.14. (A) Subject to section 1339.65 of the Revised	4049

Code and except as provided in division (B) of this section, all 4050
partners are liable as follows: 4051

(1) Jointly and severally for everything chargeable to the 4052
partnership under sections 1775.12 and 1775.13 of the Revised 4053
Code. This joint and several liability is not subject to section 4054
2307.22 or 2315.36 of the Revised Code with respect to a tort 4055
claim that otherwise is subject to either of those sections. 4056

(2) Jointly for all other debts and obligations of the 4057
partnership, but any partner may enter into a separate obligation 4058
to perform a partnership contract. 4059

(B) Subject to divisions (C)(1) and (2) of this section or as 4060
otherwise provided in a written agreement between the partners of 4061
a registered limited liability partnership, a partner in a 4062
registered limited liability partnership, solely by reason of 4063
being a partner; acting or failing to act as a partner; or 4064
participating as an employee, consultant, contractor, or otherwise 4065
in the conduct of the business or activities of the registered 4066
limited liability partnership while the partnership is a 4067
registered limited liability partnership, is not personally 4068
liable, directly or indirectly, by way of indemnification, 4069
contribution, assessment, or otherwise, for debts, obligations, or 4070
other liabilities of any kind of, or chargeable to, the 4071
partnership or another partner or partners arising from negligence 4072
or from wrongful acts, errors, omissions, or misconduct, whether 4073
or not intentional or characterized as tort, contract, or 4074
otherwise, committed or occurring while the partnership is a 4075
registered limited liability partnership ~~and~~ or committed or 4076
occurring in the course of the partnership business by another 4077
partner or an employee, agent, or representative of the 4078
partnership. 4079

(C)(1) Division (B) of this section does not affect the 4080

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 4111
merged into a surviving domestic ~~general~~ partnership. Pursuant to 4112
a written agreement of consolidation between the constituent 4113
entities as provided in this section, two or more domestic or 4114
foreign entities may be consolidated into a new domestic ~~general~~ 4115
partnership formed by such consolidation. If any constituent 4116
entity is formed or organized under the laws of any state other 4117
than this state or under any chapter of the Revised Code other 4118
than this chapter, the merger or consolidation also must be 4119
permitted by the chapter of the Revised Code under which each 4120
domestic constituent entity exists and by the laws under which 4121
each foreign constituent entity exists. 4122

(B) The written agreement of merger or consolidation of 4123
constituent entities into a surviving or new domestic ~~general~~ 4124
partnership shall set forth all of the following: 4125

(1) The name and the form of entity of each constituent 4126
entity, the state under the laws of which each constituent entity 4127
exists, and the name of the surviving or new domestic ~~general~~ 4128
partnership; 4129

(2) In the case of a merger, that one or more specified 4130
constituent entities will be merged into a specified surviving 4131
domestic ~~general~~ partnership, and, in the case of a consolidation, 4132
that the constituent entities will be consolidated into a new 4133
domestic ~~general~~ partnership; 4134

(3) All statements and matters required to be set forth in 4135
such an agreement of merger or consolidation by the laws under 4136
which each constituent entity exists; 4137

(4) In the case of a consolidation, the partnership agreement 4138
of the new domestic ~~general~~ partnership or a provision that the 4139
written partnership agreement of a specified constituent ~~general~~ 4140
partnership, a copy of which shall be attached to the agreement of 4141

consolidation, with any amendments that are set forth in the 4142
agreement of consolidation, shall be the agreement of ~~general~~ 4143
partnership of the new domestic ~~general~~ partnership; 4144

(5) The name and address of the statutory agent upon whom any 4145
process, notice, or demand against any constituent entity, the 4146
surviving domestic ~~general~~ partnership, or the new domestic 4147
~~general~~ partnership may be served; 4148

(6) In the case of a merger, any changes in the general 4149
partners of the surviving domestic ~~general~~ partnership and, in the 4150
case of a consolidation, the general partners of the new domestic 4151
~~general~~ partnership or a provision specifying the general partners 4152
of one or more specified constituent partnerships that shall 4153
constitute the initial general partners of the new domestic 4154
~~general~~ partnership; 4155

(7) The terms of the merger or consolidation; the mode of 4156
carrying them into effect; and the manner and basis of converting 4157
the interests or shares in the constituent entities into, or 4158
substituting the interests or shares in the constituent entities 4159
for, interests, evidences of indebtedness, other securities, cash, 4160
rights, or any other property or any combination of interests, 4161
evidences of indebtedness, securities, cash, rights, or any other 4162
property of the surviving domestic ~~general~~ partnership, of the new 4163
domestic ~~general~~ partnership, or of any other entity. No such 4164
conversion or substitution shall be effected if there are 4165
reasonable grounds to believe that the conversion or substitution 4166
would render the surviving or new domestic ~~general~~ partnership 4167
unable to pay its obligations as they become due in the usual 4168
course of its affairs. 4169

(C) The written agreement of merger or consolidation of 4170
constituent entities into a surviving or new domestic ~~general~~ 4171
partnership may set forth any of the following: 4172

(1) The effective date of the merger or consolidation, which 4173
date may be on or after the date of the filing of the certificate 4174
of merger or consolidation; 4175

(2) A provision authorizing one or more of the constituent 4176
entities to abandon the proposed merger or consolidation prior to 4177
filing the certificate of merger or consolidation pursuant to 4178
section 1775.47 of the Revised Code by action of the ~~general~~ 4179
partners of a constituent partnership, the directors of a 4180
constituent corporation, or the comparable representatives of any 4181
other constituent entity; 4182

(3) In the case of a merger, any amendments to the agreement 4183
of ~~general~~ partnership of the surviving domestic ~~general~~ 4184
partnership, or a provision that the written partnership agreement 4185
of a specified constituent ~~general~~ partnership other than the 4186
surviving domestic ~~general~~ partnership, with any amendments that 4187
are set forth in the agreement of merger, shall be the partnership 4188
agreement of the surviving domestic ~~general~~ partnership; 4189

(4) A statement of, or a statement of the method of 4190
determining, the fair value of the assets to be owned by the 4191
surviving domestic ~~general~~ partnership; 4192

(5) The parties to the agreement of merger or consolidation 4193
in addition to the constituent entities; 4194

(6) Any additional provision necessary or desirable with 4195
respect to the proposed merger or consolidation. 4196

(D) To effect the merger or consolidation, the agreement of 4197
merger or consolidation shall be adopted by the ~~general~~ partners 4198
of each constituent domestic ~~general~~ partnership, including the 4199
surviving domestic ~~general~~ partnership in the case of a merger, 4200
and shall be adopted by or otherwise authorized by or on behalf of 4201
each other constituent entity in accordance with the laws under 4202
which it exists. 4203

(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~~ 4236
partners of any constituent partnership, the directors of any 4237
constituent corporation, or the comparable representatives of any 4238
other constituent entity if the ~~general~~ partners, directors, or 4239
other representatives are authorized to do so by the agreement of 4240
merger or consolidation or by the same vote or action as was 4241
required to adopt the agreement of merger or consolidation. The 4242
agreement of merger or consolidation may contain a provision 4243
authorizing less than all of the ~~general~~ partners of any 4244
constituent partnership, the directors of any constituent 4245
corporation, or the comparable representatives of any other 4246
constituent entity to amend the agreement of merger or 4247
consolidation at any time before the filing of the certificate of 4248
merger or consolidation, except that, after the adoption of the 4249
agreement of merger or consolidation by the ~~general~~ partners of 4250
any constituent domestic ~~general~~ partnership, less than all of the 4251
~~general~~ partners shall not be authorized to amend the agreement of 4252
merger or consolidation to do any of the following: 4253

(1) Alter or change the amount or kind of interests, shares, 4254
evidences of indebtedness, other securities, cash, rights, or any 4255
other property to be received by ~~general~~ partners of the 4256
constituent domestic ~~general~~ partnership in conversion of, or in 4257
substitution for, their interests; 4258

(2) Alter or change any term of the partnership agreement of 4259
the surviving or new domestic ~~general~~ partnership, except for 4260
alterations or changes that could otherwise be adopted by the 4261
~~general~~ partners of the surviving or new domestic ~~general~~ 4262
partnership; 4263

(3) Alter or change any other terms and conditions of the 4264
agreement of merger or consolidation if any of the alterations or 4265
changes, alone or in the aggregate, would materially adversely 4266
affect the ~~general~~ partners or any class or group of ~~general~~ 4267

partners of the constituent domestic ~~general~~ partnership. 4268

Sec. 1775.46. (A) Pursuant to a written agreement of merger 4269
or consolidation between the constituent entities as provided in 4270
this section, a domestic ~~general~~ partnership and one or more 4271
additional domestic or foreign entities may be merged into a 4272
surviving entity other than a domestic ~~general~~ partnership, or a 4273
domestic ~~general~~ partnership together with one or more additional 4274
domestic or foreign entities may be consolidated into a new entity 4275
other than a domestic ~~general~~ partnership to be formed by such 4276
consolidation. The merger or consolidation must be permitted by 4277
the chapter of the Revised Code under which each domestic 4278
constituent entity exists and by the laws under which each foreign 4279
constituent entity exists. 4280

