

House Substitute for SENATE BILL No. 244

AN ACT concerning business entities; relating to the Kansas general corporation code, the business entity transactions act, the business entity standard treatment act, the Kansas revised uniform limited partnership act and the Kansas uniform partnership act; facilitating the use of electronic transmissions and electronic signatures with certain exceptions; revising procedures and requirements related to emergency bylaws and actions under emergency conditions; merger or consolidation; dissolution and revocation or restoration of revoked or forfeited articles of incorporation or authority to engage in business and revival; modifying fees charged by the secretary of state for certain filings and copies; amending K.S.A. 17-6520, 56a-105 and 79-1119 and K.S.A. 2022 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-6002, 17-6004, 17-6008, 17-6010, 17-6011, 17-6014, 17-6301, 17-6305, 17-6401, 17-6408, 17-6410, 17-6413, 17-6426, 17-6427, 17-6428, 17-6502, 17-6503, 17-6509, 17-6512, 17-6514, 17-6518, 17-6522, 17-6701, 17-6702, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6712, 17-6712, as amended by section 36 of this act, 17-6804, 17-6812, 17-7001, 17-7002, 17-7003, 17-72a04, 17-72a05, 17-72a07, 17-7302, 17-7503, 17-7504, 17-7505, 17-7506, 17-76,136, 17-76,139, 17-78-102, 17-78-202, 17-78-203, 17-78-205, 17-78-302, 17-78-606, 17-7914, 17-7918, 17-7919, 17-7924, 17-7929, 17-7933, 56-1a605, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 79-3234 and repealing the existing sections; also repealing K.S.A. 17-7514, 56-1a608, 56-1a610, 56a-1203 and 56a-1204 and K.S.A. 2022 Supp. 17-72a03 and 17-7511.

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

New Section 1. (a) (1) Except as provided in subsection (b), without limiting the manner in which any act or transaction may be documented or the manner in which a document may be signed or delivered:

(A) Any act or transaction contemplated or governed by this code or the articles of incorporation or bylaws may be provided for in a document. An electronic transmission shall be deemed the equivalent of a written document. "Document" means:

(i) Any tangible medium on which information is inscribed and includes handwritten, typed, printed or similar instruments and copies of such instruments; and

(ii) an electronic transmission.

(B) Whenever this code or the articles of incorporation or bylaws require or permit a signature, the signature may be a manual, facsimile, conformed or electronic signature. "Electronic signature" means an electronic symbol or process that is attached to, or logically associated with, a document and executed or adopted by a person with an intent to execute, authenticate or adopt the document. A person may execute a document with such person's signature.

(C) Unless otherwise agreed between the sender and recipient, and in the case of proxies or consents given by or on behalf of a stockholder, subject to the additional requirements set forth in K.S.A. 17-6502(c)(2) and (c)(3) or 17-6518(d)(1), and amendments thereto, an electronic transmission shall be deemed delivered to a person for purposes of this code and the articles of incorporation and bylaws when such electronic transmission enters an information processing system that the person has designated for the purpose of receiving electronic transmissions of the type delivered if the electronic transmission is in a form capable of being processed by that system and such person is able to retrieve the electronic transmission. Whether a person has designated an information processing system is determined by the articles of incorporation or bylaws or from the context and surrounding circumstances, including the parties' conduct. An electronic transmission is delivered under this section even if no person is aware of such transmission's receipt. Receipt of an electronic acknowledgement from an information processing system establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(2) This code shall not prohibit one or more persons from conducting a transaction in accordance with the uniform electronic transactions act, K.S.A. 16-1601 et seq., and amendments thereto, if the part or parts of the transaction that are governed by the code are documented, signed and delivered in accordance with this subsection or otherwise in accordance

with the code. This subsection shall apply solely for purposes of determining whether an act or transaction has been documented, signed and delivered in accordance with this code and the articles of incorporation and bylaws.

(b) (1) Subsection (a) shall not apply to:

(A) A document filed with or submitted to the secretary of state, the clerk of a district court or a court or other judicial or governmental body of this state;

(B) a document comprising part of the stock ledger;

(C) a certificate representing a security;

(D) a document referenced as a notice, or waiver of notice, by this code or the articles of incorporation or bylaws and that expressly provides the manner of signing or delivery;

(E) a ballot to vote on actions at a meeting of stockholders; and

(F) an act or transaction effected pursuant to K.S.A. 2022 Supp. 17-6808a, and amendments thereto, article 71 or 73 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, or the business entity standards treatment act, K.S.A. 2022 Supp. 17-7901 et seq., and amendments thereto.

(2) The provisions of paragraph (1) shall not create any presumption about the lawful means to document a matter addressed by this subsection or the lawful means to sign or deliver a document addressed by this subsection. No provision of the articles of incorporation or bylaws shall limit the application of subsection (a) except for a provision that expressly restricts or prohibits the use of an electronic transmission or electronic signature, or any form thereof, or expressly restricts or prohibits the delivery of an electronic transmission to an information processing system.

(c) In the event that any provision of this code is deemed to modify, limit or supersede the federal electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et. seq., the provisions of this code shall control to the fullest extent permitted by 15 U.S.C. § 7002(a)(2).

(d) This section shall be a part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2022 Supp. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the business trust at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms provided by the secretary of state and shall be filed biennially, as determined by the year that the business trust filed its formation documents. A business trust that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A business trust that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the business trust's tax period but not later than at the time prescribed by law for filing the business trust's annual Kansas income tax return.

(c) The report shall be signed by a trustee or other authorized officer under penalty of perjury and contain the following:

(1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, that have been adopted and have not ~~theretofore~~ been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed ~~therein~~ by law for each such amendment; ~~and~~

(2) a verified list of the names and *postal* addresses of its trustees as of the end of each of such business trust's tax periods included in the report; *and*

(3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) (1) At the time of filing the business entity information report, the business trust shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary, multiplied by the number of tax periods included in the report.

(2) The failure of any domestic or foreign business trust to file its business entity information report and pay the required fee within 90 days from the date ~~on which~~ *when* such report and fee are due, or, in the case of a report filing and fee received by mail, postmarked within 90 days from the date ~~on which~~ *when* such report and fee are due, shall work a forfeiture of such business trust's authority to transact business in this state and all of the remedies, procedures and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation that fails to file its business entity information report or pay the required fee within 90 days after such report and fee are due, shall be applicable to such business trust.

(e) (1) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order and paragraph (2). All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.

(2) A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.

Sec. 3. K.S.A. 2022 Supp. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state a written business entity information report stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the professional corporation filed its formation documents. A professional corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A professional corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the professional corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) ~~The names and addresses of all officers, directors and shareholders~~ *name and postal address for each officer, director and shareholder* of the professional corporation;

(2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date ~~on which~~ *when* any shares of the

corporation were no longer owned by a qualified person; and

(3) ~~the amount of capital stock issued~~ *location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event the corporation's board of directors shall not have been elected. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. The report shall be subscribed by the ~~person~~ *individual* as true, under penalty of perjury. Upon request by the regulatory board that licenses the shareholders described in the report, a copy of the report shall be forwarded to the regulatory board.

(e) At the time of filing its business entity information report, each professional corporation shall pay the fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 4. K.S.A. 2022 Supp. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the electric cooperative filed its formation documents. An electric cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. An electric cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than the 15th day of the fourth month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the corporation;

(2) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code;*

(3) the names and *postal* addresses of the president, secretary, treasurer and all directors;

(4) the number of memberships issued; and

(5) the change or changes, if any, in the particulars made since the last business entity information report.

(d) Such reports shall be signed by the president, ~~vice-president~~ *vice president* or secretary of the corporation under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, each such corporation shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 5. K.S.A. 2022 Supp. 17-4677 is hereby amended to read as follows: 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the cooperative at the close of business on the

last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the renewable energy electric generation cooperative filed its articles of formation documents. A renewable energy electric generation cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A renewable energy electric generation cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than the 15th day of the sixth month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

- (1) The name of the cooperative;
- (2) the location of the principal office of the cooperative, *including the building and suite number, street name or rural route number with box number, city, state and zip code*;
- (3) the names and *postal* addresses of the president, secretary, treasurer and directors of the cooperative;
- (4) the number of members of the cooperative; and
- (5) the change or changes, if any, in the particulars made since the last business entity information report.

(d) The report shall be dated, signed by the president, ~~vice-president~~ *vice president* or secretary of the cooperative under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the cooperative shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 6. K.S.A. 2022 Supp. 17-6002 is hereby amended to read as follows: 17-6002. (a) The articles of incorporation shall set forth:

(1) The name of the corporation pursuant to K.S.A. 2022 Supp. 17-7918 and 17-7919, and amendments thereto, of the business entity standard treatment act;

(2) the *postal* address of the corporation's registered office in this state, ~~which shall be~~ stated in accordance with K.S.A. 2022 Supp. 17-7924, and amendments thereto, and the name of its resident agent at such address;

(3) the nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Kansas general corporation code, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

(4) (A) if the corporation is to be authorized to issue only one class of stock, the total number of shares of stock ~~which~~ *that* the corporation shall have authority to issue and the par value of each of such shares, or a statement that all such shares are to be without par value. If the corporation is to be authorized to issue more than one class of stock, the articles of incorporation shall set forth the total number of shares of all classes of stock ~~which~~ *that* the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value, and each class the shares of which are to have a par value and the par value of the shares of each such class. The articles of incorporation shall also

set forth a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, ~~which that~~ are permitted by K.S.A. 17-6401, and amendments thereto, in respect to any class or classes of stock or any series of any class of stock of the corporation and the fixing of which by the articles of incorporation is desired, and an express grant of such authority as it may then be desired to grant to the board of directors to fix by resolution or resolutions any thereof that may be desired but which shall not be fixed by the articles of incorporation.

(B) (i) ~~The foregoing~~ provisions of this subsection shall not apply to nonstock corporations. In the case of nonstock corporations, the fact that they are not authorized to issue capital stock shall be stated in the articles of incorporation. The conditions of membership, or other criteria for identifying members, of nonstock corporations shall likewise be stated in the articles of incorporation or ~~the~~ bylaws. Nonstock corporations shall have members, but failure to have members shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the corporation.

(ii) Nonstock corporations may provide for classes or groups of members having relative rights, powers and duties, and may make provision for the future creation of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. Except as otherwise provided in this code, nonstock corporations may also provide that any member or class or group of members shall have full, limited or no voting rights or powers, including that any member or class or group of members shall have the right to vote on a specified transaction even if that member or class or group of members does not have the right to vote for the election of the members of the governing body of the corporation. Voting by members of a nonstock corporation may be on a per capita, number, financial interest, class, group or any other basis set forth.

(iii) The provisions referred to in paragraph (4)(B)(ii) may be set forth in the articles of incorporation or ~~the~~ bylaws. If neither the articles of incorporation nor ~~the~~ bylaws of a nonstock corporation state the conditions of membership, or other criteria for identifying members, the members of the corporation shall be deemed to be those entitled to vote for the election of the members of the governing body pursuant to the articles of incorporation or bylaws of such corporation or otherwise until thereafter otherwise provided by the articles of incorporation or ~~the~~ bylaws;

(5) the name and ~~mailing~~ *postal* address of the incorporator or incorporators; and

(6) if the powers of the incorporator or incorporators are to terminate upon the filing of the articles of incorporation, the names and ~~mailing~~ *postal* addresses of the persons who are to serve as directors until the first annual meeting of stockholders or until their successors are elected and qualify.

(b) In addition to the matters required to be set forth in the articles of incorporation by subsection (a), the articles of incorporation may also contain any or all of the following matters:

(1) Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the sale or other disposition of stock and the powers of the corporation, the directors and the stockholders, or any class of the stockholders, or the governing body, members or any class or group of members of a nonstock corporation, if such provisions are not contrary to the laws of this state. Any provision ~~which that~~ is

required or permitted by any section of this code to be stated in the bylaws may be stated instead in the articles of incorporation;

(2) the following provisions, in these words:

(A) For a corporation other than a nonstock corporation: "Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its stockholders or any class of them, any court of competent jurisdiction within the state of Kansas, on the application in a summary way of this corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, may order a meeting of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such reorganization shall, if sanctioned by the court to which the application has been made, be binding on all the creditors or class of creditors, or on all the stockholders or class of stockholders of this corporation, as the case may be, and also on this corporation"; or

(B) for a nonstock corporation: "Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its members or any class of them, any court of competent jurisdiction within the state of Kansas may, on the application in a summary way of this corporation or of any creditor or member thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, order a meeting of the creditors or class of creditors, or of the members or class of members of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the members or class of members of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such reorganization shall, if sanctioned by the court to which the application has been made, be binding on all the creditors or class of creditors, or on all the members or class of members, of this corporation, as the case may be, and also on this corporation";

(3) such provisions as may be desired granting to the holders of the stock of the corporation, or the holders of any class or series of a class thereof, the preemptive right to subscribe to any or all additional issues of stock of the corporation of any or all classes or series thereof, or to any securities of the corporation convertible into such stock. No stockholder shall have any preemptive right to subscribe to an additional issue of stock or to any security convertible into such stock unless, and except to the extent that, such right is expressly granted to such stockholder in the articles of incorporation. All such rights in existence on July 1, 1972, shall remain in existence unaffected by this paragraph unless and until changed or terminated by appropriate action

~~which~~ *that* expressly provides for such change or termination;

(4) provisions requiring for any corporate action, the vote of a larger portion of the stock or of any class or series thereof, or of any other securities having voting power, or a larger number of the directors, than is required by this code;

(5) a provision limiting the duration of the corporation's existence to a specified date; otherwise, the corporation shall have perpetual existence;

(6) a provision imposing personal liability for the debts of the corporation on its stockholders to a specified extent and upon specified conditions; otherwise, the stockholders of a corporation shall not be personally liable for the payment of the corporation's debts except as they may be liable by reason of their own conduct or acts;

(7) the manner of adoption, alteration and repeal of bylaws; and

(8) a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, ~~provided~~ *except* that such provision shall not eliminate or limit the liability of a director: (A) For any breach of the director's duty of loyalty to the corporation or its stockholders; (B) for acts or omissions not in good faith or ~~which~~ *that* involve intentional misconduct or a knowing violation of law; (C) under the provisions of K.S.A. 17-6424, and amendments thereto; or (D) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. *An amendment, repeal or elimination of such a provision shall not affect its application with respect to an act or omission by a director occurring before such amendment, repeal or elimination unless the provision provides otherwise at the time of such act or omission.* All references in this subsection to a director also shall be deemed to refer to such other person or persons, if any, who, pursuant to a provision of the articles of incorporation in accordance with K.S.A. 17-6301(a), and amendments thereto, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this code.

