House Engrossed

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MICHELE REAGAN
SECRETARY OF STATE

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CHAPTER 322

HOUSE BILL 2447

AN ACT

AMENDING SECTIONS 10-130, 10-203, 10-1006, 10-1007, 10-1008, 10-1105, 10-1403, 10-1503, 10-1520, 10-2077, 10-2143, 10-3203, 10-11006, 10-11007, 10-11008, 10-11105, 10-11403, 10-11503, 10-11520, 29-633, 29-635 AND 29-754, ARIZONA REVISED STATUTES; RELATING TO BUSINESS ENTITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 10-130, Arizona Revised Statutes, is amended to read:

10-130. Powers; duties; database

A. The commission has the power and authority reasonably necessary to enable it to administer this title efficiently and to perform the duties imposed on it by this title, including the power and authority to make rules ~~and regulations~~ for those purposes.

B. THE COMMISSION SHALL ESTABLISH AND MAINTAIN A DATABASE FOR DOCUMENTS FILED PURSUANT TO SECTIONS 10-203, 10-1006, 10-1007, 10-1008, 10-1105, 10-1403, 10-1503, 10-1520, 10-2077, 10-2143, 10-3203, 10-11006, 10-11007, 10-11008, 10-11105, 10-11403, 10-11503, 10-11520, 29-633, 29-635 AND 29-754. THE DATABASE SHALL ONLY INCLUDE DOCUMENTS THAT ARE FILED FOR AN ENTITY WITH A KNOWN PLACE OF BUSINESS THAT IS LOCATED IN A COUNTY WITH A POPULATION OF MORE THAN EIGHT HUNDRED THOUSAND PERSONS. THE COMMISSION SHALL POST THE DATABASE ON ITS WEBSITE TO ALLOW THE PUBLIC TO SEARCH FOR BUSINESS INFORMATION, INCLUDING AN ENTITY'S NAME, APPROVAL DATE AND COUNTY OF THE KNOWN PLACE OF BUSINESS. THE INFORMATION MUST BE MAINTAINED IN THE DATABASE FOR AT LEAST NINETY DAYS. THE COMMISSION MAY NOT CHARGE A FEE TO ANY ENTITY FOR INFORMATION ENTERED INTO THE DATABASE PURSUANT TO THIS SUBSECTION.

Sec. 2. Section 10-203, Arizona Revised Statutes, is amended to read:

10-203. Incorporation

A. Unless a delayed effective date is specified in the articles of incorporation, incorporation occurs and the corporate existence begins when the articles of incorporation and certificate of disclosure are delivered to the commission for filing.

B. The commission's filing of the articles of incorporation and certificate of disclosure is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation pursuant to chapter 14 of this title.

C. Subject to section 10-124, if the commission determines that the requirements of chapters 1 through 17 of this title for filing have not been met, the articles of incorporation and certificate of disclosure shall not be filed and the corporate existence terminates at the time the commission completes the determination. If the corporate existence is terminated pursuant to this subsection, sections 10-1405, 10-1406 and 10-1407 apply.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of incorporation shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 3. Section 10-1006, Arizona Revised Statutes, is amended to read:

10-1006. Articles of amendment

A. A corporation amending its articles of incorporation shall deliver to the commission for filing articles of amendment setting forth:

1. The name of the corporation.

2. The text of each amendment adopted.

3. If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself.

4. The date of each amendment's adoption.

5. If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required.

6. If an amendment was approved by the shareholders:

(a) The designation of outstanding shares, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment and number of votes of each voting group indisputably represented at the meeting.

(b) Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.

B. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of amendment shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 4. Section 10-1007, Arizona Revised Statutes, is amended to read:

10-1007. Restated articles of incorporation

A. A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder action.

B. The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring shareholder approval, it shall be adopted as provided in section 10-1003.