(B) The written agreement of merger or consolidation shall 4281
set forth all of the following: 4282

(1) The name and the form of entity of each constituent 4283
entity and the state under the laws of which each constituent 4284
entity exists; 4285

(2) In the case of a merger, that one or more specified 4286
constituent domestic ~~general~~ partnerships and other specified 4287
constituent entities will be merged into a specified surviving 4288
foreign entity or surviving domestic entity other than a domestic 4289
~~general~~ partnership, or, in the case of a consolidation, that the 4290
constituent entities will be consolidated into a new foreign 4291
entity or a new domestic entity other than a domestic ~~general~~ 4292
partnership; 4293

(3) If the surviving or new entity is a foreign ~~general~~ 4294
partnership, all statements and matters that would be required by 4295
section 1775.45 of the Revised Code if the surviving or new entity 4296
were a domestic ~~general~~ partnership; 4297

(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~~ 4360
partners of any constituent partnership, the directors of any 4361
constituent corporation, or the comparable representatives of any 4362
other constituent entity if the ~~general~~ partners, directors, or 4363
comparable representatives are authorized to do so by the 4364
agreement of merger or consolidation. The agreement of merger or 4365
consolidation may contain a provision authorizing less than all of 4366
the ~~general~~ partners of any constituent partnership, the directors 4367
of any constituent corporation, or the comparable representatives 4368
of any other constituent entity to amend the agreement of merger 4369
or consolidation at any time before the filing of the certificate 4370
of merger or consolidation, except that after the adoption of the 4371
agreement of merger or consolidation by the ~~general~~ partners of 4372
any constituent domestic ~~general~~ partnership, less than all of the 4373
~~general~~ partners shall not be authorized to amend the agreement of 4374
merger or consolidation to do any of the following: 4375

(1) Alter or change the amount or kind of interests, shares, 4376
evidences of indebtedness, other securities, cash, rights, or any 4377
other property to be received by ~~general~~ partners of the 4378
constituent domestic ~~general~~ partnership in conversion of or in 4379
substitution for their interests; 4380

(2) If the surviving or new entity is a partnership, alter or 4381
change any term of the partnership agreement of the surviving or 4382
new partnership, except for alterations or changes that otherwise 4383
could be adopted by the ~~general~~ partners of the surviving or new 4384
partnership; 4385

(3) If the surviving or new entity is a corporation or any 4386
other entity other than a partnership, alter or change any term of 4387
the articles or comparable instrument of the surviving or new 4388
corporation or entity, except for alterations or changes that 4389
otherwise could be adopted by the directors or comparable 4390
representatives of the surviving or new corporation or entity; 4391

(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; 4422

(f) A statement that the agreement of merger or consolidation 4423
is authorized on behalf of each constituent entity and that the 4424
persons who signed the certificate on behalf of each entity are 4425
authorized to do so; 4426

(g) In the case of a merger, a statement that one or more 4427
specified constituent entities will be merged into a specified 4428
surviving entity or, in the case of a consolidation, a statement 4429
that the constituent entities will be consolidated into a new 4430
entity; 4431

(h) The name and form of the surviving entity in the case of 4432
a merger or the name and form of the new entity in the case of a 4433
consolidation; 4434

(i) In the case of a merger, if the surviving entity is a 4435
foreign entity not licensed to transact business in this state, 4436
the name and address of the statutory agent upon whom any process, 4437
notice, or demand may be served; 4438

(j) In the case of a consolidation, the name and address of 4439
the statutory agent upon whom any process, notice, or demand 4440
against any constituent entity or the new entity may be served. 4441

(2) In the case of a consolidation into a new domestic 4442
corporation, limited liability company, or limited partnership, 4443
the articles of incorporation, the articles of organization, or 4444
the certificate of limited partnership of the new domestic entity 4445
shall be filed with the certificate of consolidation. 4446

(3) In the case of a merger into a domestic corporation, 4447
limited liability company, or limited partnership, any amendments 4448
to the articles of incorporation, articles of organization, or 4449
certificate of limited partnership of the surviving domestic 4450
entity shall be filed with the certificate of merger. 4451

(4) If the surviving or new entity is a foreign entity that 4452
desires to transact business in this state as a foreign 4453
corporation, limited liability company, or limited partnership, 4454
the certificate of merger or consolidation shall be accompanied by 4455
the information required by division (B)(7), (8), ~~or (9)~~, or (10) 4456
of section 1775.46 of the Revised Code. 4457

(5) If a foreign or domestic corporation licensed to transact 4458
business in this state is a constituent entity and the surviving 4459
or new entity resulting from the merger or consolidation is not a 4460
foreign or domestic corporation that is to be licensed to transact 4461
business in this state, the certificate of merger or consolidation 4462
shall be accompanied by the affidavits, receipts, certificates, or 4463
other evidence required by division (H) of section 1701.86 of the 4464
Revised Code, with respect to each domestic constituent 4465
corporation, and by the affidavits, receipts, certificates, or 4466
other evidence required by division (C) or (D) of section 1703.17 4467
of the Revised Code, with respect to each foreign constituent 4468
corporation licensed to transact business in this state. 4469

(C) If any constituent entity in a merger or consolidation is 4470
organized or formed under the laws of a state other than this 4471
state or under any chapter of the Revised Code other than this 4472
chapter, there also shall be filed in the proper office all 4473
documents that are required to be filed in connection with the 4474
merger or consolidation by the laws of that state or by that 4475
chapter. 4476

(D) Upon the filing of a certificate of merger or 4477
consolidation and other filings as described in division (C) of 4478
this section or at any later date that the certificate of merger 4479
or consolidation specifies, the merger or consolidation is 4480
effective, subject to the limitation specified in division (B)(7) 4481
of section 1775.45 of the Revised Code. 4482

(E) The secretary of state shall furnish, upon request and 4483
payment of the fee specified in division (K)(2) of section 111.16 4484
of the Revised Code, the secretary of state's certificate setting 4485
forth: the name and form of entity of each constituent entity and 4486
the states under the laws of which each constituent entity existed 4487
prior to the merger or consolidation; the name and the form of 4488
entity of the surviving or new entity and the state under the laws 4489
of which the surviving entity exists or the new entity is to 4490
exist; the date of filing of the certificate of merger or 4491
consolidation with the secretary of state; and the effective date 4492
of the merger or consolidation. The certificate of the secretary 4493
of state, or a copy of the certificate of merger or consolidation 4494
certified by the secretary of state, may be filed for record in 4495
the office of the recorder of any county in this state and, if 4496
filed, shall be recorded in the records of deeds for that county. 4497
For that recording, the county recorder shall charge and collect 4498
the same fee as in the case of deeds. 4499

Sec. 1775.48. (A) When a merger or consolidation becomes 4500
effective, all of the following apply: 4501

(1) The separate existence of each constituent entity other 4502
than the surviving entity in a merger shall cease, except that 4503
whenever a conveyance, assignment, transfer, deed, or other 4504
instrument or act is necessary to vest property or rights in the 4505
surviving or new entity, the ~~general~~ partners, officers, or other 4506
authorized representatives of the respective constituent entities 4507
shall execute, acknowledge, and deliver ~~such~~ the instruments and 4508
do such acts. For these purposes, the existence of the constituent 4509
entities and the authority of their respective ~~general~~ partners, 4510
officers, directors, or other representatives are continued 4511
notwithstanding the merger or consolidation. 4512

(2) In the case of a consolidation, the new entity exists 4513

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 4544
pending by or against any constituent entity may be prosecuted to 4545
judgment with right of appeal, as if the merger or consolidation 4546
had not taken place, or the surviving or new entity may be 4547
substituted in place of any constituent entity. 4548

(6) All the rights of creditors of each constituent entity 4549
are preserved unimpaired, and all liens upon the property of any 4550
constituent entity are preserved unimpaired, on only the property 4551
affected by such liens immediately before the effective date of 4552
the merger or consolidation. If a general partner of a constituent 4553
partnership is not a general partner of the entity surviving or 4554
the new entity resulting from the merger or consolidation, then 4555
the former general partner shall have no liability for any 4556
obligation incurred after the merger or consolidation except to 4557
the extent that a former creditor of the constituent partnership 4558
in which the former general partner was a general partner extends 4559
credit to the surviving or new entity reasonably believing that 4560
the former general partner continued as a general partner of the 4561
surviving or new entity. 4562