(c) It shall not be necessary to set forth in the articles of incorporation any of the powers conferred on corporations by this code.

(d) Except for provisions included pursuant to subsections (a)(1), (a)(2), (a)(5), (a)(6), (b)(2), (b)(5), (b)(7) and (b)(8), and provisions included pursuant to subsection (a)(4) specifying the classes, number of shares and par value of shares a corporation, other than a nonstock corporation, is authorized to issue, any provision of the articles of incorporation may be made dependent upon facts ascertainable outside such instrument, provided that the manner in which such facts shall operate upon the provision is clearly and explicitly set forth in the provision. As used in this subsection, ~~the term~~ "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(e) The articles of incorporation ~~may~~ *shall* not contain any provision that would impose liability on a stockholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in K.S.A. 2022 Supp. 17-6015, and amendments thereto.

Sec. 7. K.S.A. 2022 Supp. 17-6004 is hereby amended to read as follows: 17-6004. ~~The term~~ "Articles of incorporation," as used in this code, unless the context requires otherwise, includes not only the original articles of incorporation filed to create a corporation, ~~which includes~~ *including* the charter, articles of association and any other instrument by whatever name known which a corporation has been or

may be lawfully formed, but it also includes all other certificates, agreements of merger or consolidation, plans of reorganization or other instruments, ~~howsoever~~ *however* designated, ~~which~~ *that* are filed pursuant to K.S.A. 2022 Supp. 17-7910, and amendments thereto, or any other section of this code, *the business entity transactions act, K.S.A. 2022 Supp. 17-78-101 to 17-78-607, and amendments thereto, or the business entity standard treatment act, K.S.A. 2022 Supp. 17-7901 to 17-7939, and amendments thereto,* and ~~which~~ *that* have the effect of amending or supplementing in some respect a corporation's ~~original~~ articles of incorporation.

Sec. 8. K.S.A. 2022 Supp. 17-6008 is hereby amended to read as follows: 17-6008. (a) After the filing of the articles of incorporation, an organization meeting of the incorporator or incorporators, or of the board of directors if the initial directors were named in the articles of incorporation, shall be held, either within or without this state, at the call of a majority of the incorporators or directors, as the case may be, for the purposes of:

- (1) Adopting bylaws; unless a different provision is made in the articles of incorporation for the adoption thereof;
- (2) electing directors, if the meeting is of the incorporators, to serve or hold office until the first annual meeting of stockholders or until their successors are elected and qualify;
- (3) electing officers if the meeting is of the directors;
- (4) doing any other or further acts to perfect the organization of the corporation; and
- (5) transacting such other business as may come before the meeting.

(b) The persons calling the meeting shall give to each other incorporator or director, as the case may be, at least two days' ~~written~~ notice thereof *in writing or by electronic transmission* by any usual means of communication, ~~which~~ *and such* notice shall state the time, place and purposes of the meeting as fixed by the persons calling it. Notice of the meeting need not be given to anyone who attends the meeting or who ~~signs a waiver of~~ *waives* notice either before or after the meeting.

(c) *(1) Unless otherwise restricted by the articles of incorporation:*

(A) Any action permitted to be taken at the organization meeting of the incorporators or directors, as the case may be, may be taken without a meeting if each incorporator or director, where there is more than one, or the sole incorporator or director where there is only one, signs an instrument which states the action so taken consents thereto in writing or by electronic transmission; and

(B) a consent may be documented, signed and delivered in any manner permitted by section 1, and amendments thereto.

(2) Any person, whether or not then an incorporator or director, may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time, including a time determined upon the happening of an event, not later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time if such person is then an incorporator or director, as the case may be, and did not revoke the consent prior to such time. Any such consent shall be revocable prior to the time such consent becomes effective.

(d) If any incorporator is not available to act, then any person for whom or on whose behalf the incorporator was acting directly or indirectly as employee or agent, may take action that such incorporator would have been authorized to take under this section or K.S.A. 17-

6007, and amendments thereto, except that any instrument signed by such other person, or any record of the proceedings of a meeting in which such person participated, shall state that:

- (1) Such incorporator is not available and the reason therefor;
- (2) such incorporator was acting directly or indirectly as employee or agent for or on behalf of such person; and
- (3) such person's signature on such instrument or participation in such meeting is otherwise authorized and not wrongful.

Sec. 9. K.S.A. 2022 Supp. 17-6010 is hereby amended to read as follows: 17-6010. (a) The board of directors of any corporation may adopt emergency bylaws, subject to repeal or change by action of the stockholders ~~that, which~~ notwithstanding any ~~different~~ *contrary* provision ~~elsewhere~~ in this code or in chapters 17 and 66 of the Kansas Statutes Annotated, and amendments thereto, or in the articles of incorporation or bylaws, shall be operative during any emergency resulting from an attack on the United States or on a locality ~~in which~~ *where* the corporation conducts its business or customarily holds meetings of its board of directors or its stockholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, *including, but not limited to, an epidemic or pandemic, a declaration of a national emergency by the United States government* or other similar emergency condition, ~~as a result of which~~ *irrespective of whether* a quorum of the board of directors or a standing committee thereof ~~cannot~~ *can* readily be convened for action. *The emergency bylaws contemplated by this section may be adopted by the board of directors or, if a quorum cannot be readily convened for a meeting, by a majority of the directors present.* The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

- (1) A meeting of the board of directors or a committee thereof may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

- (2) the director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

- (3) the officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time, not longer than reasonably necessary after the termination of the emergency, as may be provided in the emergency bylaws or in the resolution approving the list, shall be deemed directors for such meeting, to the extent required to provide a quorum at any meeting of the board of directors.

- (b) The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such emergency any or all officers or agents of the corporation shall be rendered incapable of discharging their duties for any reason.

- (c) The board of directors, either before or during any such emergency, may change the head office or designate several alternative head offices or regional offices, or authorize the offices so to do, effective in the emergency.

- (d) No officer, director or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct.

- (e) To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any emergency, and upon its termination the emergency bylaws shall cease to be operative.

- (f) Unless otherwise provided in emergency bylaws, notice of any

meeting of the board of directors during such an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

(g) To the extent required to constitute a quorum at any meeting of the board of directors during such an emergency, and unless otherwise provided in emergency bylaws, the officers of the corporation who are present shall be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

(h) Nothing contained in this section shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of this code—~~which~~ *that* have been or may be adopted by corporations created under the provisions of this code.

(i) *During any emergency condition of a type described in subsection (a), the board of directors or, if a quorum cannot be readily convened for a meeting, a majority of the directors present may:*

(1) *Take any action that the board determines to be practical and necessary to address the circumstances of such emergency condition with respect to a meeting of stockholders of the corporation notwithstanding any provision to the contrary in this code or in the articles of incorporation or bylaws, including, but not limited to:*

(A) *Postponing any such meeting to a later time or date, with the record date for determining the stockholders entitled to notice of, and to vote at, such meeting applying to the postponed meeting irrespective of K.S.A. 17-6503, and amendments thereto; and*

(B) *with respect to a corporation subject to the reporting requirements of 15 U.S.C. §§ 78m(a) or 78o(d) and the rules and regulations promulgated thereunder, notifying stockholders of any postponement or a change of the place of the meeting, or a change to hold the meeting solely by means of remote communication, solely by a document publicly filed by the corporation with the securities and exchange commission pursuant to 15 U.S.C. §§ 78m, 78n or 78o(d) and the rules and regulations promulgated thereunder; and*

(2) *with respect to any dividend that has been declared as to which the record date has not occurred, change each of the record date and payment date to a later date or dates, if the changed payment date is not more than 60 days after the record date as changed. In either case, the corporation must give notice of such change to stockholders as promptly as practicable thereafter, and in any event before the record date then in effect, and such notice, in the case of a corporation subject to the reporting requirements of 15 U.S.C. §§ 78m(a) or 78o(d) and the rules and regulations promulgated thereunder, may be given solely by a document publicly filed with the securities and exchange commission pursuant to 15 U.S.C. §§ 78m, 78n or 78o(d) and the rules and regulations promulgated thereunder. No person shall be liable, and no meeting of stockholders shall be postponed or voided, for the failure to make a stocklist available pursuant to K.S.A. 17-6509, and amendments thereto, if it was not practicable to allow inspection during any such emergency condition.*

Sec. 10. K.S.A. 2022 Supp. 17-6011 is hereby amended to read as follows: 17-6011. (a) Any civil action to interpret, apply, enforce or determine the validity of the provisions of the following may be brought in the district court, except to the extent that a statute confers exclusive jurisdiction on a court, agency or tribunal other than the district court:

- (1) The articles of incorporation or ~~the~~ bylaws of a corporation;
- (2) any instrument, document or agreement:

(A) By which a corporation creates or sells, or offers to create or sell, any of its stock, or any rights or options respecting its stock;

(B) to which a corporation and one or more holders of its stock are parties, and pursuant to which any such holder or holders sell or offer to sell any such stock; or

(C) by which a corporation agrees to sell, lease or exchange any of its property or assets, and such instrument, document or agreement provides that one or more holders of its stock approve of or consent to such sale, lease or exchange;

(3) any written restrictions on the transfer, registration of transfer or ownership of securities under K.S.A. 17-6426, and amendments thereto;

(4) any proxy under K.S.A. 17-6502 or 17-6505, and amendments thereto;

(5) any voting trust or other voting agreement under K.S.A. 17-6508, and amendments thereto;

(6) any agreement, certificate of merger or consolidation; or certificate of ownership and merger governed by K.S.A. 17-6701 through 17-6703 or 17-6705 through 17-6708, and amendments thereto;

(7) any certificate of conversion under K.S.A. 17-6713, and amendments thereto; or

(8) any other instrument, document, agreement or certificate required by any provision of this code.

(b) Any civil action to interpret, apply or enforce any provision of this code may be brought in the district court.

~~(e) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 11. K.S.A. 2022 Supp. 17-6014 is hereby amended to read as follows: 17-6014. (a) Except as otherwise provided in subsections (b) and (c), the provisions of the Kansas general corporation code shall apply to nonstock corporations in the manner specified in this subsection:

(1) All references to stockholders of the corporation shall be deemed to refer to members of the corporation;

(2) all references to the board of directors of the corporation shall be deemed to refer to the governing body of the corporation;

(3) all references to directors or to members of the board of directors of the corporation shall be deemed to refer to members of the governing body of the corporation; and

(4) all references to stock, capital stock; or shares thereof of a corporation authorized to issue capital stock shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.

(b) Subsection (a) shall not apply to:

(1) K.S.A. 17-6002(a)(4), (b)(1) and (b)(2), 17-6009(a), 17-6301, 17-6404, 17-6505, 17-6518, 17-6520(b), 17-6601, 17-6602, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6801, 17-6805, 17-6805a, 17-7001, 17-7002, 17-7503(e)(4) and (d)(4), 17-7504; and 17-7505(e)(4) and (d)(4) and 17-7514(e), and amendments thereto, and K.S.A. 2022 Supp. 17-6014, and amendments thereto, that apply to nonstock corporations by their terms;

(2) K.S.A. 17-6002(e), the last sentence of 17-6009(b), 17-6401, 17-6402, 17-6403, 17-6405, 17-6406, 17-6407(d), 17-6408, 17-6411, 17-6412, 17-6413, 17-6414, 17-6415, 17-6416, 17-6417, 17-6418, 17-6501, 17-6502, 17-6503, 17-6504, 17-6506, 17-6509, 17-6512, 17-6521, 17-6603, 17-6604, 17-6701, 17-6702, 17-6803 and 17-6804, and amendments thereto, and K.S.A. 2022 Supp. 17-6427, 17-6428, 17-6429 and 17-72a04, and amendments thereto; and

(3) ~~article~~articles 72 and ~~article~~ 73 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(c) In the case of a nonprofit nonstock corporation, subsection (a) shall not apply to:

(1) The sections and articles listed in subsection (b);

(2) K.S.A. 17-6002(b)(3), 17-6304(a)(2), 17-6507, 17-6508, 17-6712, 17-7503, 17-7505; *and* 17-7509 ~~and 17-7511~~, and amendments thereto, and K.S.A. 2022 Supp. 17-6011(a)(2) and (a)(3), and amendments thereto; and

(3) article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, *other than K.S.A. 17-6428 and 17-6429, and amendments thereto*, and K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto.