C. If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting ~~in accordance with~~ PURSUANT TO section 10-705. The notice shall also state that the purpose or one of the purposes of the meeting is to consider the proposed restatement and shall contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.

D. A corporation restating its articles of incorporation shall deliver to the commission for filing articles of restatement setting forth the name

of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

1. Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement.

2. If the restatement contains an amendment to the articles requiring shareholder approval, the information required by section 10-1006.

E. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

F. The commission may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection D of this section.

G. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of restatement shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 5. Section 10-1008, Arizona Revised Statutes, is amended to read:

10-1008. Amendment pursuant to reorganization

A. A corporation's articles of incorporation may be amended pursuant to this section without action by the board of directors or shareholders to carry out a plan of reorganization confirmed by an order or decree of a court of competent jurisdiction under a federal statute or a statute of this state if the articles of incorporation after amendment contain only provisions required or permitted by section 10-202.

B. Before the date of entry of a final decree in the reorganization proceeding, the individual or individuals designated by the plan shall deliver to the commission for filing articles of amendment setting forth all of the following:

1. The name of the corporation.

2. The text of each amendment contained in the plan of reorganization.

3. The date of the court's order or decree confirming the plan of reorganization containing the articles of amendment.

4. The title of the reorganization proceeding in which the order or decree was entered.

5. A statement that the court had jurisdiction of the proceeding under federal or state statute.

C. Shareholders of a corporation undergoing reorganization do not have dissenters' rights except as and to the extent provided in the reorganization plan.

D. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

E. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of amendment shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 6. Section 10-1105, Arizona Revised Statutes, is amended to read:

10-1105. Statement of merger or interest exchange; publication or posting

Within sixty days after the commission approves the filing of a statement of merger or statement of interest exchange, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the statement of merger or statement of interest exchange shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 7. Section 10-1403, Arizona Revised Statutes, is amended to read:

10-1403. Articles of dissolution; effective date of dissolution

A. At any time after dissolution is authorized, the corporation may dissolve by delivering to the commission for filing articles of dissolution setting forth all of the following:

1. The name of the corporation.

2. The date dissolution was authorized.

3. If dissolution was approved by the shareholders, both:

(a) The number of votes entitled to be cast on the proposal to dissolve.

(b) Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

4. If voting by voting groups was required, the information required by paragraph 3 OF THIS SUBSECTION shall be separately provided for each voting group entitled to vote separately on the plan to dissolve.

B. A corporation is dissolved on the effective date of its articles of dissolution.

C. The articles of dissolution shall not be considered complete until the commission has received a notice from the department of revenue to the effect that the tax levied under title 42, chapter 5, article 1 against the corporation has been paid, or until it is notified by the department of revenue that the corporation is not subject to the tax and until the commission has received from the department of revenue its certificate issued pursuant to section 43-1151.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of dissolution shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

E. The articles of dissolution shall not be considered complete until all fees, penalties and costs required to be paid under this title have been paid.

Sec. 8. Section 10-1503, Arizona Revised Statutes, is amended to read:

10-1503. Application for authority to transact business

A. A foreign corporation may apply for authority to transact business in this state by delivering an application and a certificate of disclosure to the commission for filing. The certificate of disclosure shall contain the information set forth in section 10-202, subsection D and is subject to the requirements of section 10-202, subsection F. The application shall be executed by the corporation and shall set forth:

1. The name of the foreign corporation and, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 10-1506.

2. The name of the state or country under whose law it is incorporated.

3. Its date of incorporation and period of duration.

4. The street address of its principal office in its state or country of incorporation.

5. The street address of the proposed known place of business of the corporation in this state and the name and street address of its proposed statutory agent in this state.

6. If its purpose or purposes are narrower than the transaction of any or all lawful business in which corporations may engage in the state or country under whose law it is incorporated, a statement of the limitations on its purpose.

7. The names and usual business addresses of its current directors and officers.

8. A statement of the aggregate number of shares that the corporation has authority to issue, itemized by classes, par value of shares, shares without par value and series, if any, within a class.