(B) If a general partner of a constituent partnership is not 4563
a general partner of the entity surviving or the new entity 4564
resulting from the merger or consolidation, then unless that 4565
general partner agrees otherwise in writing, the general partner 4566
shall be indemnified by the surviving or new entity against all 4567
present or future liabilities of the constituent partnership of 4568
which the general partner was a general partner. Any amount 4569
payable pursuant to section 1775.50 of the Revised Code to a 4570
partner of the constituent partnership in which that general 4571
partner was a partner shall be a present liability of that 4572
constituent partnership. 4573

(C) In the case of a merger of a constituent domestic ~~general~~ 4574
partnership into a foreign surviving corporation, limited 4575

liability company, or ~~general~~ partnership that is not licensed or 4576
registered to transact business in this state or in the case of a 4577
consolidation of a constituent domestic limited partnership into a 4578
new foreign corporation, limited liability company, ~~or~~ limited 4579
partnership, or limited liability partnership, if the surviving or 4580
new entity intends to transact business in this state and the 4581
certificate of merger or consolidation is accompanied by the 4582
information described in division (B)(4) of section 1775.47 of the 4583
Revised Code, then on the effective date of the merger or 4584
consolidation the surviving or new entity shall be considered to 4585
have complied with the requirements for procuring a license or for 4586
registration to transact business in this state as a foreign 4587
corporation, limited liability company, or limited partnership, as 4588
the case may be. In such a case, a copy of the certificate of 4589
merger or consolidation certified by the secretary of state 4590
constitutes the license certificate prescribed for a foreign 4591
corporation or the application for registration prescribed for a 4592
foreign limited liability company or foreign limited partnership. 4593

(D) Any action to set aside any merger or consolidation on 4594
the ground that any section of the Revised Code applicable to the 4595
merger or consolidation has not been complied with shall be 4596
brought within ninety days after the effective date of the merger 4597
or consolidation or forever be barred. 4598

(E) In the case of an entity organized or existing under the 4599
laws of any state other than this state, this section is subject 4600
to the laws of the state under the laws of which the entity exists 4601
or in which it has property. 4602

Sec. 1775.49. (A) Unless otherwise provided in writing in the 4603
partnership agreement of a constituent domestic ~~general~~ 4604
partnership, the following are entitled to relief as dissenting 4605
partners as provided in section 1775.50 of the Revised Code: 4606

(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 ~~se~~ 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 4637
meeting of the partners, the dissenting partner shall deliver to 4638
the ~~general~~ partnership a written demand for payment to the 4639
dissenting partner of the fair cash value of the interests as to 4640
which the dissenting partner seeks relief that states the 4641
dissenting partner's address, the number and class of those 4642
interests, and the amount claimed by the dissenting partner as the 4643
fair cash value of the interests. 4644

(C) If the proposal of merger ~~or~~, consolidation, or 4645
conversion is to be submitted to the partners for their written 4646
approval or other action without a meeting, the dissenting partner 4647
shall be a partner and a record holder of the interests of the 4648
partnership as to which the dissenting partner seeks relief as of 4649
the date the request for approval or action was sent to the 4650
partners entitled to act or otherwise approve the proposal, and 4651
the dissenting partner shall not have indicated approval of the 4652
proposal in the dissenting partner's capacity as a holder of such 4653
interests. Not later than fifteen days after the date on which the 4654
request for approval of or action on the proposal was mailed to 4655
the partners, the dissenting partner shall deliver to the 4656
partnership a written demand for payment to the dissenting partner 4657
of the fair cash value of the interests as to which the dissenting 4658
partner seeks relief, which demand shall state the dissenting 4659
partner's address, the number and class of such interests, and the 4660
amount claimed by the dissenting partner as the fair cash value of 4661
those interests. 4662

(D) In the case of a merger or consolidation, a demand served 4663
on the constituent domestic ~~general~~ partnership involved 4664
constitutes service on the surviving entity or the new entity, 4665
whether the demand is served before, on, or after the effective 4666
date of the merger or consolidation. In the case of a conversion, 4667
a demand served on the converting domestic partnership constitutes 4668

service on the converted entity, whether the demand is served 4669
before, on, or after the effective date of the conversion. 4670

(E) If the interests as to which a dissenting partner seeks 4671
relief are represented by certificates and if the domestic ~~general~~ 4672
partnership sends to the dissenting partner, at the address 4673
specified in the dissenting partner's demand, a request for 4674
certificates representing the interests as to which the dissenting 4675
partner seeks relief, the dissenting partner, within fifteen days 4676
from the date on which the request was sent, shall deliver to the 4677
~~general~~ partnership the certificates requested so that the ~~general~~ 4678
partnership may endorse on them a legend to the effect that a 4679
demand for the fair cash value of such interests has been made. 4680
The ~~general~~ partnership promptly shall return the endorsed 4681
certificates to the dissenting partner. The failure of a 4682
dissenting partner to deliver such certificates terminates rights 4683
as a dissenting partner, at the option of the ~~general~~ partnership, 4684
exercised by written notice sent to the dissenting partner within 4685
twenty days after the lapse of the fifteen-day period, unless a 4686
court for good cause shown otherwise directs. If interests 4687
represented by a certificate on which such a legend has been 4688
endorsed are transferred, each new certificate issued for them 4689
shall bear a similar legend, together with the name of the 4690
original dissenting holder of such interests. Upon receiving a 4691
demand for payment from a dissenting partner who is a record 4692
holder of uncertificated interests, the ~~general~~ partnership shall 4693
make an appropriate notation of the demand for payment in its 4694
records. If uncertificated interests for which payment has been 4695
demanded are to be transferred, any writing sent to evidence the 4696
transfer shall bear the legend required for certificated interests 4697
as provided in this division. A transferee of the interests 4698
receiving a certificate so endorsed, or of uncertificated 4699
interests where such a notation has been made, acquires only ~~such~~ 4700
the rights in the ~~general~~ partnership as the original partner 4701

holding ~~such~~ the interests had immediately after the service of a 4702
demand for payment of the fair cash value of the interests. A 4703
request under this division by the ~~general~~ partnership is not an 4704
admission by it that the holder of the interest is entitled to 4705
relief under this section. 4706

(F) Unless the partnership agreement of the constituent 4707
domestic ~~general~~ partnership in which the dissenting partner was a 4708
partner provides a reasonable basis for determining and paying the 4709
fair cash value of the interests as to which the dissenting 4710
partner seeks relief or unless that partnership and the dissenting 4711
partner have come to an agreement on the fair cash value of the 4712
interests as to which the dissenting partner seeks relief, the 4713
dissenting partner or the ~~general~~ partnership, which in the case 4714
of a merger or consolidation may be the surviving or new entity, 4715
or in the case of a conversion may be the converted entity, within 4716
ninety days after the service of the demand by the dissenting 4717
partner, may file a complaint under section 1775.51 of the Revised 4718
Code. The complaint shall be filed in the court of common pleas of 4719
the county in which the principal office of the ~~general~~ 4720
partnership that issued the interests is located or was located 4721
when the proposal of merger ~~or~~, consolidation, or conversion was 4722
adopted by the partners of the ~~general~~ partnership. Other 4723
dissenting partners, within that ninety-day period, may join as 4724
plaintiffs or may be joined as defendants in any such proceeding, 4725
and any two or more such proceedings may be consolidated. 4726

(G) The right and obligation of a dissenting partner to 4727
receive ~~such~~ fair cash value and to sell such interests as to 4728
which the dissenting partner seeks relief and the right and 4729
obligation of the domestic ~~general~~ partnership to purchase such 4730
interests and to pay the fair cash value of them terminate if any 4731
of the following applies: 4732

(1) The dissenting partner has not complied with this 4733

section, unless the ~~general~~ partnership waives such failure. 4734

(2) The ~~general~~ partnership abandons the merger ~~or~~, 4735
consolidation, or conversion or is finally enjoined or prevented 4736
from carrying it out, or the partners rescind their adoption or 4737
approval of the merger ~~or~~, consolidation, or conversion. 4738

(3) The dissenting partner withdraws the dissenting partner's 4739
demand, with the consent of the ~~general~~ partnership. 4740

(4) All of the following apply: 4741

(a) The partnership agreement of the constituent domestic 4742
~~general~~ partnership in which the dissenting partner was a partner 4743
does not provide a reasonable basis for determining and paying the 4744
dissenting partner the fair cash value of the dissenting partner's 4745
interest. 4746

(b) The ~~general~~ partnership and the dissenting partner have 4747
not agreed upon the fair cash value of the interest. 4748

(c) Neither the dissenting partner nor the ~~general~~ 4749
partnership has filed or joined in a complaint under division (F) 4750
of this section within the period provided in that division. 4751