(d) For purposes of the Kansas general corporation code:

(1) A "charitable nonstock corporation" is any nonprofit nonstock corporation that is exempt from taxation under § 501(c)(3) of the federal internal revenue code of 1986, 26 U.S.C. § 501(c)(3);

(2) a "membership interest" is, unless otherwise provided in a nonstock corporation's articles of incorporation, a member's share of the profits and losses of a nonstock corporation; or a member's right to receive distributions of the nonstock corporation's assets, or both;

(3) a "nonprofit nonstock corporation" is a nonstock corporation that does not have membership interests; and

(4) a "nonstock corporation" is any corporation organized under the Kansas general corporation code that is not authorized to issue capital stock.

Sec. 12. K.S.A. 2022 Supp. 17-6301 is hereby amended to read as follows: 17-6301. (a) The business and affairs of every corporation organized under this code shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this code or in the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this code shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation.

(b) The board of directors of a corporation shall consist of one or more members, each of whom shall be a natural person. The number of directors shall be fixed by, or in the manner provided in, the bylaws; unless the articles of incorporation fixes the number of directors, in which case a change in the number of directors shall be made only by amendment of the articles. Directors need not be stockholders unless so required by the articles of incorporation or the bylaws. The articles of incorporation or bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier resignation or removal. Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation ~~which~~ *that* is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. A majority of the total number of directors shall constitute a quorum for the transaction of business unless the articles of incorporation or the bylaws require a greater number. Unless the articles of incorporation provide otherwise, the bylaws may provide that a number less than a majority shall constitute a quorum ~~which~~ *that* in no case shall be less than $\frac{1}{3}$ of the total number of directors ~~except that when a board of one director is authorized under this section, then one director shall constitute a quorum.~~ The vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of

directors unless the articles of incorporation or the bylaws shall require a vote of a greater number.

(c) (1) All corporations incorporated prior to July 1, 2004, shall be governed by subsection (c)(2), except that any such corporation may by a resolution adopted by a majority of the whole board elect to be governed by subsection (c)(3), in which case subsection (c)(2) shall not apply to such corporation. All corporations incorporated on or after July 1, 2004, shall be governed by subsection (c)(3).

(2) The board of directors may, by resolution passed by a majority of the whole board, designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not the member or members present constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers ~~which~~ *that* may require it, but no such committee shall have the power or authority in reference to:

(A) Amending the articles of incorporation, except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the board of directors as provided in K.S.A. 17-6401, and amendments thereto, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series;

(B) adopting an agreement of merger or consolidation pursuant to K.S.A. 17-6701 or 17-6702, and amendments thereto, recommending to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation; or

(C) unless the resolution, bylaws or articles of incorporation expressly so provides, no such committee shall have the power or authority to declare a dividend, to authorize the issuance of stock or to adopt a certificate of ownership and merger pursuant to K.S.A. 17-6703, and amendments thereto.

(3) The board of directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution

of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers ~~which~~ *that* may require it, but no such committee shall have the power or authority in reference to the following matters:

(A) Approving or adopting, or recommending to the stockholders, any action or matter, other than the election or removal of directors, expressly required by this code to be submitted to stockholders for approval; or

(B) adopting, amending or repealing any bylaw of the corporation.

(4) Unless otherwise provided in the articles of incorporation, the bylaws or the resolution of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee. *Except for references to subcommittees of committees in this subsection, every reference in the code to a committee of the board of directors or a member of a committee shall be deemed to include a reference to a subcommittee or member of a subcommittee.*

(5) *A majority of the directors then serving on a committee of the board of directors or a subcommittee of a committee shall constitute a quorum for the transaction of business by the committee or subcommittee unless the articles of incorporation, the bylaws, a resolution of the board of directors or a resolution of a committee that created the subcommittee requires a greater or lesser number; except that in no case shall a quorum be less than $\frac{1}{3}$ of the directors then serving on the committee or subcommittee. The vote of a majority of the members of a committee or subcommittee present at a meeting at which a quorum is present shall be the act of the committee or subcommittee unless the articles of incorporation, the bylaws, a resolution of the board of directors or a resolution of a committee that created the subcommittee requires a greater number.*

(d) The directors of any corporation organized under this code may be divided into one, two or three classes by the articles of incorporation or by an initial bylaw, or by a bylaw adopted by a vote of the stockholders; the term of office of those of the first class to expire at the first annual meeting held after such classification becomes effective; of the second class one year thereafter; of the third class two years thereafter; and at each annual election held after such classification becomes effective, directors shall be chosen for a full term, as the case may be, to succeed those whose terms expire. The articles of incorporation or bylaw provision dividing the directors into classes may authorize the board of directors to assign members of the board already in office to such classes at the time such classification becomes effective. The articles of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for such term, and have such voting powers as shall be stated in the articles of incorporation. The terms of office and voting powers of the directors elected separately by the holders of any class or series of stock may be greater than or less than those of any other director or class of directors. In addition, the articles of incorporation may confer upon one or more directors, whether or not elected separately by the holders of any class or series of stock, voting powers greater than or less than those of other directors. Any such provision conferring greater or lesser voting power shall apply to voting in any committee or subcommittee, unless otherwise provided in the articles of incorporation or bylaws. If the articles of incorporation provide that one or more directors shall have more or less than one vote

per director on any matter, every reference in this code to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

(e) A member of the board of directors, or a member of any committee designated by the board of directors, shall, in the performance of such member's duties, be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation.

(f) (1) Unless otherwise restricted by the articles of incorporation or bylaws:

(A) Any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, ~~and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form; and~~

(B) *a consent may be documented, signed and delivered in any manner permitted by section 1, and amendments thereto.*

(2) Any person, whether or not then a director, may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to ~~its becoming effective~~ *such effective time. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of the proceedings of the board of directors, or the committee thereof, in the same paper or electronic form as the minutes are maintained.*

(g) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors of any corporation organized under this code may hold its meetings, and have an office or offices, outside of this state.

(h) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors shall have the authority to fix the compensation of directors.

(i) Unless otherwise restricted by the articles of incorporation or bylaws, members of the board of directors of any corporation, or any committee designated by the board, may participate in a meeting of such board, or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

(j) The articles of incorporation of any nonstock corporation may provide that less than $\frac{1}{3}$ of the members of the governing body may constitute a quorum thereof and may otherwise provide that the business and affairs of the corporation shall be managed in a manner different from that provided in this section. Except as may be otherwise

provided by the articles of incorporation, this section shall apply to such a corporation, and when so applied, all references to:

(1) The board of directors, to members thereof and to stockholders shall be deemed to refer to the governing body of the corporation, the members thereof and the members of the corporation, respectively; and

(2) stock, capital stock or shares thereof shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.

(k) (1) Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as follows:

(A) Unless the articles of incorporation otherwise provides, in the case of a corporation whose board is classified as provided in subsection (d), stockholders may effect such removal only for cause; or

(B) in the case of a corporation having cumulative voting, if less than the entire board is to be removed, no director may be removed without cause if the votes cast against such director's removal would be sufficient to elect such director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

(2) Whenever the holders of any class or series are entitled to elect one or more directors by the articles of incorporation, this subsection shall apply, in respect to the removal without cause of a director or directors so elected, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole.

Sec. 13. K.S.A. 2022 Supp. 17-6305 is hereby amended to read as follows: 17-6305. (a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction; or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner ~~which~~ that the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorney fees,

actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the district court or the court ~~in which~~ *where* such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses ~~which~~ *that* the district court or such other court shall deem proper.

(c) (1) To the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses, including attorney fees, actually and reasonably incurred by such person in connection ~~therewith~~ *with such defense*. *For indemnification with respect to any act or omission occurring after June 30, 2023, references to "officer" for purposes of this subsection shall mean only an officer of the corporation who:*

(A) *Is or was the president, chief executive officer, chief operating officer, chief financial officer, chief legal officer, controller, treasurer or chief accounting officer of the corporation; or*

(B) *is or was identified in the corporation's public filings with the United States securities and exchange commission because such person is or was one of the most highly compensated executive officers of the corporation.*

(2) *The corporation may indemnify any other person who is not a present or former director or officer of the corporation against expenses, including attorney fees, actually and reasonably incurred by such person to the extent such person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) or in defense of any claim, issue or matter therein.*

(d) Any indemnification under subsections (a) and (b), unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made, with respect to a person who is a director or officer of the corporation at the time of such determination:

(1) By a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum;

(2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum;

(3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or

(4) by the stockholders.

(e) Expenses, including attorney fees, incurred by an officer or director of the corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this section. Such expenses, including attorney fees, incurred by former directors and officers or other

employees and agents of the corporation or by persons serving at the request of the corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the corporation deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or a bylaw shall not be eliminated or impaired by an amendment to *or repeal or elimination of* the articles of incorporation or ~~the~~ bylaws after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought; unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under this section.

(h) For purposes of this section, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation, including any constituent of a constituent, absorbed in a consolidation or merger—~~which~~ *that*, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this section with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

(i) For purposes of this section, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation—~~which~~ *that* imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

(j) The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided

when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) The district court is hereby vested with jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. The district court may summarily determine a corporation's obligation to advance expenses, including attorney fees.

Sec. 14. K.S.A. 2022 Supp. 17-6401 is hereby amended to read as follows: 17-6401. (a) Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation. Any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, ~~provided that~~ if the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. ~~The term~~ "Facts," as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. The power to increase or decrease or otherwise adjust the capital stock as provided in this code shall apply to all or any such classes of stock.

(b) (1) Any stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event. Immediately following any such redemption the corporation shall have outstanding one or more shares of one or more classes or series of stock, ~~which and such~~ share, or shares together, shall have full voting powers. Notwithstanding ~~the foregoing~~ such limitation:

(1)(A) Any stock of a regulated investment company registered under the investment company act of 1940, 15 U.S.C. §§ 80a-1 et seq., ~~and amendments thereto~~, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock; and

(2)(B) any stock of a corporation ~~which~~ that holds directly or indirectly a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, ~~which and such~~ license, franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it.

(2) Any stock ~~which~~ that may be made redeemable under this section may be redeemed for cash, property or rights, including

securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to subsection (a).

(c) The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as ~~hereinabove~~ provided *in this section*, payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, shall have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as ~~elsewhere provided~~ in this code ~~provided~~.

(d) The holders of the preferred or special stock of any class or of any series thereof shall be entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors.

(e) At the option of either the holder or the corporation or upon the happening of a specified event, any stock of any class or of any series thereof may be made convertible into or exchangeable for shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors.

(f) If any corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights shall be set forth in full or summarized on the face or back of the certificate ~~which~~ *that* the corporation shall issue to represent certificated shares of such class or series of stock. Except as otherwise provided in K.S.A. 17-6426, and amendments thereto, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate ~~which~~ *that* the corporation issues to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Within a reasonable time after the issuance or transfer of uncertificated stock, ~~the corporation shall send to the registered owner thereof~~ *shall be given a written notice, in writing or by electronic transmission*, containing the information required to be set forth or stated on certificates pursuant to this section or K.S.A. 17-6406, ~~K.S.A. 17-6426(a)~~ ~~or K.S.A., 17-6508(a)~~ *or 17-72a04*, and amendments thereto, or with respect to this section a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Except as otherwise

expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

(g) When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, shall not have been set forth in the articles of incorporation or in any amendment thereto, but shall be provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series shall be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, and shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such series to which such resolution or resolutions apply may be increased, but not above the total number of authorized shares of the class, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed and filed setting forth a statement that a specified increase or decrease had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such shares shall be decreased, the number of shares specified in the certificate shall resume the status ~~which~~ *that* they had prior to the adoption of the first resolution or resolutions. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding and that none will be issued, subject to the certificate of designations previously filed with respect to such class or series, may be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, and filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. When such certificate becomes effective, it shall have the effect of eliminating from the articles of incorporation all matters set forth in the certificate of designations with respect to such class or series of stock. Unless otherwise provided in the articles of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, may be amended by a resolution or resolutions adopted by the board of directors. A certificate ~~which~~ *(1) that* states that no shares of the class or series have been issued; *(2)*, sets forth a copy of the resolution or resolutions; and *(3)*, if the designation of the class or series is being changed, indicates the original designation and the new designation shall be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, and shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto. When any certificate filed under this subsection becomes effective, it shall have the effect of amending the articles of incorporation, except that neither the filing of such certificate nor the filing of restated articles of incorporation pursuant to K.S.A. 17-6605, and amendments

thereto, shall prohibit the board of directors from subsequently adopting such resolutions as authorized by this subsection.

Sec. 15. K.S.A. 2022 Supp. 17-6408 is hereby amended to read as follows: 17-6408. The shares of a corporation shall be represented by certificates, except that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the corporation by ~~the chairperson or vice-chairperson of the board of directors, or the president or vice-president, and by the treasurer or an assistant treasurer, or the secretary or assistant secretary of such~~ *any two authorized officers of the* corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the corporation with the same effect as if the person were such officer, transfer agent or registrar at the date of issue. A corporation shall not have power to issue a certificate in bearer form.