9. A statement of the aggregate number of issued shares itemized by classes, par value of shares, shares without par value and series, if any, within a class.

10. A brief statement of the character of business that the corporation initially intends actually to conduct in this state. This statement does not limit the character of business that the corporation ultimately conducts.

B. The foreign corporation shall deliver the application and the certificate of disclosure to the commission, together with a copy of its articles of incorporation, any amendments to the articles of incorporation

and a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated, and the nonrefundable fees required by law.

C. After determining that the application sets forth the information required by this section, does not use as the name of the corporation in this state a name that is in violation of section 10-1506 and appears in all other respects to conform to the requirements of this article, the commission shall file the application. The date of filing shall be the date on which the corporation is granted authority to transact business in this state.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the application shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

E. A foreign corporation authorized to transact business in this state is subject to section 10-1623.

Sec. 9. Section 10-1520, Arizona Revised Statutes, is amended to read:

10-1520. Withdrawal of foreign corporation

A. A foreign corporation authorized to transact business in this state shall not withdraw from this state until the commission files its application for withdrawal.

B. A foreign corporation authorized to transact business in this state may apply to surrender the authority by delivering an application to the commission for filing. The application shall set forth:

1. The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

2. That it is not transacting business in this state and that it surrenders its authority to transact business in this state.

3. That the foreign corporation revokes the authority of its statutory agent to accept service on its behalf and appoints the commission as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state.

4. A mailing address to which the commission may mail a copy of any process served on the commission pursuant to its appointment as the foreign corporation's agent for service of process.

5. A commitment to notify the commission in the future of any change in the foreign corporation's mailing address.

C. The application for withdrawal is not considered complete until the commission has received a notice from the department of revenue to the effect that the tax levied under title 42, chapter 5, article 1 against the foreign corporation has been paid or until it is notified by the department of revenue that the applicant is not subject to the tax and further has received

from the department of revenue its certificate issued pursuant to section 43-1151.

D. The application for withdrawal is not considered complete until all fees, penalties and costs required to be paid under this chapter have been paid.

E. After determining that the application appears in all respects to conform to the requirements of this chapter and when all fees have been paid as are prescribed in this chapter, the commission shall file the application in the manner provided in section 10-120. On the filing of the application for withdrawal, the authority of the foreign corporation to transact business in this state ceases.

F. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the application for withdrawal shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

G. After withdrawal of the foreign corporation is effective, service of process on the commission under this section is service on the foreign corporation. On receipt of process, the commission shall mail a copy of the process to the foreign corporation at the most recent mailing address provided by the foreign corporation in the application or by notice to the commission.

Sec. 10. Section 10-2077, Arizona Revised Statutes, is amended to read:

10-2077. Dissolution

A. A cooperative ~~which~~ THAT has not commenced business may be dissolved by delivering to the corporation commission articles of dissolution, which shall be executed by the cooperative and which shall state:

1. The name of the cooperative.

2. The address of its principal office.

3. That the cooperative has not commenced business.

4. That any monies received by the cooperative, less any part disbursed for expenses of the cooperative, have been returned or paid to those entitled to the monies.

5. That no debt of the cooperative is unpaid.

6. That a majority of the incorporators elect that the cooperative be dissolved.

B. A cooperative ~~which~~ THAT has commenced business may be dissolved in the following manner:

1. The proposition to dissolve shall be submitted to the members of the cooperative at any annual or special meeting, the notice of which shall set forth the proposition.

2. The members at the meeting shall approve, by the affirmative vote of not less than a majority of all members of the cooperative, the proposition that the cooperative be dissolved.

3. ~~Upon~~ ON approval, a certificate of election to dissolve, designated in this subsection as the "certificate", shall be executed by the cooperative.

4. The certificate shall state:

(a) The name of the cooperative.