(H) Unless otherwise provided in the partnership agreement of 4752
the constituent domestic ~~general~~ partnership in which the 4753
dissenting partner was a partner, from the time the dissenting 4754
partner gives the demand until either the termination of the 4755
rights and obligations arising from it or the purchase of the 4756
interests by the ~~general~~ partnership, all other rights accruing 4757
from such interests, including voting or distribution rights, are 4758
suspended. If, during the suspension, any distribution is paid in 4759
money upon interests of ~~such~~ that class or any dividend, 4760
distribution, or interest is paid in money upon any securities 4761
issued in extinguishment of, or in substitution for, such 4762
interest, an amount equal to the dividend, distribution, or 4763

interest that, except for the suspension, would have been payable 4764
upon such interests or securities shall be paid to the holder of 4765
record as a credit upon the fair cash value of the interests. If 4766
the right to receive fair cash value is terminated other than by 4767
the purchase of the interests by the ~~general~~ partnership, all 4768
rights of the dissenting partner shall be restored and all 4769
distributions that, except for the suspension, would have been 4770
made shall be made to the holder of record of the interests at the 4771
time of termination. 4772

Sec. 1775.51. (A) When authorized by division (F) of section 4773
1775.50 of the Revised Code, a dissenting partner or ~~general~~ 4774
partnership may file a complaint under this section demanding the 4775
relief described in this section. A complaint filed under this 4776
section shall contain a brief statement of the facts, including 4777
the vote or action by the partners and the facts entitling the 4778
dissenting partner to the relief demanded. No answer to ~~such~~ a 4779
complaint is required. Upon the filing of ~~such~~ a complaint, the 4780
court, on motion of the petitioner, shall enter an order fixing a 4781
date for a hearing on the complaint and requiring that a copy of 4782
the complaint and a notice of the filing and of the date for the 4783
hearing be given to the respondent or defendant in the manner in 4784
which summons is required to be served or substituted service is 4785
required to be made in other cases. On the date fixed for the 4786
hearing on the complaint or any adjournment of it, the court shall 4787
determine from the complaint and from ~~such~~ evidence ~~as is~~ 4788
submitted by either party whether the dissenting partner is 4789
entitled to be paid the fair cash value of any interests and, if 4790
so, the number and class of ~~such~~ the interests. If the court finds 4791
that the dissenting partner is so entitled, it may appoint one or 4792
more persons as appraisers to receive evidence and to recommend a 4793
decision on the amount of the fair cash value. The appraisers have 4794
~~such~~ power and authority ~~as is~~ specified in the order of their 4795

appointment. The court thereupon shall make a finding as to the 4796
fair cash value of the interests and shall render judgment against 4797
the ~~general~~ partnership for the payment of it, with interest at 4798
~~such~~ a rate and from ~~such~~ a date as the court considers equitable. 4799
The costs of the proceeding, including reasonable compensation to 4800
the appraisers to be fixed by the court, shall be assessed or 4801
apportioned as the court considers equitable. The proceeding is a 4802
special proceeding and final orders in it may be vacated, 4803
modified, or reversed on appeal pursuant to the Rules of Appellate 4804
Procedure and, to the extent not in conflict with those rules, 4805
Chapter 2505. of the Revised Code. If, during the pendency of any 4806
proceeding under this section, a suit or proceeding is or has been 4807
instituted to enjoin or otherwise to prevent the carrying out of 4808
the action as to which the partner has dissented, the proceeding 4809
instituted under this section shall be stayed until the final 4810
determination of the other suit or proceeding. Unless any 4811
provision of division (G) of section 1775.50 of the Revised Code 4812
is applicable, the fair cash value of the interests that is agreed 4813
upon by the parties or fixed under this section shall be paid 4814
within thirty days after the date of final determination of such 4815
value under this division or the consummation of the merger ~~or~~, 4816
consolidation, or conversion, whichever occurs last. Upon the 4817
occurrence of the last ~~such~~ event, payment shall be made 4818
immediately to a holder of uncertificated interests entitled to 4819
~~such~~ payment. In the case of holders of interests represented by 4820
certificates, payment shall be made only upon and simultaneously 4821
with the surrender to the domestic ~~general~~ partnership of the 4822
certificates representing the interests for which the payment is 4823
made. 4824

(B) If the proposal of merger ~~or~~, consolidation, or 4825
conversion was submitted to the partners of the ~~general~~ 4826
partnership for a vote at a meeting, fair cash value as to those 4827
partners shall be determined as of the day before the day on which 4828

the vote by the partners was taken. If the proposal was submitted 4829
to the partners for written approval or other action, fair cash 4830
value as to those partners shall be determined as of the day 4831
before the day on which the request for the approval or action was 4832
sent. The fair cash value of an interest for purposes of this 4833
section is the amount that a willing seller who is under no 4834
compulsion to sell would be willing to accept and that a willing 4835
buyer who is under no compulsion to purchase would be willing to 4836
pay, but the fair cash value paid to any partner shall not exceed 4837
the amount specified in the demand of that partner. In computing 4838
~~such~~ fair cash value, any appreciation or depreciation in market 4839
value resulting from the merger ~~or~~, consolidation, or conversion 4840
shall be excluded. 4841

Sec. 1775.52. If a domestic ~~general~~ partnership is a 4842
constituent entity to a merger or consolidation that has become 4843
effective, and the domestic ~~general~~ partnership is not the 4844
surviving or resulting entity of the merger or consolidation, or 4845
if a domestic partnership is the converting entity in a 4846
conversion, a judgment creditor of a partner of that domestic 4847
~~general~~ partnership shall not levy execution against the assets of 4848
the partner to satisfy a judgment based on a claim against the 4849
surviving or resulting entity of the merger ~~or~~, consolidation, or 4850
conversion unless any of the following applies: 4851

(A) The claim is for an obligation of the domestic ~~general~~ 4852
partnership for which the partner is liable as provided in this 4853
chapter and one of the following applies: 4854

(1) A judgment based on the same claim has been obtained 4855
against the surviving or resulting entity of the merger or 4856
consolidation or the entity resulting from the conversion and a 4857
writ of execution on the judgment has been returned unsatisfied in 4858
whole or in part. 4859

(2) The surviving or resulting entity of the merger ~~or~~,
consolidation, or conversion is a debtor in bankruptcy. 4860
4861

(3) The partner has agreed that the creditor need not exhaust 4862
the assets of the domestic ~~general~~ partnership that was not the 4863
surviving or resulting entity of the merger or consolidation or 4864
the entity resulting from the conversion. 4865

(4) The partner has agreed that the creditor need not exhaust 4866
the assets of the surviving or resulting entity of the merger or 4867
consolidation or the entity resulting from the conversion. 4868

(B) A court grants permission to the judgment creditor to 4869
levy execution against the assets of the partner based on a 4870
finding that the assets of the surviving or resulting entity of 4871
the merger ~~or~~, consolidation, or conversion that are subject to 4872
execution are clearly insufficient to satisfy the judgment, that 4873
exhaustion of the assets of the surviving or resulting entity of 4874
the merger or consolidation or the entity resulting from the 4875
conversion is excessively burdensome, or that the grant of 4876
permission is an appropriate exercise of the court's equitable 4877
powers. 4878

(C) Liability is imposed on the partner by law or contract 4879
independent of the existence of the surviving or resulting entity 4880
of the merger or consolidation or the entity resulting from the 4881
conversion. 4882

Sec. 1775.53. (A) Subject to division (B)(2) of this section, 4883
pursuant to a written declaration of conversion as provided in 4884
this section, a domestic or foreign entity other than a domestic 4885
partnership may be converted into a domestic partnership. The 4886
conversion also must be permitted by the chapter of the Revised 4887
Code or by the laws under which the converting entity exists. 4888

(B)(1) The written declaration of conversion shall set forth 4889

all of the following: 4890

(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; 4891
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(b) If the converted entity is a limited liability partnership, its registration application; 4894
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(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; 4896
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(d) The general partners of the converted partnership; 4902

(e) All statements and matters required to be set forth in an instrument of conversion by the laws under which the converting entity exists; 4903
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(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. 4906
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(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. 4914
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(C) The written declaration of conversion may set forth any 4919

of the following: 4920

(1) The effective date of the conversion, which date may be 4921
on or after the date of the filing of the certificate of 4922
conversion pursuant to section 1775.55 of the Revised Code; 4923

(2) A provision authorizing the converting entity to abandon 4924
the proposed conversion by action of authorized representatives of 4925
the converting entity taken prior to the filing of the certificate 4926
of conversion pursuant to section 1775.55 of the Revised Code; 4927

(3) A statement of, or a statement of the method to be used 4928
to determine, the fair value of the assets owned by the converting 4929
entity at the time of the conversion; 4930

(4) The parties to the declaration of conversion in addition 4931
to the converting entity; 4932

(5) Any additional provision necessary or desirable with 4933
respect to the proposed conversion or the converted entity. 4934