Sec. 16. K.S.A. 2022 Supp. 17-6410 is hereby amended to read as follows: 17-6410. (a) Every corporation may purchase, redeem, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; ~~provided, however, that~~ No corporation shall:

(1) Purchase or redeem its own shares of capital stock for cash or other property when the capital of the corporation is impaired or when such purchase or redemption would cause any impairment of the capital of the corporation, except that a corporation other than a nonstock corporation may purchase or redeem out of capital any of its own shares ~~which~~ *that* are entitled upon any distribution of its assets, whether by dividend or in liquidation, to a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares will be retired upon their acquisition and the capital of the corporation reduced in accordance with K.S.A. 17-6603 and 17-6604, and amendments thereto. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of a corporation given by it as consideration for its acquisition by purchase, redemption or exchange of its shares of stock if at the time such note, debenture or obligation was delivered by the corporation its capital was not then impaired or did not thereby become impaired;

(2) purchase, for more than the price at which they may then be redeemed, any of its shares ~~which~~ *that* are redeemable at the option of the corporation; or

(3) (A) in the case of a corporation other than a nonstock corporation, redeem any of its shares unless their redemption is authorized by K.S.A. 17-6401(b), and amendments thereto, and then only in accordance with such section and the articles of incorporation; or

(B) in the case of a nonstock corporation, redeem any of its membership interests; unless their redemption is authorized by the articles of incorporation and then only in accordance with the articles of incorporation.

(b) Nothing in this section limits or affects a corporation's right to resell any of its shares ~~therefore~~ *previously* purchased or redeemed

out of surplus and ~~which~~ *that* have not been retired, for such consideration as shall be fixed by the board of directors.

(c) (1) ~~Shares of its own a corporation's capital stock belonging to shall neither be entitled to vote nor be counted for quorum purposes if such shares belong to:~~

(A) ~~The corporation or to;~~

(B) another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, ~~shall neither be entitled to vote nor be counted for quorum purposes; or~~

(C) *any other entity, if a majority of the voting power of such other entity is held, directly or indirectly, by the corporation or if such other entity is otherwise controlled, directly or indirectly, by the corporation.*

(2) Nothing in this section shall be construed as limiting the right of any corporation to vote stock, including, but not limited to, its own stock, held by it in a fiduciary capacity.

(d) ~~Shares which that~~ have been called for redemption shall not be deemed to be outstanding shares for the purpose of voting or determining the total number of shares entitled to vote on any matter on and after the date ~~on which written~~ *when* notice of redemption has been sent to holders thereof and a sum sufficient to redeem such shares has been irrevocably deposited or set aside to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

Sec. 17. K.S.A. 2022 Supp. 17-6413 is hereby amended to read as follows: 17-6413. The capital stock of a corporation shall be paid for in such amounts and at such times as the directors may require. From time to time, the directors may demand payment, in respect of each share of stock not fully paid, of such sum of money as the necessities of the business may require, in the judgment of the board of directors, not exceeding in the whole the balance remaining unpaid on said stock, and such sum so demanded shall be paid to the corporation at such times and by such installments as the directors shall direct. The directors shall give ~~written~~ notice of the time and place of such payments to each holder of or subscriber for stock ~~which that~~ is not fully paid at such holder's or subscriber's last known ~~post office~~ *postal* address, ~~which and such~~ notice shall be ~~mailed~~ *given* at least 30 days before the time for such payment.

Sec. 18. K.S.A. 2022 Supp. 17-6426 is hereby amended to read as follows: 17-6426. (a) A written restriction or restrictions on the transfer or registration of transfer of a security of a corporation, or on the amount of the corporation's securities that may be owned by any person or group of persons, if permitted by this section and noted conspicuously on the certificate or certificates representing the security or securities so restricted, or, in the case of uncertificated shares, contained in the notice or notices ~~sent given~~ pursuant to K.S.A. 17-6401(f), and amendments thereto, may be enforced against the holder of the restricted security or securities or any successor or transferee of the holder, including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate or certificates representing the security or securities so restricted, or, in the case of uncertificated shares, contained in the notice or notices ~~sent given~~ pursuant to K.S.A. 17-6401(f), and amendments thereto, a restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

(b) A restriction on the transfer or registration of transfer of securities of a corporation, or on the amount of a corporation's securities that may be owned by any person or group of persons, may

be imposed by the articles of incorporation or by the bylaws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer or registration of transfer of securities of a corporation or on the amount of such securities that may be owned by any person or group of persons is permitted by this section if it:

(1) Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities;

(2) obligates the corporation or any holder of securities of the corporation or any other person or any combination ~~of the foregoing thereof~~, to purchase the securities ~~which that~~ are the subject of an agreement respecting the purchase and sale of the restricted securities;

(3) requires the corporation or the holders of any class or series of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities, or to approve the amount of securities of the corporation that may be owned by any person or group of persons;

(4) obligates the holder of the restricted securities to sell or transfer an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~, or causes or results in the automatic sale or transfer of an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~, or

(5) prohibits or restricts the transfer of the restricted securities to, or the ownership of restricted securities by, designated persons or classes of persons or groups of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer or the registration of transfer of the securities of a corporation, or on the amount of securities of a corporation that may be owned by a person or group of persons, for any of the following purposes shall be conclusively presumed to be for a reasonable purpose:

(1) Maintaining any local, state, federal or foreign tax advantage to the corporation or its stockholders, including without limitation:

(A) Maintaining the corporation's status as an electing small business corporation under subchapter S of the United States internal revenue code, 26 U.S.C. § 1371 et seq.;

(B) maintaining or preserving any tax attribute, including without limitation net operating losses; or

(C) qualifying or maintaining the qualification of the corporation as a real estate investment trust pursuant to the United States internal revenue code or regulations adopted pursuant to the United States internal revenue code; or

(2) maintaining any statutory or regulatory advantage or complying with any statutory or regulatory requirements under applicable local, state, federal or foreign law.

(e) Any other lawful restriction on transfer or registration of transfer of securities, or on the amount of securities that may be owned by any person or group of persons, is permitted by this section.

Sec. 19. K.S.A. 2022 Supp. 17-6427 is hereby amended to read as follows: 17-6427. (a) Notwithstanding any other provisions of this

chapter, a corporation shall not engage in any business combination with any interested stockholder for a period of three years following the time that such stockholder became an interested stockholder, unless:

(1) Prior to such time the board of directors of the corporation approved either the business combination or the transaction ~~which that~~ resulted in the stockholder becoming an interested stockholder;

(2) upon consummation of the transaction ~~which that~~ resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned:

(A) By persons who are directors and also officers; and

(B) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

(3) at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 ²/₃% of the outstanding voting stock ~~which that~~ is not owned by the interested stockholder.

(b) The restrictions contained in this section shall not apply if:

(1) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act;

(2) the corporation, by action of its board of directors, adopts an amendment to its bylaws on or before July 1, 1990, expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act, which amendment shall not be further amended by the board of directors;

(3) the corporation, by action of its stockholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, except that, in addition to any other vote required by law, such amendment to the articles of incorporation or bylaws must be ~~approved~~ *adopted* by the affirmative vote of a majority of the ~~shares outstanding stock~~ entitled to vote *thereon*.

~~(A) An amendment adopted pursuant to this paragraph shall be effective immediately.~~ In the case of a corporation that both: ~~(A)~~ has never had a class of voting stock that falls within any of the two categories set out in subsection (b)(4); and ~~(B)~~ has not elected by a provision in its original articles of incorporation, or any amendment thereto, to be governed by this section, *such amendment shall become effective upon:*

(i) In the case of an amendment to the articles of incorporation, the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto; or

(ii) in the case of an amendment to the bylaws, the date of adoption of such amendment.

~~(B) (i) In all other cases, an amendment adopted pursuant to this paragraph shall not be effective until 12 months after become effective:~~

~~(a) In the case of an amendment to the articles of incorporation, 12 months after the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto; or~~

~~(b) in the case of an amendment to the bylaws, 12 months after the date of the adoption of such amendment; and~~

~~(ii) in either case, the election not to be governed by this section~~

shall not apply to any business combination between such corporation and any person who became an interested stockholder of such corporation on or ~~prior to such adoption~~ before:

(a) *In the case of an amendment to the articles of incorporation, the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto;*
or

(b) *in the case of an amendment to the bylaws, the date of the adoption of such amendment.*

(C) A bylaw amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

(4) the corporation does not have a class of voting stock that is:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 stockholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested stockholder or from a transaction in which a person becomes an interested stockholder;

(5) a stockholder becomes an interested stockholder inadvertently and:

(A) As soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an interested stockholder; and

(B) would not, at any time within the three-year period immediately prior to a business combination between the corporation and such stockholder, have been an interested stockholder but for the inadvertent acquisition of ownership;

(6) (A) the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required by this subsection of a proposed transaction ~~which~~ that:

(i) Constitutes one of the transactions described in ~~the second sentence of this paragraph~~ subparagraph (B);

(ii) is with or by a person who either was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of the corporation's board of directors or during the period described in paragraph (7); and

(iii) is approved or not opposed by a majority of the members of the board of directors then in office, but not less than one, who were directors prior to any person becoming an interested stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors.

(B) The proposed transactions referred to in subsection (b)(6)(A) are limited to:

(i) A merger or consolidation of the corporation, except for a merger in respect of which, pursuant to K.S.A. 17-6701(f), and amendments thereto, no vote of the stockholders of the corporation is required;

(ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to any direct or indirect wholly-owned subsidiary or to the corporation, having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation; or

(iii) a proposed tender or exchange offer for 50% or more of the outstanding voting stock of the corporation. The corporation shall give not less than 20 days' notice to all interested stockholders prior to the

consummation of any of the transactions described in subparagraph (B) (i) or (ii); or

(7) the business combination is with an interested stockholder who became an interested stockholder at a time when the restrictions contained in this section did not apply by reason of any of subsections (b)(1) through (b)(4), except that this paragraph shall not apply if, at the time such interested stockholder became an interested stockholder, the corporation's articles of incorporation contained a provision authorized by the last sentence of this subsection.

Notwithstanding subsections (b)(1) through (b)(4), a corporation may elect by a provision of its original articles of incorporation, or any amendment thereto, to be governed by this section, except that any such amendment to the articles of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became ~~such prior to the effective date of the amendment~~ *the interested stockholder before the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto.*

(c) As used in this section only:

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(2) "Associate," when used to indicate a relationship with any person, means:

(A) Any corporation, partnership, unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting stock;

(B) any trust or other estate in which such person has at least a 20% beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and

(C) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) "Business combination," when used in reference to any corporation and any interested stockholder of such corporation, means:

(A) Any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with:

(i) The interested stockholder; or

(ii) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the interested stockholder and as a result of such merger or consolidation subsection (a) is not applicable to the surviving entity;

(B) any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, except proportionately as a stockholder of such corporation, to or with the interested stockholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation ~~which assets~~ *that* have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation;

(C) any transaction ~~which~~ *that* results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder, except:

(i) Pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such

corporation or any such subsidiary—~~which securities that~~ were outstanding prior to the time that the interested stockholder became ~~such the interested stockholder~~;

(ii) pursuant to a merger under K.S.A. 17-6701(g), and amendments thereto;

(iii) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary—~~which security that~~ is distributed, pro rata to all holders of a class or series of stock of such corporation subsequent to the time the interested stockholder became ~~such the interested stockholder~~;

(iv) pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of such stock; or

(v) any issuance or transfer of stock by the corporation; ~~provided however, except~~ that in no case under subparagraph (C)(iii) through (v) shall there be an increase in the interested stockholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation;

(D) any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation—~~which that~~ has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or of any such subsidiary ~~which that~~ is owned by the interested stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested stockholder; or

(E) any receipt by the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of such corporation, of any loans, advances, guarantees, pledges or other financial benefits, other than those expressly permitted in subparagraphs (A) through (D), provided by or through the corporation or any direct or indirect majority-owned subsidiary.

(4) "Control," including the terms "controlling," "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of 20% or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary, except that a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) (A) "Interested stockholder" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that:

(i) Is the owner of 15% or more of the outstanding voting stock of the corporation; or

(ii) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date—~~on which~~ ~~when~~ it is sought to be determined whether such person is an interested stockholder, and the affiliates and associates of such person.

(B) ~~The term~~ "Interested stockholder" ~~shall~~ *does* not include:

(i) Any person who:

(a) Owned shares in excess of the 15% limitation set forth ~~herein~~ *in this paragraph* as of, or acquired such shares pursuant to a tender offer commenced prior to July 1, 1989, or pursuant to an exchange offer announced prior to such date and commenced within 90 days thereafter and either:

(1) Continued to own shares in excess of such 15% limitation or would have but for action by the corporation; or

(2) is an affiliate or associate of the corporation and so continued, or so would have continued but for action by the corporation, to be the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date ~~on which~~ *when* it is sought to be determined whether such a person is an interested stockholder; or

(b) acquired such shares from a person described in subparagraph (B)(i)(a) by gift, inheritance or in a transaction in which no consideration was exchanged; or

(ii) any person whose ownership of shares in excess of the 15% limitation set forth ~~herein~~ *in this paragraph* is the result of action taken solely by the corporation; ~~provided, except~~ *provided, except* that such person shall be an interested stockholder if thereafter such person acquires additional shares of voting stock of the corporation, except as a result of further corporate action not caused, directly or indirectly, by such person.

(C) For the purpose of determining whether a person is an interested stockholder, the voting stock of the corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of paragraph (9), but shall not include any other unissued stock of such corporation ~~which~~ *that* may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) "Person" means any individual, corporation, partnership, unincorporated association or other entity.

(7) "Stock" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(8) "Voting stock" means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity. Every reference to a percentage of voting stock shall refer to such percentage of the votes of such voting stock.