(b) The address of its principal office.

(c) That the members of the cooperative have duly voted that the cooperative be dissolved.

5. The certificate shall be submitted to the corporation commission for filing.

6. ~~Upon~~ ON filing the certificate with the corporation commission the cooperative shall cease to carry on its business except to the extent necessary for winding up, but its corporate existence shall continue until articles of dissolution have been filed with the corporation commission.

7. The board of directors shall immediately cause notice of the dissolution proceedings to be mailed to each known creditor of and claimant against the cooperative, and such notice shall be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the cooperative is located.

8. The board of directors shall wind up and settle the affairs of the cooperative, collect monies owing to it, liquidate its property and assets, pay and discharge its debts, obligations and liabilities, other than those to patrons arising by reason of their patronage, and do all other things required to wind up its business. After paying or discharging or adequately providing for the payment or discharge of all its debts, obligations and liabilities, other than those to patrons arising by reason of their patronage, the board of directors shall distribute any remaining sums, first to patrons for the pro rata return of all amounts standing to their credit by reason of their patronage, and second to members for the pro rata repayment of membership fees. Any sums then remaining shall be distributed among its members and former members in proportion to their patronage.

9. The board of directors shall thereupon authorize the execution of articles of dissolution, which shall be executed by the cooperative.

10. The articles of dissolution shall recite that they are executed pursuant to this article and shall state:

(a) The name of the cooperative.

(b) The address of its principal office.

(c) The date on which the certificate of election to dissolve was filed by the corporation commission.

(d) That there are no actions or suits pending against the cooperative.

(e) That all debts, obligations and liabilities of the cooperative have been paid and discharged or that adequate provision has been made for payment and discharge.

(f) That the preceding provisions of this subsection have been duly complied with.

11. The articles of dissolution prepared pursuant to paragraph 10 of this subsection shall be delivered to the CORPORATION commission for filing. Within sixty days after the CORPORATION commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

(a) A copy of the articles of dissolution shall be published. An affidavit evidencing the publication may be filed with the CORPORATION commission.

(b) THE CORPORATION COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 11. Section 10-2143, Arizona Revised Statutes, is amended to read:

10-2143. Dissolution

A. A generation and transmission cooperative that has not commenced business may dissolve voluntarily by delivering to the corporation commission articles of dissolution, executed and acknowledged on behalf of the generation and transmission cooperative by a majority of the incorporators, which shall state:

1. The name of the generation and transmission cooperative.

2. The address of its principal office.

3. The date of its incorporation.

4. That the generation and transmission cooperative has not commenced business.

5. That the amount, if any, actually paid in on account of membership fees, less any part disbursed for necessary expenses, has been returned to those entitled and that all easements have been released to the grantors.

6. That no debt of the generation and transmission cooperative remains unpaid.

7. That a majority of the incorporators elect that the generation and transmission cooperative be dissolved. The articles of dissolution shall be submitted to the corporation commission for filing as provided in this article.

B. A generation and transmission cooperative that has commenced business may dissolve voluntarily and wind up its affairs in the following manner:

1. The proposition that the generation and transmission cooperative be dissolved must be submitted to the members of the generation and transmission cooperative at any meeting. The meeting notice shall state the proposition. The proposed voluntary dissolution is deemed to be approved on the affirmative vote of not less than two-thirds of those members acting through their voting delegates voting at the meeting.

2. On approval, a certificate of election to dissolve, designated the "certificate", shall be executed by the generation and transmission cooperative. The certificate shall be submitted to the corporation commission for filing as provided in this article and shall state:

(a) The name of the generation and transmission cooperative.

(b) The address of its principal office.

(c) The names and addresses of its directors.

(d) The total number of voting delegates of the generation and transmission cooperative and the number of voting delegates who voted for and against the voluntary dissolution of the generation and transmission cooperative.