(D) At any time before the filing of the certificate of 4935
conversion pursuant to section 1775.55 of the Revised Code, the 4936
conversion may be abandoned by any representatives authorized to 4937
do so by the declaration of conversion, or by the same vote as was 4938
required to adopt the declaration of conversion. 4939

(E) Unless the converted entity is a limited liability 4940
partnership, each person that will be a partner of the partnership 4941
that is the converted entity specifically shall agree in writing 4942
to be a partner in the partnership that is the converted entity. 4943

Sec. 1775.54. (A) Subject to division (B)(2) of this section, 4944
pursuant to a written declaration of conversion as provided in 4945
this section, a domestic partnership may be converted into a 4946
domestic or foreign entity other than a domestic partnership. The 4947
conversion also must be permitted by the chapter of the Revised 4948
Code or by the laws under which the converted entity will exist. 4949

(B)(1) The written declaration of conversion shall set forth 4950
all of the following: 4951

(a) The name and form of entity that is being converted, the 4952
name of the entity into which the entity will be converted, the 4953
form of the converted entity, and the jurisdiction of formation of 4954
the converted entity; 4955

(b) If the converted entity is a domestic entity, the 4956
complete terms of all documents required under the applicable 4957
chapter of the Revised Code to form the converted entity; 4958

(c) If the converted entity is a foreign entity, all of the 4959
following: 4960

(i) The complete terms of all documents required under the 4961
law of its formation to form the converted entity; 4962

(ii) The consent of the converted entity to be sued and 4963
served with process in this state, and the irrevocable appointment 4964
of the secretary of state as the agent of the converted entity to 4965
accept service of process in this state to enforce against the 4966
converted entity any obligation of the converting partnership or 4967
to enforce the rights of a dissenting partner of the converting 4968
partnership; 4969

(iii) If the converted entity desires to transact business in 4970
this state, the information required to qualify or be licensed 4971
under the applicable chapter of the Revised Code; 4972

(d) All other statements and matters required to be set forth 4973
in the declaration of conversion by the applicable chapter of the 4974
Revised Code if the converted entity is a domestic entity, or by 4975
the laws under which the converted entity will be formed, if the 4976
converted entity is a foreign entity; 4977

(e) The terms of the conversion; the mode of carrying them 4978
into effect; and the manner and basis of converting the interests 4979

or shares of the converting partnership into, or substituting the 4980
interests in the converting partnership for, interests, evidences 4981
of indebtedness, other securities, cash, rights, or any other 4982
property or any combination of interests, evidences of 4983
indebtedness, other securities, cash, rights, or any other 4984
property of the converted entity. 4985

(2) No conversion or substitution described in this section 4986
shall be effected if there are reasonable grounds to believe that 4987
the conversion or substitution would render the converted entity 4988
unable to pay its obligations as they become due in the usual 4989
course of its affairs. 4990

(C) The written declaration of conversion may set forth any 4991
of the following: 4992

(1) The effective date of the conversion, which date may be 4993
on or after the date of the filing of the certificate of 4994
conversion pursuant to section 1775.55 of the Revised Code; 4995

(2) A provision authorizing the converting partnership to 4996
abandon the proposed conversion by action of the partners of the 4997
converting partnership taken prior to the filing of the 4998
certificate of conversion pursuant to section 1775.55 of the 4999
Revised Code; 5000

(3) A statement of, or a statement of the method to be used 5001
to determine, the fair value of the assets owned by the converting 5002
partnership at the time of the conversion; 5003

(4) The parties to the declaration of conversion in addition 5004
to the converting entity; 5005

(5) Any additional provision necessary or desirable with 5006
respect to the proposed conversion or the converted entity. 5007

(D) The partners of the converting partnership must adopt the 5008
declaration of conversion to effect the conversion. 5009

(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 5041
authorizing less than all of the partners to amend the declaration 5042
of conversion at any time before the filing of the certificate of 5043
conversion pursuant to section 1775.55 of the Revised Code, except 5044
that, after the adoption of the declaration of conversion by the 5045
partners, less than all the partners are not authorized to amend 5046
the declaration of conversion to do any of the following: 5047

(a) Alter or change the amount or kind of interests, shares, 5048
evidences of indebtedness, other securities, cash rights, or any 5049
other property to be received by the partners of the converting 5050
partnership in conversion of, or substitution for, their 5051
interests; 5052

(b) Alter or change any term of the organizational documents 5053
of the converted entity except for alterations or changes that are 5054
adopted with the vote or action of the persons the vote or action 5055
of which would be required for the alteration or change after the 5056
conversion; 5057

(c) Alter or change any other terms and conditions of the 5058
declaration of conversion if any of the alterations or changes, 5059
alone or in the aggregate, materially and adversely would affect 5060
the partners or any class or group of partners of the converting 5061
partnership. 5062

Sec. 1775.55. (A) Upon the adoption of a declaration of 5063
conversion pursuant to section 1775.53 or 1775.54 of the Revised 5064
Code, or at a later time as authorized by the declaration of 5065
conversion, a certificate of conversion that is signed by an 5066
authorized representative of the converting entity shall be filed 5067
with the secretary of state. The certificate shall be on a form 5068
prescribed by the secretary of state and shall set forth only the 5069
information required by this section. 5070

(B)(1) The certificate of conversion shall set forth all of 5071
the following: 5072

(a) The name and the form of entity of the converting entity 5073
and the state under the laws of which the converting entity 5074
exists; 5075

(b) A statement that the converting entity has complied with 5076
all of the laws under which it exists and that those laws permit 5077
the conversion; 5078

(c) The name and mailing address of the person or entity that 5079
is to provide a copy of the declaration of conversion in response 5080
to any written request made by a shareholder, partner, or member 5081
of the converting entity; 5082

(d) The effective date of the conversion, which date may be 5083
on or after the date of the filing of the certificate pursuant to 5084
this section; 5085

(e) The signature of the representative or representatives 5086
authorized to sign the certificate on behalf of the converting 5087
entity and the office held or the capacity in which the 5088
representative is acting; 5089

(f) A statement that the declaration of conversion is 5090
authorized on behalf of the converting entity and that each person 5091
that signed the certificate on behalf of the converting entity is 5092
authorized to do so; 5093

(g) The name and the form of the converted entity and the 5094
state under the laws of which the converted entity will exist; 5095

(h) If the converted entity is a foreign entity that will not 5096
be licensed in this state, the name and address of the statutory 5097
agent upon whom any process, notice, or demand may be served. 5098

(2) In the case of a conversion into a new domestic 5099
corporation, limited liability company, limited partnership, or 5100

other partnership, any organizational document that would be filed 5101
upon the creation of the converted entity shall be filed with the 5102
certificate of conversion. 5103

(3) If the converted entity is a foreign entity that desires 5104
to transact business in this state, the certificate of conversion 5105
shall be accompanied by the information required by division 5106
(B)(7), (8), (9), or (10) of section 1775.46 of the Revised Code. 5107

(4) If a foreign or domestic corporation licensed to transact 5108
business in this state is the converting entity, the certificate 5109
of conversion shall be accompanied by the affidavits, receipts, 5110
certificates or other evidence required by division (H) of section 5111
1701.86 of the Revised Code with respect to a converting domestic 5112
corporation, or by the affidavits, receipts, certificates or other 5113
evidence required by division (C) or (D) of section 1703.17 of the 5114
Revised Code with respect to a foreign corporation. 5115

(C) If the converting entity or the converted entity is 5116
organized or formed under the laws of a state other than this 5117
state or under any chapter of the Revised Code other than this 5118
chapter, all documents required to be filed in connection with the 5119
conversion by the laws of that state or that chapter also shall be 5120
filed in the proper office. 5121

(D) Upon the filing of a certificate of conversion and other 5122
filings required by division (C) of this section, or at any later 5123
date that the certificate of conversion specifies, the conversion 5124
is effective, subject to the limitation that no conversion shall 5125
be effected if there are reasonable grounds to believe that the 5126
conversion would render the converted entity unable to pay its 5127
obligations as they become due in the usual course of its affairs. 5128

(E) The secretary of state shall furnish, upon request and 5129
payment of the fee specified in division (K)(2) of section 111.16 5130
of the Revised Code, the secretary of state's certificate setting 5131

forth all of the following: 5132

(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; 5133
5134
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(2) The name and the form of entity of the converted entity and the state under the law of which it will exist; 5136
5137

(3) The date of filing of the certificate of conversion with the secretary of state and the effective date of the conversion. 5138
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(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. 5140
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Sec. 1775.56. (A) Upon a conversion becoming effective, all of the following apply: 5147
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(1) The converting entity is continued in the converted entity. 5149
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(2) The converted entity exists, and the converting entity ceases to exist. 5151
5152

(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: 5153
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5155

(a) Except to the extent limited by requirements of applicable law, both of the following: 5156
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(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 5158
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5160

interests are located. Title to any real estate or any interest in 5161
real estate that was vested in the converting entity does not 5162
revert or in any way is impaired by reason of the conversion. 5163