(9) "Owner," including the terms "own" and "owned," when used with respect to any stock, means a person that individually or with or through any of its affiliates or associates:

(A) Beneficially owns such stock, directly or indirectly;

(B) has: (i) The right to acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, except that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange; or (ii) the right to vote such stock pursuant to any agreement, arrangement or understanding, except that a person shall not be deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(C) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting, except voting pursuant to a

revocable proxy or consent as described in subparagraph (B)(ii), or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock.

(d) No provision of an articles of incorporation or bylaw shall require, for any vote of stockholders required by this section, a greater vote of stockholders than that specified in this section.

(e) This section amends and recodifies the Kansas business combinations with interested shareholders act. Any reference in a corporation's articles of incorporation or bylaws to the Kansas business combinations with interested shareholders act shall be deemed to refer to this section.

~~(f) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 20. K.S.A. 2022 Supp. 17-6428 is hereby amended to read as follows: 17-6428. (a) Subject to subsection (f), no defective corporate act or putative stock shall be void or voidable solely as a result of a failure of authorization if ratified as provided in this section or validated by the district court in a proceeding brought under K.S.A. 2022 Supp. 17-6429, and amendments thereto.

(b) (1) In order to ratify one or more defective corporate acts pursuant to this section, other than the ratification of an election of the initial board of directors pursuant to ~~subsection (b)(2) paragraph (3)~~, the board of directors of the corporation shall adopt resolutions stating:

- (A) The defective corporate act or acts to be ratified;
- (B) the date of each defective corporate act or acts;
- (C) if such defective corporate act or acts involved the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates ~~upon which~~ *when* such putative shares were purported to have been issued;
- (D) the nature of the failure of authorization in respect of each defective corporate act to be ratified; and
- (E) that the board of directors approves the ratification of the defective corporate act or acts.

(2) Such resolutions may also provide that, at any time before the validation effective time in respect to any defective corporate act set forth ~~therein in such resolution~~, notwithstanding the approval of the ratification of such defective corporate act by stockholders, the board of directors may abandon the ratification of such defective corporate act without further action of the stockholders. The quorum and voting requirements applicable to the ratification by the board of directors of any defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time the board adopts the resolutions ratifying the defective corporate act, except that if the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of ~~the Kansas general corporation~~ *this code*, in each case as in effect as of the time of the defective corporate act, would have required a larger number or portion of directors or of specified directors for a quorum to be present or to approve the defective corporate act, such larger number or portion of such directors or such specified directors shall be required for a quorum to be present or to adopt the resolutions to ratify the defective corporate act, as applicable, except that the presence or approval of any director elected, appointed or nominated by holders of any class or series of which no shares are then outstanding, or by any person that is no longer a stockholder, shall not be required.

~~(2)(3)~~ (3) In order to ratify a defective corporate act in respect of the election of the initial board of directors of the corporation pursuant to

K.S.A. 17-6008, and amendments thereto, a majority of the persons who, at the time the resolutions required by this paragraph are adopted, are exercising the powers of directors under claim and color of an election or appointment as such may adopt resolutions stating:

(A) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation;

(B) the earlier of the date ~~on which~~ *when* such persons first took such action or were purported to have been elected as the initial board of directors; and

(C) that the ratification of the election of such person or persons as the initial board of directors is approved.

(c) Each defective corporate act ratified pursuant to subsection (b)(1) shall be submitted to stockholders for approval as provided in subsection (d), unless:

(1) *(A)* No other provision of ~~the Kansas general corporation~~ *this* code, and no provision of the articles of incorporation or bylaws of the corporation, or of any plan or agreement to which the corporation is a party, would have required stockholder approval of such defective corporate act to be ratified, either at the time of such defective corporate act or at the time the board of directors adopts the resolutions ratifying such defective corporate act pursuant to subsection (b)(1); and

~~(2)(B)~~ such defective corporate act did not result from a failure to comply with K.S.A. 2022 Supp. 17-6427, and amendments thereto; *or*

(2) only with respect to defective corporate acts ratified or to be ratified pursuant to resolutions adopted by a board of directors on or after July 1, 2023, as of the record date for determining the stockholders entitled to vote on the ratification of such defective corporate act, there are no shares of valid stock outstanding and entitled to vote thereon, regardless of whether there then exists any shares of putative stock.

(d) *(1)* If the ratification of a defective corporate act is required to be submitted to stockholders for approval pursuant to subsection (c), due notice of the time, place, if any, and purpose of the meeting shall be given at least 20 days before the date of the meeting to each holder of valid stock and putative stock, whether voting or nonvoting, at the *postal* address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, *or, in the case of any defective corporate act that involved the establishment of a record date for notice of or voting at any meeting of stockholders, for action by consent of stockholders in lieu of a meeting, or for any other purpose, the record date for notice of or voting at such meeting, the record date for action by consent or the record date for such other action, as the case may be,* other than holders whose identities or *postal* addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted by the board of directors pursuant to subsection (b)(1) or the information required by subsection (b)(1)(A) through (E) and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the applicable validation effective time. At such meeting, the quorum and voting requirements applicable to the ratification of such defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified

at the time of the approval of the ratification, except that:

(1)(A) If the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of ~~the Kansas general corporation~~ *this* code in effect as of the time of the defective corporate act would have required a larger number or portion of stock or of any class or series thereof or of specified stockholders for a quorum to be present or to approve the defective corporate act, the presence or approval of such larger number or portion of stock or of such class or series thereof or of such specified stockholders shall be required for a quorum to be present or to approve the ratification of the defective corporate act, as applicable, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required;

(2)(B) the approval by stockholders of the ratification of the election of a director shall require the affirmative vote of the majority of shares present at the meeting and entitled to vote on the election of such director, except that if the articles of incorporation or bylaws of the corporation then in effect or in effect at the time of the defective election require or required a larger number or portion of stock or of any class or series thereof or of specified stockholders to elect such director, the affirmative vote of such larger number or portion of stock or of any class or series thereof or of such specified stockholders shall be required to ratify the election of such director, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required; and

(3)(C) in the event of a failure of authorization resulting from failure to comply with the provisions of K.S.A. 2022 Supp. 17-6427, and amendments thereto, the ratification of the defective corporate act shall require the vote set forth in K.S.A. 2022 Supp. 17-6427(a)(3), and amendments thereto, regardless of whether such vote would have otherwise been required.

(2) Shares of putative stock on the record date for determining stockholders entitled to vote on any matter submitted to stockholders pursuant to subsection (c), and without giving effect to any ratification that becomes effective after such record date, shall neither be entitled to vote nor counted for quorum purposes in any vote to ratify any defective corporate act.

(e) If a defective corporate act ratified pursuant to this section would have required under any other section of ~~the Kansas general corporation~~ *this* code the filing of a document in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, then, whether or not a document was previously filed in respect to such defective corporate act and in lieu of filing the document otherwise required by provisions of ~~the Kansas general corporation~~ *this* code, the corporation shall file a certificate of validation with respect to such defective corporate act in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. A separate certificate of validation shall be required for each defective corporate act requiring the filing of a certificate of validation under this section, except that two or more defective corporate acts may be included in a single certificate of validation if the corporation filed, or to comply with provisions of ~~the Kansas general corporation~~ *this* code, would have filed, a single document under another provision of ~~the Kansas general corporation~~ *this* code to effect such acts, and two or more overissues of shares of any class, classes or series of stock may be included in a single certificate of validation, ~~provided~~ *except* that the increase in the number of authorized shares of each such class or series set forth in the

certificate of validation shall be effective as of the date of the first such overissue. The certificate of validation shall set forth:

(1) Each defective corporate act that is the subject of the certificate of validation, including, in the case of any defective corporate act involving the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates ~~upon which~~ *when* such putative shares were purported to have been issued, the date of such defective corporate act, and the nature of the failure of authorization in respect to such defective corporate act;

(2) a statement that such defective corporate act was ratified in accordance with this section, including the date ~~on which~~ *when* the board of directors ratified such defective corporate act and the date, if any, ~~on which~~ *when* the stockholders approved the ratification of such defective corporate act; and

(3) the information required by one of the following subparagraphs:

(A) If a document was previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to such defective corporate act and no changes to such document are required to give effect to such defective corporate act in accordance with this section, the certificate of validation shall set forth:

(i) The name, title and filing date of the document previously filed and of any certificate of correction thereto; and

(ii) a statement that a copy of the document previously filed, together with any certificate of correction thereto, is attached as an exhibit to the certificate of validation;

(B) if a document was previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to the defective corporate act and such document requires any change to give effect to the defective corporate act in accordance with this section, including a change to the date and time of the effectiveness of such certificate, the certificate of validation shall set forth:

(i) The name, title and filing date of the document so previously filed and of any certificate of correction thereto;

(ii) a statement that a document containing all of the information required to be included under the applicable section or sections of ~~the Kansas general corporation~~ *this* code to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and

(iii) the date that such certificate shall be deemed to have become effective pursuant to this section; or

(C) if a document was not previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to the defective corporate act and the defective corporate act ratified pursuant to this section would have required under any other section of ~~the Kansas general corporation~~ *this* code the filing of a document in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, the certificate of validation shall set forth:

(i) A statement that a document containing all of the information required to be included under the applicable section or sections of ~~the Kansas general corporation~~ *this* code to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and

(ii) the date and time that such certificate shall be deemed to have become effective pursuant to this section.

(4) A document attached to a certificate of validation pursuant to paragraph (3)(B) or (C) need not be separately executed and acknowledged and need not include any statement required by any other section of ~~the Kansas general corporation~~ *this* code that such

document has been approved and adopted in accordance with the provisions of such other section.

(f) From and after the validation effective time; unless otherwise determined in an action brought pursuant to K.S.A. 2022 Supp. 17-6429, and amendments thereto:

(1) Subject to the last sentence of subsection (d), each defective corporate act ratified in accordance with this section shall no longer be deemed void or voidable as a result of a the failure of authorization described in the resolutions adopted pursuant to subsection (b) and such effect shall be retroactive to the time of the defective corporate act; and

(2) subject to the last sentence of subsection (d), each share or fraction of a share of putative stock issued or purportedly issued pursuant to any such defective corporate act shall no longer be deemed void or voidable and shall be deemed to be an identical share or fraction of a share of outstanding stock as of the time it was purportedly issued.

(g) (1) In respect of each defective corporate act ratified by the board of directors pursuant to subsection (b), prompt notice of the ratification shall be given to all holders of valid stock and putative stock, whether voting or nonvoting, as of the date the board of directors adopts the resolutions approving such defective corporate act, or as of a date within 60 days after such date of adoption, as established by the board of directors, at the *postal* address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, other than holders whose identities or *postal* addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted pursuant to subsection (b) or the information specified in subsection (b) (1)(A) through (E) or subsection ~~(b)(2)(A)~~ (b)(3)(A) through (C), as applicable, and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the later of the validation effective time or the time ~~at which~~ when the notice required by this subsection is given.

(2) Notwithstanding the provisions of paragraph (1):

(A) No such notice shall be required if notice of the ratification of the defective corporate act is to be given in accordance with subsection (d); and

(B) in the case of a corporation that has a class of stock listed on a national securities exchange, the notice required by this subsection *and subsection (d)(1)*, may be deemed given if disclosed in a document publicly filed by the corporation with the securities and exchange commission pursuant to ~~section 13, 14 or 15(d) of the securities exchange act of 1934, as amended, 15 U.S.C. §§ 78m, 78n or 78o(d)~~ and the rules and regulations promulgated thereunder, or the corresponding provisions of any subsequent federal securities laws, rules or regulations.

(3) If any defective corporate act has been approved by stockholders acting pursuant to K.S.A. 17-6518, and amendments thereto, the notice required by this subsection may be included in any notice required to be given pursuant to K.S.A. 17-6518(e), and amendments thereto, and, if so given, shall be sent to the stockholders entitled thereto under K.S.A. 17-6518(e), and amendments thereto, and to all holders of valid and putative stock to whom notice would be required under this subsection if the defective corporate act had been

approved at a meeting other than any stockholder who approved the action by consent in lieu of a meeting pursuant to K.S.A. 17-6518, and amendments thereto, or any holder of putative stock who otherwise consented thereto in writing. Solely for purposes of subsection (d) and this subsection, notice to holders of putative stock, and notice to holders of valid stock and putative stock as of the time of the defective corporate act, shall be treated as notice to holders of valid stock for purposes of K.S.A. 17-6512, 17-6518, 17-6519, 17-6520, 17-6522 and 17-6523, and amendments thereto.

(h) As used in this section and in K.S.A. 2022 Supp. 17-6429, and amendments thereto, only, the terms:

(1) "Defective corporate act" means an overissue, an election or appointment of directors that is void or voidable due to a failure of authorization, or any act or transaction purportedly taken by or on behalf of the corporation that is, and at the time such act or transaction was purportedly taken would have been, within the power of a corporation under the provisions of article 61 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, *without regard to the failure of authorization identified in subsection (b)(1)(D)*, but is void or voidable due to a failure of authorization.

(2) "Failure of authorization" means:

(A) The failure to authorize or effect an act or transaction in compliance with the provisions of this code, the articles of incorporation or bylaws of the corporation, or any plan or agreement to which the corporation is a party *or the disclosure set forth in any proxy or consent solicitation statement*, if and to the extent such failure would render such act or transaction void or voidable; or

(B) the failure of the board of directors or any officer of the corporation to authorize or approve any act or transaction taken by or on behalf of the corporation that would have required for its due authorization the approval of the board of directors or such officer.