3. On the filing of the certificate with the corporation commission, the generation and transmission cooperative shall cease to carry on its business except as is necessary for the winding up of business, but its corporate existence continues until articles of dissolution have been filed with the corporation commission.

4. After the filing of the certificate with the corporation commission, the board of directors shall immediately mail notice of the winding up of proceedings to each known creditor and claimant and publish notice once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the generation and transmission cooperative is located.

5. The board of directors has full power to wind up and settle the affairs of the cooperative and shall proceed to collect the debts owing to the generation and transmission cooperative, convey and dispose of its property and assets, pay, satisfy and discharge its debts, obligations and liabilities and do all other things required to liquidate its business and affairs and, after paying or adequately providing for the payment of all its debts, obligations and liabilities, shall distribute the remainder of its property and assets among its members without priority in proportion to the aggregate patronage of each member during the seven years next preceding the date of filing the certificate, or, if the generation and transmission cooperative was not in existence for such period, during the period of its existence.

6. When all debts, liabilities and obligations of the generation and transmission cooperative have been paid and discharged or adequate provision has been made for them, and all the remaining property and assets of the generation and transmission cooperative have been distributed to the members pursuant to this section, the board of directors shall authorize the execution of articles of dissolution. The articles of dissolution shall state:

(a) The name of the generation and transmission cooperative.

(b) The address of the principal office of the generation and transmission cooperative.

(c) That the generation and transmission cooperative has previously delivered to the corporation commission a certificate of election to dissolve and the date on which the certificate was filed by the corporation commission.

(d) That all debts, obligations and liabilities of the generation and transmission cooperative have been paid and discharged or that adequate provision has been made for them.

(e) That all the remaining property and assets of the generation and transmission cooperative have been distributed among the members in accordance with this section.

(f) That there are no actions or suits pending against the generation and transmission cooperative.

7. The articles of dissolution prepared pursuant to paragraph 6 of this subsection shall be delivered to the CORPORATION commission for filing. Within sixty days after the CORPORATION commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

(a) A copy of the articles of dissolution shall be published. An affidavit evidencing the publication may be filed with the CORPORATION commission.

(b) THE CORPORATION COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 12. Section 10-3203, Arizona Revised Statutes, is amended to read:

10-3203. Incorporation

A. Unless a delayed effective date is specified in the articles of incorporation, incorporation occurs and the corporate existence begins when the articles of incorporation and certificate of disclosure are delivered to the commission for filing.

B. The commission's filing of the articles of incorporation and certificate of disclosure is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation pursuant to chapter 37 of this title.

C. Subject to section 10-3124, if the commission determines that the requirements of chapters 24 through 42 of this title for filing have not been met, the articles of incorporation and certificate of disclosure shall not be filed and the corporate existence terminates at the time the commission completes the determination. If the corporate existence is terminated pursuant to this subsection, sections 10-11404, 10-11405 and 10-11406 apply.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of incorporation shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 13. Section 10-11006, Arizona Revised Statutes, is amended to read:

10-11006. Articles of amendment

A. A corporation amending its articles of incorporation shall deliver to the commission for filing articles of amendment setting forth:

1. The name of the corporation.

2. The text of each amendment adopted.

3. The date of each amendment's adoption.

4. A statement that the amendment was duly adopted by act of the members or act of the board of directors and, if applicable, with the approval required pursuant to section 10-11030.

B. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of amendment shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 14. Section 10-11007, Arizona Revised Statutes, is amended to read:

10-11007. Restated articles of incorporation

A. A corporation's board of directors may restate its articles of incorporation at any time with or without approval by the members or any other person.

B. The restatement may include one or more amendments to the articles of incorporation. If the restatement includes an amendment requiring approval by the members or any other person, it shall be adopted as provided in section 10-11003.

C. If the board of directors submits a restatement for member action, the corporation shall notify each member entitled to vote of the proposed membership meeting in writing in accordance with section 10-3705. The notice shall also state that the purpose or one of the purposes of the meeting is to consider the proposed restatement and shall contain or be accompanied by a copy or summary of the restatement that identifies any amendment or other change it would make in the articles.