(ii) The rights, privileges, immunities, powers, franchises, 5164
and authority, whether of a public or a private nature, of the 5165
converting entity. 5166

(b) All obligations belonging or due to the converting 5167
entity. 5168

(4) All the rights of creditors of the converting entity are 5169
preserved unimpaired, and all liens upon the property of the 5170
converting entity are preserved unimpaired. If a general partner 5171
of a converting partnership is not a general partner of the entity 5172
resulting from the conversion, then the former general partner has 5173
no liability for any obligation incurred after the conversion 5174
except to the extent that a former creditor of the converting 5175
partnership in which the former general partner was a general 5176
partner extends credit to the converted entity reasonably 5177
believing that the former general partner continues as a general 5178
partner of the converted entity. 5179

(B) If a general partner of a converting partnership is not a 5180
general partner of the entity resulting from the conversion, then 5181
unless that general partner agrees otherwise in writing, the 5182
general partner shall be indemnified by the converted entity 5183
against all present or future liabilities of the converting 5184
partnership of which the general partner was a general partner. 5185
Any amount payable pursuant to section 1775.50 of the Revised Code 5186
to a partner of the converting partnership in which that general 5187
partner was a partner is a present liability of the converting 5188
partnership. 5189

(C) In the case of a conversion into a foreign corporation, 5190
limited liability company, or partnership that is not licensed or 5191

registered to transact business in this state, if the converted 5192
entity intends to transact business in this state, and the 5193
certificate of conversion is accompanied by the information 5194
described in division (B)(4) of section 1775.47 of the Revised 5195
Code, then on the effective date of the conversion, the converted 5196
entity is considered to have complied with the requirements for 5197
procuring a license or for registration to transact business in 5198
this state as a foreign corporation, limited liability company, 5199
limited partnership, or limited liability partnership as the case 5200
may be. In such a case, a copy of the certificate of conversion 5201
certified by the secretary of state constitutes the license 5202
certificate prescribed for a foreign corporation or the 5203
application for registration prescribed for a foreign limited 5204
liability company, foreign limited partnership, or foreign limited 5205
liability partnership. 5206

(D) Any action to set aside any conversion on the ground that 5207
any section of the Revised Code applicable to the conversion has 5208
not been complied with shall be brought within ninety days after 5209
the effective date of the conversion or is forever barred. 5210

(E) In the case of a converting or converted entity organized 5211
or existing under the laws of any state other than this state, 5212
this section is subject to the laws of the state under which that 5213
entity exists or in which it has property. 5214

Sec. 1782.435. (A) Unless otherwise provided in writing in 5215
the partnership agreement of a constituent domestic limited 5216
partnership, the following are entitled to relief as dissenting 5217
partners as provided in section 1782.436 of the Revised Code: 5218

(1) Partners of a domestic limited partnership that is being 5219
merged or consolidated into a surviving or new entity, domestic or 5220
foreign, pursuant to section 1782.431 or 1782.432 of the Revised 5221
Code; 5222

(2) In the case of a merger into a domestic limited 5223
partnership, partners of the surviving domestic limited 5224
partnership who under section 1782.431 of the Revised Code are 5225
entitled to vote or act on the adoption of an agreement or merger, 5226
but only as to the interests so entitling them to vote or act; 5227

(3) Partners of a domestic limited partnership that is being 5228
converted into a converted entity pursuant to section 1782.439 of 5229
the Revised Code. 5230

(B) Unless otherwise expressly agreed to in writing, a 5231
general partner of any constituent partnership shall be liable to 5232
the partners of the constituent partnership for any amount payable 5233
to them pursuant to section 1782.436 of the Revised Code as if the 5234
amount ~~se~~ payable were an existing liability of the constituent 5235
partnership at the time of the merger or consolidation. 5236

Sec. 1782.436. (A) A partner of a domestic limited 5237
partnership is entitled to relief as a dissenting partner in 5238
respect of the proposals described in section 1782.435 of the 5239
Revised Code only in compliance with this section. 5240

(B) If the proposal of merger ~~or~~, consolidation, or 5241
conversion is to be submitted to the partners at a meeting, the 5242
dissenting partner shall be a partner and a record holder of the 5243
partnership interests as to which ~~he~~ the dissenting partner seeks 5244
relief as of the date fixed for the determination of partners 5245
entitled to notice of the meeting, and such interests shall not 5246
have been voted in favor of the proposal. Not later than ten days 5247
after the date on which the vote on the proposal was taken at the 5248
meeting of the partners, the dissenting partner shall deliver to 5249
the limited partnership a written demand for payment to ~~him~~ the 5250
dissenting partner of the fair cash value of the interests as to 5251
which ~~he~~ the dissenting partner seeks relief that states ~~his~~ the 5252
dissenting partner's address, the number and class of those 5253

interests, and the amount claimed by ~~him~~ the dissenting partner as 5254
the fair cash value of the interests. 5255

(C) If the proposal of merger ~~or~~, consolidation, or 5256
conversion is to be submitted to the partners for their written 5257
approval or other action without meeting, the dissenting partner 5258
shall be a partner and a record holder of the interests of the 5259
partnership as to which ~~he~~ the dissenting partner seeks relief as 5260
of the date ~~such~~ the writing was sent to the partners entitled to 5261
act or otherwise approve the proposal, and the dissenting partner 5262
shall not have indicated ~~his~~ approval of the proposal in ~~his~~ the 5263
dissenting partner's capacity as a holder of such interests. Not 5264
later than fifteen days after the date on which request for 5265
approval of the proposal was mailed to the partners, the 5266
dissenting partner shall deliver to the partnership a written 5267
demand for payment to ~~him~~ the dissenting partner of the fair cash 5268
value of the interests as to which ~~he~~ the dissenting partner seeks 5269
relief, which demand shall state ~~his~~ the dissenting partner's 5270
address, the number and class of such interests, and the amount 5271
claimed by ~~him~~ the dissenting partner as the fair cash value of 5272
those interests. 5273

(D) In the case of a merger or consolidation, a demand served 5274
on the constituent domestic limited partnership involved 5275
constitutes service on the surviving entity or the new entity, 5276
whether the demand is served before, on, or after the effective 5277
date of the merger or consolidation. In the case of a conversion, 5278
a demand served on the converting domestic limited partnership 5279
constitutes service on the converted entity, whether the demand is 5280
served before, on, or after the effective date of the conversion. 5281

(E) If the interests as to which a dissenting partner seeks 5282
relief are represented by certificates and if the domestic limited 5283
partnership sends to the dissenting partner, at the address 5284
specified in ~~his~~ the dissenting partner's demand, a request for 5285

certificates representing the interests as to which ~~he~~ the 5286
dissenting partner seeks relief, the dissenting partner, within 5287
fifteen days from the date on which the request was sent, shall 5288
deliver to the limited partnership the certificates requested so 5289
that the limited partnership may endorse on them a legend to the 5290
effect that a demand for the fair cash value of such interests has 5291
been made. The limited partnership promptly shall return the 5292
endorsed certificates to the dissenting partner. The failure of a 5293
dissenting partner to deliver such certificates terminates ~~his~~ 5294
rights as a dissenting partner, at the option of the limited 5295
partnership, exercised by written notice sent to the dissenting 5296
partner within twenty days after the lapse of the fifteen-day 5297
period, unless a court for good cause shown otherwise directs. If 5298
interests represented by a certificate on which ~~such~~ a legend has 5299
been endorsed are transferred, each new certificate issued for 5300
them shall bear a similar legend, together with the name of the 5301
original dissenting holder of such interests. Upon receiving a 5302
demand for payment from a dissenting partner who is a record 5303
holder of uncertificated interests, the limited partnership shall 5304
make an appropriate notation of the demand for payment in its 5305
records. If uncertificated interests for which payment has been 5306
demanded are to be transferred, any writing sent to evidence the 5307
transfer shall bear the legend required for certificated 5308
securities as provided in this division. A transferee of the 5309
interests receiving a certificate so endorsed, or of 5310
uncertificated securities where such a notation has been made, 5311
acquires only ~~such~~ rights in the limited partnership as the 5312
original partner holding such interests had immediately after the 5313
service of a demand for payment of the fair cash value of the 5314
interests. A request under this division by the limited 5315
partnership is not an admission by it that the holder of the 5316
interest is entitled to relief under this section. 5317

(F) Unless the partnership agreement of the constituent 5318

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. 5350
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(4) All of the following apply: 5352

(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. 5353
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(b) The limited partnership and the dissenting partner have not agreed upon the fair cash value of the interest. 5358
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(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. 5360
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(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 5363
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distributions that, except for the suspension, would have been 5381
made shall be made to the holder of record of the interests at the 5382
time of termination. 5383