(3) "Overissue" means the purported issuance of:

(A) Shares of capital stock of a class or series in excess of the number of shares of such class or series the corporation has the power to issue under K.S.A. 17-6411, and amendments thereto, at the time of such issuance; or

(B) shares of any class or series of capital stock that is not then authorized for issuance by the articles of incorporation of the corporation.

(4) "Putative stock" means the shares of any class or series of capital stock of the corporation, including shares issued upon exercise of options, rights, warrants or other securities convertible into shares of capital stock of the corporation, or interests with respect thereto that were created or issued pursuant to a defective corporate act, that:

(A) But for any failure of authorization, would constitute valid stock; or

(B) cannot be determined by the board of directors to be valid stock.

(5) "Time of the defective corporate act" means the date and time the defective corporate act was purported to have been taken.

(6) "Validation effective time" with respect to any defective corporate act ratified pursuant to this section means the latest of:

(A) The time ~~at which~~ *when* the defective corporate act submitted to the stockholders for approval pursuant to subsection (c) is approved by such stockholders, or if no such vote of stockholders is required to approve the ratification of the defective corporate act, the time ~~at which~~ *when* the board of directors adopts the resolutions required by subsection ~~(b)(1) or (b)(2)~~ *(b)*;

(B) where no certificate of validation is required to be filed

pursuant to subsection (e), the time, if any, specified by the board of directors in the resolutions adopted pursuant to subsection ~~(b)(1) or (b)(2)~~, ~~which time (b)~~ shall not precede the time ~~at which~~ *when* such resolutions are adopted; and

(C) the time ~~at which~~ *when* any certificate of validation filed pursuant to subsection (e) shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto.

(7) "Valid stock" means the shares of any class or series of capital stock of the corporation that have been duly authorized and validly issued in accordance with ~~the Kansas general corporation~~ *this code*.

(i) In the absence of actual fraud in the transaction, the judgment of the board of directors that shares of stock are valid stock or putative stock shall be conclusive, unless otherwise determined by the district court in a proceeding brought pursuant to K.S.A. 2022 Supp. 17-6429, and amendments thereto.

~~(j)~~(j) Ratification under this section or validation under K.S.A. 2022 Supp. 17-6429, and amendments thereto, shall not be deemed to be the exclusive means of ratifying or validating any act or transaction taken by or on behalf of the corporation, including any defective corporate act, or any issuance of stock, including any putative stock, or of adopting or endorsing any act or transaction taken by or in the name of the corporation prior to the commencement of its existence, and the absence or failure of ratification in accordance with either this section or validation under K.S.A. 2022 Supp. 17-6429, and amendments thereto, shall not, of itself, affect the validity or effectiveness of any act or transaction or the issuance of any stock properly ratified under common law or otherwise, nor shall it create a presumption that any such act or transaction is or was a defective corporate act or that such stock is void or voidable.

~~(j) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 21. K.S.A. 2022 Supp. 17-6502 is hereby amended to read as follows: 17-6502. (a) Unless otherwise provided in the articles of incorporation and subject to the provisions of K.S.A. 17-6503, and amendments thereto, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this code to a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

(b) Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for the stockholder by proxy as provided in this subsection, but no such proxy shall be voted or acted upon after three years from its date; unless the proxy provides for a longer period.

(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy pursuant to subsection (b), the following shall constitute a valid means by which a stockholder may grant such authority:

(1) A stockholder, *or such stockholder's authorized representative or agent*, may execute ~~a writing document~~ authorizing another person or persons to act for such stockholder as proxy. ~~Execution may be accomplished by the stockholder or the stockholder's authorized officer, director, employee or agent signing the writing or causing the stockholder's signature to be affixed to the writing by any reasonable means, including, but not limited to, facsimile signature; and~~

(2) a stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting, or authorizing the

transmission of, ~~a means of~~ *an* electronic transmission, including telephonic transmission, to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive the transmission, ~~provided that~~. Any such ~~electronic~~ transmission must either set forth or be submitted with information from which it can be determined that the ~~electronic~~ transmission was authorized by the stockholder. If it is determined that such ~~electronic~~ transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied; *and*

(3) *the authorization of a person to act as a proxy may be documented, signed and delivered in accordance with section 1, and amendments thereto. Such authorization shall set forth, or be delivered with information enabling the corporation to determine, the identity of the stockholder granting such authorization.*

(d) A copy, facsimile telecommunication, or other reliable reproduction of the ~~writing or document, including any electronic transmission, authorized under subsections (c)(1) and (c)(2) may be substituted for the original writing or transmission document for any purpose for which the original writing or transmission document could be used, except that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission document.~~

(e) A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally.

Sec. 22. K.S.A. 2022 Supp. 17-6503 is hereby amended to read as follows: 17-6503. (a) In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, ~~which record date that shall not precede the date upon which when the resolution fixing the record date is adopted by the board of directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the board of directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which when notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which when the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting except that the board of directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this subsection at the adjourned meeting.~~

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action ~~in writing~~ without a meeting *in accordance with K.S.A. 17-6518, and amendments thereto*, the board of directors may fix a record date ~~which record date that shall not precede~~

the date ~~upon which~~ *when* the resolution fixing the record date is adopted by the board of directors; and ~~which date~~ shall not be more than 10 days after the date ~~upon which~~ *when* the resolution fixing the record date is adopted by the board of directors. If no record date has been fixed by the board of directors, the record date for determining stockholders entitled to consent to corporate action ~~in writing~~ without a meeting, when no prior action by the board of directors is required by this code, shall be the first date ~~on which~~ *when* a signed ~~written~~ consent setting forth the action taken or proposed to be taken is delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested in accordance with K.S.A. 17-6518(d), and amendments thereto.~~ If no record date has been fixed by the board of directors and prior action by the board of directors is required by this code, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day ~~on which~~ *when* the board of directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, ~~which record date~~ *that* shall not precede the date ~~upon which~~ *when* the resolution fixing the record date is adopted; and ~~which record date~~ shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day ~~on which~~ *when* the board of directors adopts the resolution relating thereto.

Sec. 23. K.S.A. 2022 Supp. 17-6509 is hereby amended to read as follows: 17-6509. (a) ~~The officer who has charge of the stock ledger of a corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, except that if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date, arranged in alphabetical order, and showing the postal address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (1) On a reasonably accessible electronic network, provided if that the information required to gain access to such list is provided with the notice of the meeting; or (2) during ordinary business hours, at the principal place of business of the corporation. In the event that~~ *If* the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and

the information required to access such list shall be provided with the notice of the meeting.

(b) If the corporation, or an officer or agent thereof, refuses to permit examination of the list by a stockholder, such stockholder may apply to the district court for an order to compel the corporation to permit such examination. The burden of proof shall be on the corporation to establish that the examination such stockholder seeks is for a purpose not germane to the meeting. The court may summarily order the corporation to permit examination of the list upon such conditions as the court may deem appropriate, and may make such additional orders as may be appropriate, including, without limitation, postponing the meeting or voiding the results of the meeting.

(c) *For purposes of this code, "stock ledger" means one or more records administered by or on behalf of the corporation in which the names of all of the corporation's stockholders of record, the address and number of shares registered in the name of each such stockholder and all issuances and transfers of stock of the corporation are recorded in accordance with K.S.A. 17-6514, and amendments thereto.* The stock ledger shall be the only evidence as to who are the stockholders entitled by this section to examine the list required by this section or to vote in person or by proxy at any meeting of stockholders.

Sec. 24. K.S.A. 2022 Supp. 17-6512 is hereby amended to read as follows: 17-6512. (a) Whenever stockholders are required or permitted to take any action at a meeting, a ~~written~~ notice of the meeting shall be given ~~which~~ *that* shall state the place, if any, date and hour of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Unless otherwise provided in this code, the ~~written~~ notice of any meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. ~~If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given shall be prima facie evidence of the facts stated therein in the absence of fraud.~~

(c) When a meeting is adjourned to another time or place, unless the bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business ~~which~~ *that* might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If, after the adjournment, a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with K.S.A. 17-6503(a), and amendments thereto, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as

of the record date fixed for notice of such adjourned meeting.

Sec. 25. K.S.A. 2022 Supp. 17-6514 is hereby amended to read as follows: 17-6514. Any records ~~maintained~~ *administered by a or on behalf of the corporation* in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of any information storage device ~~or, method~~ *provided that, or one or more electronic networks or databases, including one or more distributed electronic networks or databases, if the records so kept can be converted into clearly legible paper form within a reasonable time and, with respect to the stock ledger: (a) Can be used to prepare the list of stockholders specified in K.S.A. 17-6509 and 17-6510, and amendments thereto; (b) contain the information specified in K.S.A. 17-6406, 17-6409, 17-6507(a) and 17-6508, and amendments thereto; and (c) include transfers of stock as governed by article 8 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto.* Any corporation shall ~~so~~ convert any records so kept *into clearly legible paper form* upon the request of any person entitled to inspect such records pursuant to any provision of this code. When records are kept in such manner, a clearly legible paper form ~~produced~~ *prepared* from or by the means of the information storage device ~~or, method, or one or more electronic networks or databases, including one or more distributed electronic networks or databases,~~ shall be *valid and* admissible in evidence and shall be accepted for all other purposes, to the same extent as an original paper record of the same information would have been, ~~provided if the paper form accurately portrays the record.~~

Sec. 26. K.S.A. 2022 Supp. 17-6518 is hereby amended to read as follows: 17-6518. (a) Unless otherwise provided in the articles of incorporation, any action required by this code to be taken at any annual or special meeting of stockholders of a corporation, or any action ~~which that~~ may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents ~~in writing,~~ setting forth the action so taken, are signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested in the manner required by this section.~~

(b) Unless otherwise provided in the articles of incorporation, any action required by this code to be taken at a meeting of the members of a nonstock corporation, or any action ~~which that~~ may be taken at any meeting of the members of a nonstock corporation, may be taken without a meeting, without prior notice and without a vote, if a consent or consents ~~in writing,~~ setting forth the action so taken, are signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members having a right to vote thereon were present and voted and shall be delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested in the manner required by this section.~~

(c) Every written consent shall bear the date of signature of each

~~stockholder or member who signs the consent, and~~ *A consent must be set forth in writing or in an electronic transmission.* No ~~written~~ consent shall be effective to take the corporate action referred to ~~therein~~ *in such consent* unless, ~~within 60 days of the earliest dated consent delivered in the manner required by this section to the corporation,~~ written consents signed by a sufficient number of holders or members to take action are delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded.~~ Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested *in the manner required by this section within 60 days of the first date when a consent is so delivered to the corporation.* Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made, ~~and, for the purposes of this section, if evidence of such instruction or provision is provided to the corporation, such later effective time shall serve as the date of signature.~~ Unless otherwise provided, any such consent shall be revocable prior to its becoming effective. *All references to a "consent" in this section mean a consent permitted by this section.*

(d) (1) ~~Any electronic transmission consenting to an action to be taken and transmitted by a stockholder, member or proxyholder, or by a person or persons authorized to act for a stockholder, member or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such electronic transmission sets forth or is delivered with information from which the corporation can determine: (A) That the electronic transmission was transmitted by the stockholder, member or proxyholder or by a person or persons authorized to act for the stockholder, member or proxyholder; and (B) the date on which such stockholder, member or proxyholder or authorized person or persons transmitted such electronic transmission. The date on which such electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, any consent or consents given by electronic transmission, may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded if, to the extent and in the manner provided by resolution of the board of directors or governing body of the corporation~~ *A consent permitted by this section shall be delivered: (A) To the principal place of business of the corporation; (B) to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded; (C) to the registered office of the corporation in this state by hand or by certified or registered mail, return receipt requested; or (D) subject to paragraph (2), in accordance with section 1, and amendments thereto, to an information processing system, if any, designated by the corporation for receiving*

such consents.

(2) *In the case of delivery pursuant to subsection (d)(1)(D), such consent must set forth or be delivered with information that enables the corporation to determine the date of delivery of such consent and the identity of the person giving such consent, and, if such consent is given by a person authorized to act for a stockholder or member as proxy, such consent must comply with the applicable provisions of K.S.A. 17-6502(c)(2) and (c)(3), and amendments thereto.*

(3) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, ~~provided that~~. Such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing. *A consent may be documented and signed in accordance with section 1, and amendments thereto, and when so documented or signed shall be deemed to be in writing for purposes of this code. If such consent is delivered pursuant to subsection (d)(1)(A), (B) or (C), such consent must be reproduced and delivered in paper form.*

(e) Prompt notice of the taking of any corporate action without a meeting by less than unanimous ~~written~~ consent shall be given to those stockholders or members who have not consented ~~in writing~~ and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that ~~a written~~ consent or consents signed by a sufficient number of stockholders or members to take the action were delivered to the corporation as provided in ~~subsection (e)~~ *this section*. In the event that the action ~~which~~ *that* is consented to is such as would have required the filing of a certificate under any other section of this code, if such action had been voted on by stockholders or members at a meeting thereof, the certificate filed under such other section shall state, in lieu of any statement required by such section concerning any vote of stockholders or members, that ~~written~~ consent has been given in accordance with the provisions of this section.