D. If the board of directors submits a restatement for member action by written ballot or written consent, the material that solicits the approval shall contain or be accompanied by a copy or summary of the restatement that also identifies any amendment or other change it would make in the articles of incorporation.

E. A corporation restating its articles of incorporation shall deliver to the commission for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

1. Whether the restatement contains an amendment to the articles requiring approval by any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement.

2. If the restatement contains an amendment to the articles requiring approval by the members, a statement that such approval was obtained.

3. If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 10-11030, a statement that such approval was obtained.

F. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

G. The commission may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection E of this section.

H. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of restatement shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 15. Section 10-11008, Arizona Revised Statutes, is amended to read:

10-11008. <u>Amendment pursuant to reorganization</u>

A. A corporation's articles may be amended pursuant to this section without action by the board of directors or members or approval required pursuant to section 10-11030 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under a federal statute or a statute of this state if the articles of incorporation after amendment contain only provisions required or permitted by section 10-3202.

B. Before the date of entry of a final decree in the reorganization proceeding, the individual or individuals designated by the court plan shall deliver to the commission articles of amendment setting forth all of the following:

1. The name of the corporation.

2. The text of each amendment contained in the plan of reorganization.

3. The date of the court's order or decree confirming the plan of reorganization containing the articles of amendment.

4. The title of the reorganization proceeding in which the order or decree was entered.

5. A statement that the court had jurisdiction of the proceeding under federal or state statute.

C. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of amendment shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 16. Section 10-11105, Arizona Revised Statutes, is amended to read:

10-11105. Statement of merger or interest exchange; publication or posting

Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the statement of merger or interest exchange shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 17. Section 10-11403, Arizona Revised Statutes, is amended to read:

10-11403. Articles of dissolution

A. At any time after dissolution is authorized, the corporation may dissolve by delivering to the commission articles of dissolution setting forth all of the following:

1. The name of the corporation.

2. The date dissolution was authorized.

3. A statement that the dissolution was duly authorized by an act of the members or an act of the board of directors and, if applicable, with the approval required pursuant to section 10-11402.

B. A corporation is dissolved on the effective date of its articles of dissolution.

C. The articles of dissolution shall not be considered complete until all fees, penalties and costs required to be paid under this title have been paid.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of dissolution shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

E. The articles of dissolution are not complete until the commission has received a notice from the department of revenue that the tax levied under title 42, chapter 5, article 1 against the corporation has been paid, or until the department of revenue notifies the commission that the corporation is not subject to the tax and the commission has received from

the department of revenue a certificate issued by the department of revenue pursuant to section 43-1151.

Sec. 18. Section 10-11503, Arizona Revised Statutes, is amended to read:

10-11503. Application for certificate of authority

A. A foreign corporation may apply for authority to conduct affairs in this state by delivering an application and a certificate of disclosure to the commission for filing. The certificate of disclosure shall contain the information set forth in section 10-3202, subsection D and is subject to the requirements of section 10-3202, subsection F. The application shall be executed by the corporation and shall set forth:

1. The name of the foreign corporation and, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 10-11506.

2. The name of the state or country under whose law it is incorporated.

3. Its date of incorporation and period of duration.

4. The street address of its principal office in its state or country of incorporation.

5. The street address of the proposed known place of business of the corporation in this state and the name and street address of its proposed statutory agent in this state.

6. If its purpose or purposes are narrower than the transaction of any or all lawful affairs in which corporations may engage in the state or country under whose law it is incorporated, a statement of the limitations on its purpose.

7. The names and usual business addresses of its current directors and officers.

8. Whether the foreign corporation has members.

9. A brief statement of the character of business that the corporation initially intends actually to conduct in this state. This statement does not limit the character of business that the corporation ultimately conducts.