Sec. 1782.437. (A) When authorized by division (F) of section 5384
1782.436 of the Revised Code, a dissenting partner or limited 5385
partnership may file a complaint under this section demanding the 5386
relief described in this section. A complaint filed under this 5387
section shall contain a brief statement of the facts, including 5388
the vote or action by the partners and the facts entitling the 5389
dissenting partner to the relief demanded. No answer to ~~such~~ a 5390
complaint is required. Upon the filing of ~~such~~ a complaint, the 5391
court, on motion of the petitioner, shall enter an order fixing a 5392
date for a hearing on the complaint and requiring that a copy of 5393
the complaint and a notice of the filing and of the date for the 5394
hearing be given to the respondent or defendant in the manner in 5395
which summons is required to be served or substituted service is 5396
required to be made in other cases. On the date fixed for the 5397
hearing on the complaint or any adjournment of it, the court shall 5398
determine from the complaint and from ~~such~~ evidence ~~as is~~ 5399
submitted by either party whether the dissenting partner is 5400
entitled to be paid the fair cash value of any interests and, if 5401
so, the number and class of such interests. If the court finds 5402
that the dissenting partner is so entitled, it may appoint one or 5403
more persons as appraisers to receive evidence and to recommend a 5404
decision on the amount of the fair cash value. The appraisers have 5405
~~such~~ power and authority ~~as is~~ specified in the order of their 5406
appointment. The court thereupon shall make a finding as to the 5407
fair cash value of the interests and shall render judgment against 5408
the limited partnership for the payment of it, with interest at 5409
~~such~~ a rate and from ~~such~~ a date as the court considers equitable. 5410
The costs of the proceeding, including reasonable compensation to 5411
the appraisers to be fixed by the court, shall be assessed or 5412

apportioned as the court considers equitable. The proceeding is a 5413
special proceeding and final orders in it may be vacated, 5414
modified, or reversed on appeal pursuant to the Rules of Appellate 5415
Procedure and, to the extent not in conflict with those rules, 5416
Chapter 2505. of the Revised Code. If, during the pendency of any 5417
proceeding under this section, a suit or proceeding is or has been 5418
instituted to enjoin or otherwise to prevent the carrying out of 5419
the action as to which the partner has dissented, the proceeding 5420
instituted under this section shall be stayed until the final 5421
determination of the other suit or proceeding. Unless any 5422
provision of division (G) of section 1782.436 of the Revised Code 5423
is applicable, the fair cash value of the interests that is agreed 5424
upon by the parties or fixed under this section shall be paid 5425
within thirty days after the date of final determination of such 5426
value under this division or the consummation of the merger ~~or~~ 5427
consolidation, or conversion, whichever occurs last. Upon the 5428
occurrence of the last such event, payment shall be made 5429
immediately to a holder of uncertificated securities entitled to 5430
~~such~~ payment. In the case of holders of interests represented by 5431
certificates, payment shall be made only upon and simultaneously 5432
with the surrender to the domestic limited partnership of the 5433
certificates representing the interests for which the payment is 5434
made. 5435

(B) If the proposal was submitted to the partners of the 5436
limited partnership for a vote at a meeting, fair cash value as to 5437
those partners shall be determined as of the day before the day on 5438
which the vote by the partners was taken. If the proposal was 5439
submitted to the partners for written approval or other action, 5440
fair cash value as to those partners shall be determined as of the 5441
day before the day on which the request for the approval or action 5442
was sent. The fair cash value of an interest for purposes of this 5443
section is the amount that a willing seller who is under no 5444
compulsion to sell would be willing to accept and that a willing 5445

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; 5476

(f) The terms of the conversion; the mode of carrying them 5477
into effect; and the manner and basis of converting the interests 5478
or shares of the converting entity into, or substituting the 5479
interests or shares in the converting entity for, interests, 5480
evidences of indebtedness, other securities, cash, rights, or any 5481
other property or any combination of interests, evidences of 5482
indebtedness, other securities, cash, rights, or any other 5483
property of the converted limited partnership. 5484

(2) No conversion or substitution described in this section 5485
shall be effected if there are reasonable grounds to believe that 5486
the conversion or substitution would render the converted limited 5487
partnership unable to pay its obligations as they become due in 5488
the usual course of its affairs. 5489

(C) The written declaration of conversion may set forth any 5490
of the following: 5491

(1) The effective date of the conversion, which date may be 5492
on or after the date of the filing of the certificate of 5493
conversion pursuant to section 1782.440 of the Revised Code; 5494

(2) A provision authorizing the converting entity to abandon 5495
the proposed conversion by action of authorized representatives of 5496
the converting entity taken prior to the filing of the certificate 5497
of conversion pursuant to section 1782.440 of the Revised Code; 5498

(3) A statement of, or a statement of the method to be used 5499
to determine, the fair value of the assets owned by the converting 5500
entity at the time of the conversion; 5501

(4) The parties to the declaration of conversion in addition 5502
to the converting entity; 5503

(5) Any additional provision necessary or desirable with 5504
respect to the proposed conversion or the converted entity. 5505

(D) At any time before the filing of the certificate of conversion pursuant to section 1782.440 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. 5506
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(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. 5511
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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. The conversion also must be permitted by the chapter of the Revised Code or by the laws under which the converted entity will exist. 5515
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(B)(1) The written declaration of conversion shall set forth all of the following: 5521
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(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; 5523
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(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; 5527
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(c) If the converted entity is a foreign entity, all of the following: 5530
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(i) The complete terms of all documents required under the law of its formation to form the converted entity; 5532
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(ii) The consent of the converted entity to be sued and served with process in this state, and the irrevocable appointment 5534
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of the secretary of state as the agent of the converted entity to 5536
accept service of process in this state to enforce against the 5537
converted entity any obligation of the converting limited 5538
partnership or to enforce the rights of a dissenting limited 5539
partner of the converting limited partnership; 5540

(iii) If the converted entity desires to transact business in 5541
this state, the information required to qualify or be licensed 5542
under the applicable chapter of the Revised Code; 5543

(d) All other statements and matters required to be set forth 5544
in the declaration of conversion by the applicable chapter of the 5545
Revised Code if the converted entity is a domestic entity, or by 5546
the laws under which the converted entity will be formed, if the 5547
converted entity is a foreign entity. 5548

(e) The terms of the conversion; the mode of carrying them 5549
into effect; and the manner and basis of converting the interests 5550
or shares of the converting limited partnership into, or 5551
substituting the interests in the converting partnership for, 5552
interests, evidences of indebtedness, other securities, cash, 5553
rights, or any other property or any combination of interests, 5554
evidences of indebtedness, other securities, cash, rights, or any 5555
other property of the converted entity. 5556

(2) No conversion or substitution described in this section 5557
shall be effected if there are reasonable grounds to believe that 5558
the conversion or substitution would render the converted entity 5559
unable to pay its obligations as they become due in the usual 5560
course of its affairs. 5561

(C) The written declaration of conversion may set forth any 5562
of the following: 5563

(1) The effective date of the conversion, which date may be 5564
on or after the date of the filing of the certificate of 5565
conversion pursuant to section 1782.440 of the Revised Code; 5566

(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 1782.440 of the Revised Code; 5567
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(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; 5572
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(4) The parties to the declaration of conversion in addition to the converting entity; 5575
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(5) Any additional provision necessary or desirable with respect to the proposed conversion or the converted entity. 5577
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(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. 5579
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(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 5592
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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. 5598
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(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. 5604
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(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. 5607
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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. 5611
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(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. 5618
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(H)(1) At any time before the filing of the certificate of conversion pursuant to section 1782.440 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. 5623
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(2) The declaration of conversion may contain a provision 5629
authorizing less than all of the general partners to amend the 5630
declaration of conversion at any time before the filing of the 5631
certificate of conversion, except that, after the adoption of the 5632
declaration of conversion by the general partners, less than all 5633
the general partners are not authorized to amend the declaration 5634
of conversion to do any of the following: 5635

(a) Alter or change the amount or kind of interests, shares, 5636
evidences of indebtedness, other securities, cash rights, or any 5637
other property to be received by the partners of the converting 5638
limited partnership in conversion of, or substitution for, their 5639
interests; 5640

(b) Alter or change any term of the organizational documents 5641
of the converted entity except for alterations or changes that are 5642
adopted with the vote or action of the persons the vote or action 5643
of which would be required for the alteration or change after the 5644
conversion; 5645

(c) Alter or change any other terms and conditions of the 5646
declaration of conversion if any of the alterations or changes, 5647
alone or in the aggregate, materially and adversely would affect 5648
the partners or any class or group of partners of the converting 5649
partnership. 5650