Sec. 27. K.S.A. 17-6520 is hereby amended to read as follows: 17-6520. (a) Whenever notice is required to be given, under any provision of this act or of the articles of incorporation or bylaws of any corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting ~~which shall be~~ *that is* taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this act, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(b) Whenever notice is required to be given, under any provision of this act or the articles of incorporation or bylaws of any corporation, to any stockholder or, if the corporation is a nonstock corporation, to any member, to whom (1) notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to such person during the period between such two consecutive annual meetings, or (2) all, and at least two payments, if sent by first class mail, of dividends or interest on securities during a 12-month period, have been mailed addressed to such person at such person's *postal* address as shown on the records of the corporation and have been returned undeliverable, the giving of such notice to such

person shall not be required. Any action or meeting ~~which shall be~~ *that is* taken or held without notice to such person shall have the same force and effect as if such notice had been duly given. If any such person shall deliver to the corporation a written notice setting forth such person's then current *postal* address, the requirement that notice be given to such person shall be reinstated. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this chapter, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

(c) The exception in subsection (b)(1) to the requirement that notice be given shall not be applicable to:

(1) Any notice returned as undeliverable if the notice was given by electronic transmission; *or*

(2) *any stockholder or member whose electronic mail address appears on the records of the corporation and to whom notice by electronic transmission is not prohibited by K.S.A. 17-6522, and amendments thereto.*

Sec. 28. K.S.A. 2022 Supp. 17-6522 is hereby amended to read as follows: 17-6522. (a) *Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this code or the articles of incorporation or bylaws may be given in writing directed to the stockholder's postal address, or by electronic transmission directed to the stockholder's electronic mail address, as applicable, as it appears on the records of the corporation and shall be given: (1) If mailed, when the notice is deposited in the U.S. mail, postage prepaid; (2) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address; or (3) if given by electronic mail, when directed to such stockholder's electronic mail address unless the stockholder has notified the corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by subsection (e). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the corporation.*

(b) *Without limiting the manner by which notice otherwise may be given effectively to stockholders, but subject to subsection (e), any notice to stockholders given by the corporation under any provision of this code; or the articles of incorporation; or ~~the~~ bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice or electronic transmission to the corporation. ~~Any such consent shall be deemed revoked if: (1) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice. The inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.~~ A corporation may give a notice by electronic mail in accordance with subsection (a) without obtaining the consent required by this subsection.*

~~(b)~~(c) Notice given pursuant to subsection ~~(a)~~ (b) shall be deemed given:

(1) If by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(2) ~~if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;~~ (3) if by a posting on an electronic network together with separate notice to the

stockholder of such specific posting, upon the later of:

- (A) Such posting; and
- (B) the giving of such separate notice; and

~~(4)(3)~~ if by any other form of electronic transmission, when directed to the stockholder. ~~An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission, in the absence of fraud, shall be prima facie evidence of the facts stated therein.~~

~~(e)(d)~~ For purposes of this code,:

(1) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, *including the use of, or participation in, one or more electronic networks or databases or one or more distributed electronic networks or databases*, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process;

(2) "*electronic mail*" means an electronic transmission directed to a unique electronic mail address, including any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information; and

(3) "*electronic mail address*" means a destination, commonly expressed as a string of characters, consisting of a unique username or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(e) Notwithstanding the provisions of this section, a notice shall not be given by an electronic transmission from and after the time that the corporation is unable to deliver by such electronic transmission two consecutive notices given by the corporation and such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice, but the inadvertent failure to discover such inability shall not invalidate any meeting or other action.

(f) An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in the affidavit.

~~(d)(g)~~ No provision of this section, except for subsections (a)(1), (d)(2) and (d)(3), shall ~~not~~ apply to K.S.A. 17-6414, 17-6906, 17-7001 or 17-7002, and amendments thereto.

Sec. 29. K.S.A. 2022 Supp. 17-6701 is hereby amended to read as follows: 17-6701. (a) Any two or more corporations ~~existing under the laws~~ of this state may merge into a single *surviving* corporation, ~~which that~~ may be any one of the constituent corporations or may consolidate into a new *resulting* corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) The board of directors of each corporation ~~which that~~ desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation and declaring its ~~advisability~~ *advisability*. The agreement shall state: (1) The terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, ~~which amendments or changes~~ may amend

and restate the articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation; (4) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the agreement; (5) the manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which~~ *that* the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of any certificates evidencing them, ~~which and such~~ cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the surviving or resulting corporation; and (6) such other details or provisions as are deemed desirable, including, without limiting the generality of ~~the foregoing~~ *this subsection*, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, ~~interests~~ or rights *or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation*, or for any other arrangement with respect thereto, consistent with the provisions of K.S.A. 17-6405, and amendments thereto. The agreement so adopted shall be executed *by an authorized person, except that if the agreement is filed, it shall be executed* in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto. Any terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, ~~provided that~~ *if* the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. ~~The term~~ "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) (1) The agreement required by subsection (b) shall be submitted to the stockholders of each constituent corporation at an annual or special meeting for the purpose of acting on the agreement.

(2) Due notice of the time, place and purpose of the meeting shall be ~~mailed~~ *given* to each holder of stock, whether voting or nonvoting, of the corporation at the stockholder's *postal* address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof.

(3) At the meeting the agreement shall be considered and a vote taken for its adoption or rejection. If a majority of the outstanding stock of the corporation entitled to vote thereon shall be voted for the adoption of the agreement, that fact shall be certified on the agreement by the secretary or assistant secretary of the corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement shall be so adopted and certified by each constituent corporation, it shall then be filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7910 and 17-7911, and amendments thereto.

(4) In lieu of filing the agreement of merger or consolidation required by this section, the surviving or resulting corporation may file

a certificate of merger or consolidation, executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, ~~which~~ *that* states:

(A) The name and state of incorporation of each of the constituent corporations;

(B) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section;

(C) the name of the surviving or resulting corporation;

(D) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, ~~which amendments or changes~~ may amend and restate the articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation shall be the articles of incorporation of the surviving corporation;

(E) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the certificate;

(F) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation, stating the address thereof; and

(G) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation.

(d) (1) Any agreement of merger or consolidation may contain a provision that at any time prior to the time that the agreement, or a certificate in lieu thereof, filed with the secretary of state becomes effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, the agreement may be terminated by the board of directors of any constituent corporation notwithstanding approval of the agreement by the stockholders of all or any of the constituent corporations; in the event the agreement of merger or consolidation is terminated after the filing of the agreement, or a certificate in lieu thereof, with the secretary of state but before the agreement, or a certificate in lieu thereof, has become effective, a certificate of termination of merger or consolidation shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto.

(2) Any agreement of merger or consolidation may contain a provision that the boards of directors of the constituent corporations may amend the agreement at any time prior to the time that the agreement, or a certificate in lieu thereof, filed with the secretary of state becomes effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, except that an amendment made subsequent to the adoption of the agreement by the stockholders of any constituent corporation shall not:

~~(1)~~(A) Alter or change the amount or kind of shares, securities, cash, property or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such constituent corporation;

~~(2)~~(B) alter or change any term of the articles of incorporation of the surviving or resulting corporation to be effected by the merger or consolidation; or

~~(3)~~(C) alter or change any of the terms and conditions of the agreement if such alteration or change would adversely affect the holders of any class or series thereof of such constituent corporation. In the event the agreement of merger or consolidation is amended after the filing thereof with the secretary of state but before the agreement has become effective, a certificate of amendment of merger or

consolidation shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto.

(e) In the case of a merger, the articles of incorporation of the surviving corporation shall automatically be amended to the extent, if any, that changes in the articles of incorporation are set forth in the agreement of merger.

(f) (1) Notwithstanding the requirements of subsection (c), unless required by its articles of incorporation, no vote of stockholders of a constituent corporation surviving a merger shall be necessary to authorize a merger if:

(A) The agreement of merger does not amend in any respect the articles of incorporation of such constituent corporation;

(B) each share of stock of such constituent corporation outstanding immediately prior to the effective date of the merger is to be an identical outstanding or treasury share of the surviving corporation after the effective date of the merger; and

(C) either no shares of common stock of the surviving corporation and no shares, securities or obligations convertible into such stock are to be issued or delivered under the plan of merger, or the authorized unissued shares or the treasury shares of common stock of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan do not exceed 20% of the shares of common stock of such constituent corporation outstanding immediately prior to the effective date of the merger.

(2) No vote of stockholders of a constituent corporation shall be necessary to authorize a merger or consolidation if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

(3) If an agreement of merger is adopted by the constituent corporation surviving the merger, by action of its board of directors and without any vote of its stockholders pursuant to this subsection, the secretary or assistant secretary of that corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and:

(A) If it has been adopted pursuant to subsection (f)(1), that the conditions specified in that subsection have been satisfied; or

(B) if it has been adopted pursuant to subsection (f)(2), that no shares of stock of such corporation were issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

(4) The agreement so adopted and certified shall then be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(g) Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation shall be necessary to authorize a merger with or into a single direct or indirect wholly-owned subsidiary of such constituent corporation if:

(1) Such constituent corporation and the direct or indirect wholly-owned subsidiary of such constituent corporation are the only constituent entities to the merger;

(2) each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effective

time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof, as the share of stock of the constituent corporation being converted in the merger;

(3) the holding company and the constituent corporation are corporations of this state and the direct or indirect wholly-owned subsidiary that is the other constituent entity to the merger is a corporation or limited liability company of this state;

(4) the articles of incorporation and bylaws of the holding company immediately following the effective time of the merger contain provisions identical to the articles of incorporation and bylaws of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;

(5) as a result of the merger the constituent corporation or its successor becomes or remains a direct or indirect wholly-owned subsidiary of the holding company;

(6) the directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger;

(7) (A) *with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted on or after July 1, 2023, the organizational documents of the surviving entity immediately following the effective time of the merger contain provisions identical to the articles of incorporation of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than stockholders or shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;*

(B) *if the organizational documents of the surviving entity do not contain the following provisions, such documents shall be amended in the merger to contain provisions requiring that:*

(i) *Any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that requires, if taken by the constituent corporation immediately prior to the effective time of the merger, would require, for its adoption under this code or its organizational documents under the articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger, the approval of the stockholders or members of the surviving entity of the constituent corporation shall, by specific reference to this subsection, require, in addition to approval of the stockholders or members of the surviving*

entity, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the ~~organizational documents of the surviving entity articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger~~, or both. For purposes of this clause, any surviving entity that is not a corporation shall include in such amendment a requirement that the approval of the stockholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, which would require the approval of the stockholders of the surviving entity if the surviving entity were a corporation subject to this code;

(ii) any amendment of the organizational documents of a surviving entity that is not a corporation, ~~which amendment that~~ would, if adopted by a corporation subject to this code, be required to be included in the articles of incorporation of such corporation, shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the ~~organizational documents of the surviving entity articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger~~, or both; and

~~(iii)~~(ii) the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to this code; and

~~(C) the organizational documents of the surviving entity may be amended in the merger to: (i) Reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue; and (ii) eliminate any provision authorized by K.S.A. 17-6301(d), and amendments thereto; and~~

(B) with respect to mergers or consolidations consummated prior to July 1, 2023:

(i) The organizational documents of the surviving entity immediately following the effective time of the merger contain provisions identical to the articles of incorporation of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than stockholders or shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;

(ii) if the organizational documents of the surviving entity do not contain the following provisions, such documents shall be amended in the merger to contain provisions requiring that:

(a) Any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that requires for its adoption under this code or its organizational documents the approval of the stockholders or members

of the surviving entity shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity, or both. For purposes of this subclause, any surviving entity that is not a corporation shall include in such amendment a requirement that the approval of the stockholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that would require the approval of the stockholders of the surviving entity if the surviving entity were a corporation subject to this code;

(b) any amendment of the organizational documents of a surviving entity that is not a corporation that would, if adopted by a corporation subject to this code, be required to be included in the articles of incorporation of such corporation, shall require, by specific reference to this subsection, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity or both; and

(c) the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to this code; and

(iii) the organizational documents of the surviving entity may be amended in the merger to:

(a) Reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue; and

(b) eliminate any provision authorized by K.S.A. 17-6301(d), and amendments thereto; and

(8) the stockholders of the constituent corporation do not recognize gain or loss for United States federal income tax purposes as determined by the board of directors of the constituent corporation. Neither subsection (g)(7)(~~B~~) nor any provision of a surviving entity's organizational documents required by subsection (g)(7)(~~B~~) shall be deemed or construed to require approval of the stockholders of the holding company to elect or remove directors or managers, managing members or other members of the governing body of the surviving entity.