B. The foreign corporation shall deliver the application and the certificate of disclosure to the commission, together with a copy of its articles of incorporation, any amendments to the articles of incorporation and a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated, and the nonrefundable fees required by law.

C. After determining that the application sets forth the information required by this section, does not use as the name of the corporation in this state a name that is in violation of section 10-11506 and appears in all other respects to conform to the requirements of this article, the commission shall file the application. The date of filing shall be the date on which the corporation is granted authority to transact business in this state.

D. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the application shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

E. A foreign corporation authorized to transact business in this state is subject to section 10-11623.

Sec. 19. Section 10-11520, Arizona Revised Statutes, is amended to read:

10-11520. Withdrawal of foreign corporation

A. A foreign corporation authorized to conduct affairs in this state shall not withdraw from this state until the commission files its application for withdrawal.

B. A foreign corporation authorized to conduct affairs in this state may apply to surrender the authority by delivering an application to the commission for filing. The application shall set forth:

1. The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

2. That it is not conducting affairs in this state and that it surrenders its authority to conduct affairs in this state.

3. That the foreign corporation revokes the authority of its statutory agent to accept service on its behalf and appoints the commission as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to conduct affairs in this state.

4. A mailing address to which the commission may mail a copy of any process served on the commission pursuant to its appointment as the foreign corporation's agent for service of process.

5. A commitment to notify the commission in the future of any change in the foreign corporation's mailing address.

C. The application for withdrawal is not considered complete until the commission has received a notice from the department of revenue to the effect that the tax levied under title 42, chapter 5, article 1 against the foreign corporation has been paid or until it is notified by the department of revenue that the applicant is not subject to the tax and further has received from the department of revenue its certificate issued pursuant to section 43-1151.

D. The application for withdrawal is not considered complete until all fees, penalties and costs required to be paid under this chapter have been paid.

E. After determining that the application appears in all respects to conform to the requirements of this chapter and when all fees have been paid as are prescribed in this chapter, the commission shall file the application in the manner provided in section 10-3120. On the filing of the application

for withdrawal, the authority of the foreign corporation to transact business in this state ceases.

F. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the application for withdrawal shall be published. An affidavit evidencing the publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

G. After the withdrawal of the corporation is effective, service of process on the commission under this section is service on the foreign corporation. On receipt of process, the commission shall mail a copy of the process to the foreign corporation at the mailing address set forth in its application for withdrawal.

Sec. 20. Section 29-633, Arizona Revised Statutes, is amended to read:

29-633. Amendment of articles of organization; restatement; publication or posting

A. The articles of organization of a limited liability company are amended by filing with the commission the articles of amendment, signed on behalf of the limited liability company by a manager if management of the limited liability company is vested in one or more managers or by a member if management of the limited liability company is reserved to the members. The articles of amendment shall set forth:

1. The name of the limited liability company.

2. The text of the amendment to the articles of organization.

B. A limited liability company shall amend its articles of organization if there is a statement in the articles of organization that was false or erroneous when it was made or within thirty days after the occurrence of any of the following events:

1. Any arrangements or facts have changed making the articles of organization inaccurate in any respect other than those changes required to be set forth in a statement delivered to the commission pursuant to section 29-605.

2. Management of the limited liability company is reserved to the members and there is a change in the persons who are members.

3. Management of the limited liability company is vested in a manager or managers and there is a change in the persons who are managers or in the members who own a twenty ~~per cent~~ PERCENT or greater interest in the capital or profits interest of the limited liability company.

C. A limited liability company may amend its articles of organization if its articles of organization as amended contain only provisions that may be lawfully contained in the articles of organization at the time of making the amendment. In particular and without limitation on the general power of amendment, a limited liability company may amend its articles of organization to:

1. Change the name of the limited liability company.

2. Change, enlarge or diminish the purposes of the limited liability company.

3. If management is reserved to the members of a limited liability company, vest management of the limited liability company in one or more managers.