Sec. 1782.440. (A) Upon the adoption of a declaration of 5651
conversion pursuant to section 1782.438 or 1782.439 of the Revised 5652
Code, or at a later time as authorized by the declaration of 5653
conversion, a certificate of conversion that is signed by an 5654
authorized representative of the converting entity shall be filed 5655
with the secretary of state. The certificate shall be on a form 5656
prescribed by the secretary of state and shall set forth only the 5657
information required by this section. 5658

(B)(1) The certificate of conversion shall set forth all of 5659
the following: 5660

(a) The name and the form of entity of the converting entity 5661
and the state under the laws of which the converting entity 5662
exists; 5663

(b) A statement that the converting entity has complied with 5664
all of the laws under which it exists and that those laws permit 5665
the conversion; 5666

(c) The name and mailing address of the person or entity that 5667
is to provide a copy of the declaration of conversion in response 5668
to any written request made by a shareholder, partner, or member 5669
of the converting entity; 5670

(d) The effective date of the conversion, which date may be 5671
on or after the date of the filing of the certificate pursuant to 5672
this section; 5673

(e) The signature of the representative or representatives 5674
authorized to sign the certificate on behalf of the converting 5675
entity and the office held or the capacity in which the 5676
representative is acting; 5677

(f) A statement that the declaration of conversion is 5678
authorized on behalf of the converting entity and that each person 5679
that signed the certificate on behalf of the converting entity is 5680
authorized to do so; 5681

(g) The name and the form of the converted entity and the 5682
state under the laws of which the converted entity will exist; 5683

(h) If the converted entity is a foreign entity that will not 5684
be licensed in this state, the name and address of the statutory 5685
agent upon whom any process, notice, or demand may be served. 5686

(2) In the case of a conversion into a new domestic 5687
corporation, limited liability company, or partnership, any 5688

organizational document that would be filed upon the creation of 5689
the converted entity shall be filed with the certificate of 5690
conversion. 5691

(3) If the converted entity is a foreign entity that desires 5692
to transact business in this state, the certificate of conversion 5693
shall be accompanied by the information required by division 5694
(B)(7), (8), (9), or (10) of section 1782.432 of the Revised Code. 5695

(4) If a foreign or domestic corporation licensed to transact 5696
business in this state is the converting entity, the certificate 5697
of conversion shall be accompanied by the affidavits, receipts, 5698
certificates, or other evidence required by division (H) of 5699
section 1701.86 of the Revised Code with respect to a converting 5700
domestic corporation, or by the affidavits, receipts, 5701
certificates, or other evidence required by division (C) or (D) of 5702
section 1703.17 of the Revised Code with respect to a foreign 5703
corporation. 5704

(C) If the converting entity or the converted entity is 5705
organized or formed under the laws of a state other than this 5706
state or under any chapter of the Revised Code other than this 5707
chapter, all documents required to be filed in connection with the 5708
conversion by the laws of that state or that chapter shall be 5709
filed in the proper office. 5710

(D) Upon the filing of a certificate of conversion and other 5711
filings required by division (C) of this section, or at any later 5712
date that the certificate of conversion specifies, the conversion 5713
is effective, subject to the limitation that no conversion shall 5714
be effected if there are reasonable grounds to believe that the 5715
conversion would render the converted entity unable to pay its 5716
obligations as they become due in the usual course of its affairs. 5717

(E) The secretary of state shall furnish, upon request and 5718
payment of the fee specified in division (K)(2) of section 111.16 5719

<u>of the Revised Code, the secretary of state's certificate setting</u>	5720
<u>forth all of the following:</u>	5721
<u>(1) The name and form of entity of the converting entity and</u>	5722
<u>the state under the laws of which it existed prior to the</u>	5723
<u>conversion;</u>	5724
<u>(2) The name and the form of entity of the converted entity</u>	5725
<u>and the state under the law of which it will exist;</u>	5726
<u>(3) The date of filing of the certificate of conversion with</u>	5727
<u>the secretary of state and the effective date of the conversion.</u>	5728
<u>(F) The certificate of the secretary of state, or a copy of</u>	5729
<u>the certificate of conversion certified by the secretary of state,</u>	5730
<u>may be filed for record in the office of the recorder of any</u>	5731
<u>county in this state and, if filed, shall be recorded in the</u>	5732
<u>records of deeds for that county. For the recording, the county</u>	5733
<u>recorder shall charge and collect the same fee as in the case of</u>	5734
<u>deeds.</u>	5735
<u>Sec. 1782.441. (A) Upon a conversion becoming effective, all</u>	5736
<u>of the following apply:</u>	5737
<u>(1) The converting entity is continued in the converted</u>	5738
<u>entity.</u>	5739
<u>(2) The converted entity exists, and the converting entity</u>	5740
<u>ceases to exist.</u>	5741
<u>(3) The converted entity possesses both of the following, and</u>	5742
<u>both of the following continue in the converted entity without any</u>	5743
<u>further act or deed:</u>	5744
<u>(a) Except to the extent limited by requirements of</u>	5745
<u>applicable law, both of the following:</u>	5746
<u>(i) All assets and property of every description of the</u>	5747
<u>converting entity and every interest in the assets and property of</u>	5748

the converting entity, wherever the assets, property, and 5749
interests are located. Title to any real estate or any interest in 5750
real estate that was vested in the converting entity does not 5751
revert or in any way is impaired by reason of the conversion. 5752

(ii) The rights, privileges, immunities, powers, franchises, 5753
and authority, whether of a public or a private nature, of the 5754
converting entity. 5755

(b) All obligations belonging or due to the converting 5756
entity. 5757

(4) All the rights of creditors of the converting entity are 5758
preserved unimpaired, and all liens upon the property of the 5759
converting entity are preserved unimpaired. If a general partner 5760
of a converting partnership is not a general partner of the entity 5761
resulting from the conversion, then the former general partner has 5762
no liability for any obligation incurred after the conversion 5763
except to the extent that a former creditor of the converting 5764
partnership in which the former general partner was a general 5765
partner extends credit to the converted entity reasonably 5766
believing that the former general partner continues as a general 5767
partner of the converted entity. 5768

(B) If a general partner of a converting limited partnership 5769
is not a general partner of the entity resulting from the 5770
conversion, then, unless that general partner agrees otherwise in 5771
writing, the general partner shall be indemnified by the converted 5772
entity against all present or future liabilities of the converting 5773
limited partnership of which the general partner was a general 5774
partner. Any amount payable pursuant to section 1782.435 of the 5775
Revised Code to a partner of the converted partnership in which 5776
that general partner was a partner is a present liability of the 5777
converted partnership. 5778

(C) In the case of a conversion into a foreign corporation, 5779

limited liability company, or partnership that is not licensed or 5780
registered to transact business in this state, if the converted 5781
entity intends to transact business in this state, and the 5782
certificate of conversion is accompanied by the information 5783
described in division (B)(4) of section 1782.433 of the Revised 5784
Code, then on the effective date of the conversion, the converted 5785
entity is considered to have complied with the requirements for 5786
procuring a license or for registration to transact business in 5787
this state as a foreign corporation, limited liability company, 5788
limited partnership, or limited liability partnership as the case 5789
may be. In such a case, a copy of the certificate of conversion 5790
certified by the secretary of state constitutes the license 5791
certificate prescribed for a foreign corporation or the 5792
application for registration prescribed for a foreign limited 5793
liability company, foreign limited partnership, or foreign limited 5794
liability partnership. 5795

(D) Any action to set aside any conversion on the ground that 5796
any section of the Revised Code applicable to the conversion has 5797
not been complied with shall be brought within ninety days after 5798
the effective date of the conversion or is forever barred. 5799

(E) In the case of a converting or converted entity organized 5800
or existing under the laws of any state other than this state, 5801
this section is subject to the laws of the state under which that 5802
entity exists or in which it has property. 5803

Sec. 1782.65. Absent an express agreement to the contrary, a 5804
person providing goods to or performing services for a domestic or 5805
foreign limited partnership owes no duty and incurs no liability 5806
or obligation to the limited partners or to the creditors of the 5807
limited partnership by reason of providing goods to or performing 5808
services for the limited partnership. 5809

Section 2. That existing sections 121.76, 1701.01, 1701.10, 5810

1701.11, 1701.17, 1701.18, 1701.19, 1701.40, 1701.41, 1701.44, 5811
1701.51, 1701.54, 1701.57, 1701.58, 1701.62, 1701.63, 1701.73, 5812
1701.75, 1701.76, 1701.81, 1701.831, 1701.84, 1701.85, 1701.92, 5813
1704.02, 1704.03, 1705.09, 1705.19, 1705.40, 1705.41, 1705.42, 5814
1707.01, 1707.041, 1707.20, 1707.44, 1775.01, 1775.05, 1775.14, 5815
1775.45, 1775.46, 1775.47, 1775.48, 1775.49, 1775.50, 1775.51, 5816
1775.52, 1782.435, 1782.436, and 1782.437 of the Revised Code are 5817
hereby repealed. 5818