4. If management is vested in one or more managers, vest management of the limited liability company in the members.

D. A limited liability company may restate its articles of organization. Restated articles of organization shall be executed and filed in the same manner as articles of amendment. Restated articles of organization shall be specifically designated as such in the heading and shall state either in the heading or in an introductory paragraph the limited liability company's present name and, if it has been changed, all of its former names.

E. A limited liability company that has not amended its articles of organization as required by this section may not maintain an action ~~upon~~ ON or on account of a contract or transaction made in the name of the limited liability company in any court of this state until it has first amended its articles of organization as required by this section. No person has any liability because an amendment to articles of organization has not been filed to reflect the occurrence of any event prescribed by subsection B of this section if the amendment is filed within the thirty-day period specified in subsection B of this section.

F. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. A copy of the articles of amendment or restated articles of organization shall be published in a newspaper of general circulation in the county of the known place of business for three consecutive publications. An affidavit evidencing publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

G. Publication OR POSTING PURSUANT TO SUBSECTION F OF THIS SECTION is not required if amendments to the articles of organization or restated articles of organization only change any of the following:

1. The name or address of members or managers.

2. The known place of business address.

3. The name or address of the statutory agent.

Sec. 21. Section 29-635, Arizona Revised Statutes, is amended to read:

29-635. <u>Formation of limited liability company</u>

A. Except as provided in section 29-634, subsection D, a limited liability company is formed when the articles of organization are delivered to the commission for filing, even if the commission is unable to make the determination required for filing by section 29-634, subsection A at the time of delivery. If the articles of organization, as delivered to the commission, do not conform to the filing provisions of this chapter and are

not brought into conformance within the time period prescribed by section 29-634, subsection C, paragraph 2, the existence of the limited liability company terminates at the end of the time period.

B. A copy of the articles of organization that is filed with the commission and that is stamped "filed" and marked with the filing date is conclusive evidence that all conditions precedent required to be performed by the organizers have been complied with and that the limited liability company has been legally organized and formed under this chapter. A limited liability company continues perpetually unless otherwise provided in its articles of organization or operating agreement or until the limited liability company is dissolved and terminated in accordance with this chapter.

C. Within sixty days after the commission approves the filing, EITHER OF THE FOLLOWING MUST OCCUR:

1. There shall be published in a newspaper of general circulation in the county of the known place of business, for three consecutive publications, a notice of the filing of such articles of organization consisting of the information required in section 29-632, subsection A, paragraphs 1, 2, 3, 5 and 6. An affidavit evidencing publication may be filed with the commission.

2. THE COMMISSION SHALL INPUT THE INFORMATION REGARDING THE APPROVAL INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130.

Sec. 22. Section 29-754, Arizona Revised Statutes, is amended to read:

29-754. <u>Statement of merger or other transaction; publication or posting</u>

A. A statement of merger, conversion, domestication or division shall serve as articles of termination for a domestic limited liability company that is not the surviving or resulting business entity in a transaction.

B. If a statement of merger includes amendments to the articles of organization of a domestic limited liability company, the document shall be published as provided in section 29-633 OR THE COMMISSION SHALL INPUT THE INFORMATION INTO THE DATABASE AS PRESCRIBED BY SECTION 10-130. The document required to be filed and published OR POSTED shall be styled "statement of merger".

Sec. 23. <u>Effective date</u>

This act is effective from and after December 31, 2016.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House February 10, 2016

by the following vote: 33 Ayes,

26 Nays, 1 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

On Reconsideration

Passed the Senate May 3, 2016

by the following vote: 16 Ayes,

14 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3rd day of May, 2016

at 7:00 o'clock P. M.

Secretary to the Governor

Approved this 17th day of

May

at 4:48 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18th day of May, 2016

at 10:20 o'clock A M.

Secretary of State

H.B. 2447