~~The term "Organizational documents," as used in subsections (g)(7) and (g)(8), when used in reference to a corporation, means the articles of incorporation of such corporation and, when used in reference to a limited liability company, means the articles of organization or operating agreement of such limited liability company.~~

As used in this subsection, ~~the term~~ "holding company" means a corporation ~~which~~ that, from its incorporation until consummation of a merger governed by this subsection, was at all times a direct or indirect wholly-owned subsidiary of the constituent corporation and whose capital stock is issued in such merger. From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection: (1) To the extent the restriction of K.S.A. 2022 Supp. 17-6427, and amendments thereto, applied to the constituent corporation and its stockholders at the effective time of the merger, such restrictions shall apply to the holding company and its stockholders immediately after the effective time of the merger as though it were the constituent

corporation, and all shares of stock of the holding company acquired in the merger shall for purposes of K.S.A. 2022 Supp. 17-6427, and amendments thereto, be deemed to have been acquired at the time that the shares of stock of the constituent corporation converted in the merger were acquired, ~~and provided further that~~. Any stockholder who immediately prior to the effective time of the merger was not an interested stockholder within the meaning of K.S.A. 2022 Supp. 17-6427, and amendments thereto, shall not solely by reason of the merger become an interested stockholder of the holding company; (2) if the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the constituent corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of the constituent corporation; and (3) to the extent a stockholder of the constituent corporation immediately prior to the merger had standing to institute or maintain derivative litigation on behalf of the constituent corporation, nothing in this section shall be deemed to limit or extinguish such standing. If an agreement of merger is adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection, the secretary or assistant secretary of the constituent corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in the first sentence of this subsection have been satisfied, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is ~~filled~~ *filed* in lieu of filing the agreement. The agreement so adopted and certified shall then be executed, filed and become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(h) (1) Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation ~~whose shares are~~ *that has a class or series of stock that is* listed on a national securities exchange or held of record by more than 2,000 holders immediately prior to the execution of the agreement of merger by such constituent corporation shall be necessary to authorize a merger if:

(A) The agreement of merger expressly:

(i) Permits or requires such merger to be effected under this subsection; and

(ii) provides that such merger shall be effected as soon as practicable following the consummation of the offer referred to in subsection ~~(i)(1)(B)~~ *(h)(1)(B)* if such merger is effected under this subsection;

(B) a corporation consummates ~~a tender or exchange~~ *an offer for any and all of the outstanding stock of such constituent corporation on the terms provided in such agreement of merger that, absent this subsection, would be entitled to vote on the adoption or rejection of the agreement of merger, except that such offer may exclude stock of such constituent corporation that is owned at the commencement of such offer by:* (i) Such constituent corporation; (ii) the corporation making such offer; (iii) any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer; or (iv) any direct or indirect wholly owned subsidiary of any of the foregoing *be conditioned on the tender of a minimum number or percentage of*

shares of stock of such constituent corporation, or of any class or series thereof, and such offer may exclude any excluded stock. The corporation may consummate separate offers for separate classes or series of the stock of such constituent corporation;

(C) *immediately following the consummation of the offer referred to in subsection ~~(i)(1)(B)~~ (h)(1)(B), the stock irrevocably accepted for purchase or exchange pursuant to such offer and received by the depository prior to expiration of such offer, plus together with the stock otherwise owned by the consummating corporation or its affiliates and any rollover stock, equals at least such percentage of the shares of stock of such constituent corporation, and of each class or series thereof, of such constituent corporation that, absent this subsection, would be required to adopt the agreement of merger by this code and by the articles of incorporation of such constituent corporation;*

(D) *the corporation consummating the offer described in subsection ~~(i)(1)(B)~~ (h)(1)(B) merges with or into such constituent corporation pursuant to such agreement; and*

(E) *each outstanding share, other than shares of excluded stock, of each class or series of stock of the such constituent corporation that is the subject of and is not irrevocably accepted for purchase or exchange in the offer referred to in subsection ~~(i)(1)(B)~~ (h)(1)(B) is to be converted in such merger into, or into the right to receive, the same amount and kind of cash, property, rights or securities to be paid for shares of such class or series of stock of such constituent corporation irrevocably accepted for purchase or exchange in such offer.*

(2) *As used in this subsection, the term:*

(A) *"Affiliate" means, in respect of the corporation making the offer referred to in subsection (h)(1)(B), any person that:*

(i) *Owens, directly or indirectly, all of the outstanding stock of such corporation; or*

(ii) *is a direct or indirect wholly-owned subsidiary of such corporation or of any person referred to in clause (i);*

(B) *"consummates," and with correlative meaning, "consummation" and "consummating," means irrevocably accepts for purchase or exchange stock tendered pursuant to a tender or exchange an offer;*

~~(B)~~(C) *"depository" means an agent, including a depository, appointed to facilitate consummation of the offer referred to in subsection ~~(i)(1)(B)~~ (h)(1)(B);*

~~(C)~~(D) *"excluded stock" means:*

(i) *Stock of such constituent corporation that is owned at the commencement of the offer referred to in subsection (h)(1)(B) by such constituent corporation, the corporation making the offer referred to in subsection (h)(1)(B), any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer or any direct or indirect wholly-owned subsidiary of any of the foregoing; and*

(ii) *rollover stock;*

(E) *"person" means any individual, corporation, partnership, limited liability company, unincorporated association or other entity; and*

~~(D)~~(F) *"received," solely for purposes of subsection ~~(i)(1)(C)~~ (h)(1)(C), means:*

(i) *With respect to certificated shares, physical receipt of a stock certificate in the case of certificated shares and transfer into the depository's account, or an agent's message being received by the depository, in the case of uncertificated shares accompanied by an executed letter of transmittal;*

(ii) *with respect to uncertificated shares held of record by a clearing corporation as nominee, transfer into the depository's account*

by means of an agent's message; and

(iii) with respect to uncertificated shares held of record by a person other than a clearing corporation as nominee, physical receipt of an executed letter of transmittal by the depository, except that shares shall cease to be "received" pursuant to the following:

(a) With respect to certificated shares, if the certificate representing such shares was canceled prior to consummation of the offer referred to in subsection (h)(1)(B); or

(b) with respect to uncertificated shares, to the extent such uncertificated shares have been reduced or eliminated due to any sale of such shares prior to consummation of the offer referred to in subsection (h)(1)(B); and

(G) "rollover stock" means any shares of stock of such constituent corporation that are the subject of a written agreement requiring such shares to be transferred, contributed or delivered to the consummating corporation or any of its affiliates in exchange for stock or other equity interests in such consummating corporation or an affiliate thereof, except that such shares of stock shall cease to be rollover stock for purposes of subsection (h)(1)(C) if, immediately prior to the time the merger becomes effective under this code, such shares have not been transferred, contributed or delivered to the consummating corporation or any of its affiliates pursuant to such written agreement.

(3) If an agreement of merger is adopted without the vote of stockholders of a corporation pursuant to this subsection, the secretary or assistant secretary of the surviving corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in this subsection, other than the condition listed in subsection ~~(i)(1)(D)~~ (h)(1)(D), have been satisfied, except that such certification on the agreement shall not be required if a certificate of merger is filed in lieu of filing the agreement. The agreement so adopted and certified shall then be executed and filed and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(4) This subsection shall be effective only with respect to merger agreements entered into on or after July 1, 2023. This subsection, prior to its amendment by this act, shall be effective with respect to merger agreements entered into before July 1, 2023.

Sec. 30. K.S.A. 2022 Supp. 17-6702 is hereby amended to read as follows: 17-6702. (a) Any one or more corporations of this state may merge or consolidate with one or more ~~other corporations of any other state or states of the United States, or of the District of Columbia if the laws of such other jurisdiction permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction~~ foreign corporations unless the laws of the jurisdiction or jurisdictions under which such foreign corporation or corporations are organized prohibit such merger or consolidation. The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* corporation formed by the consolidation, which may be a corporation of the ~~state jurisdiction of incorporation~~ organization of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. ~~In addition, any one or more corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more corporations existing under the laws of this state, if the laws under~~

~~which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction.~~

(b) (1) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

~~(1)(A)~~ (A) The terms and conditions of the merger or consolidation;

~~(2)(B)~~ (B) the mode of carrying the same into effect;

~~(3)(C)~~ (C) *in the case of a merger in which the surviving corporation is a domestic corporation, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

~~(D)~~ (D) *in the case of a consolidation in which the resulting corporation is a domestic corporation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;*

~~(E)~~ (E) the manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which~~ *that* the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of any certificates evidencing them, ~~which and such~~ cash, property, rights or securities of any other corporation may be in addition to or in lieu of the shares or other securities of the surviving or resulting corporation; ~~(4)~~

~~(F)~~ (F) such other details or provisions as are deemed desirable, including, without limiting the generality of ~~the foregoing this paragraph,~~ a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, *rights or other securities* of the surviving or resulting corporation or of any other corporation *or entity* the *shares, rights or other securities* of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto consistent with the provisions of K.S.A. 17-6405, and amendments thereto; and

~~(5)(G)~~ (G) such other provisions or facts as shall be required to be set forth in ~~articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the~~ *an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving or resulting foreign corporation and that can be stated in the case of a merger or consolidation by the laws of each jurisdiction under which any of the foreign corporations are organized.*

(2) Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, ~~provided that~~ *if* the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. ~~The term "Facts," as used in the preceding sentence, this paragraph, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.~~

(c) The agreement shall be adopted, approved, certified and executed by each of the constituent corporations in accordance with the

laws under which it is ~~formed~~ *organized*, and, in the case of a ~~Kansas domestic~~ corporation, in the same manner as provided in K.S.A. 17-6701, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger or consolidation of corporations of this state. In lieu of filing the agreement of merger or consolidation, the surviving or resulting corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, ~~which that~~ states:

(1) The name and jurisdiction of ~~incorporation~~ *organization* of each of the constituents;

(2) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section;

(3) the name of the surviving or resulting corporation;

(4) in the case of a merger *in which the surviving corporation is a domestic corporation*, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, ~~which amendments or changes~~ may amend and restate the articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;

(5) in the case of a consolidation *in which the resulting corporation is a domestic corporation*, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the certificate;

(6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation and the address thereof;

(7) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation;

(8) if the corporation surviving or resulting from the merger or consolidation is ~~to be a domestic corporation of this state~~, the authorized capital stock of each constituent corporation ~~which that~~ is not a *domestic corporation of this state*; and

(9) the agreement, if any, required by subsection (d).

(d) If the corporation surviving or resulting from the merger or consolidation is ~~to be governed by the laws of the District of Columbia or any state or jurisdiction other than this state~~ *a foreign corporation*, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent *domestic corporation of this state*, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any stockholders as determined in appraisal proceedings pursuant to K.S.A. 17-6712, and amendments thereto, and shall irrevocably appoint the secretary of state as its agent to accept service of process in any such suit or other proceedings and shall specify the *postal* address to which a copy of such process shall be mailed by the secretary of state. Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to ~~issue~~ *adopt* such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall ~~forthwith~~

immediately notify such surviving or resulting corporation thereof by letter, directed to such surviving or resulting corporation at its address so specified, unless such surviving or resulting corporation shall have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the secretary of state pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being effected pursuant to this subsection and to pay the secretary of state the sum of \$40 for the use of the state, ~~which~~. *Such* sum and any administrative fees shall be taxed as part of the costs of the proceeding; if the plaintiff ~~shall prevail therein~~ *prevails*. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information longer than five years from receipt of the service of process.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to any merger or consolidation under this section; K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving corporation is a *domestic* corporation ~~of this state~~; and K.S.A. 17-6701(f) and (h), and amendments thereto, shall apply to any merger under this section.

Sec. 31. K.S.A. 2022 Supp. 17-6703 is hereby amended to read as follows: 17-6703. (a) In any case in which at least 90% of the outstanding shares of each class of the stock of a corporation or corporations, other than a corporation ~~which~~ *that* has in its articles of incorporation the provisions required by K.S.A. 17-6701(g)(7)(B), and amendments thereto, of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger, is owned by ~~another corporation and one of the corporations~~ is a *domestic* corporation ~~of this state and the other or others are corporations of this state, or any other state or states, or the District of Columbia and the laws of the other state or states, or the District of Columbia permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction, the corporation having such stock ownership may either merge the other or a foreign corporation and one or more of such corporations is a domestic corporation, unless the laws of the jurisdiction or jurisdictions under which the foreign corporation or corporations are organized prohibit such merger, the parent corporation may either merge the subsidiary corporation or corporations into itself and assume all of its or their obligations, or merge itself, or itself and one or more of such other subsidiary corporations, into one of such other subsidiary corporations by executing and filing, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, a certificate of such ownership and merger setting forth a copy of the resolution of its board of directors to so merge and the date of the adoption thereof, except that in case the parent corporation shall not own all the outstanding stock of all the subsidiary corporations, parties to a merger as provided in this section, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, property or rights to be issued, paid, delivered or granted by the surviving corporation upon surrender of each share of the subsidiary corporation or corporations not owned by the parent corporation, or the cancellation of some or all of such shares. Any of~~

the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of such resolution; ~~provided that~~ if the manner in which such facts shall operate upon the terms of the resolution is clearly and expressly set forth in the resolution. ~~The term~~ "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. If the parent corporation ~~be is~~ not the surviving corporation, the resolution shall include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificates therefor, and the certificate of ownership and merger shall state that the proposed merger has been approved by a majority of the outstanding stock of the parent corporation entitled to vote thereon at a meeting duly called and held after 20 days' notice of the purpose of the meeting ~~mailed given~~ to each such stockholder at the stockholder's *postal* address as it appears on the records of the corporation, if the parent corporation is a *domestic* corporation ~~of this state~~, or the certificate shall state that the proposed merger has been adopted, approved, certified and executed by the parent corporation in accordance with the laws under which it is organized, if the parent corporation is ~~not a~~ *foreign* corporation ~~of this state~~.

~~(b)~~ If the surviving corporation ~~exists under the laws of the District of Columbia or any state or jurisdiction other than this state is~~ a *foreign* corporation:

(1) K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable, shall also apply to a merger under this section; and

(2) the terms and conditions of the merger shall obligate the surviving corporation to provide the agreement and take the actions required by K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable.

~~(b)(c)~~ If the surviving corporation is a ~~Kansas~~ *domestic* corporation, it may change its corporate name by the inclusion of a provision to that effect in the resolution of merger adopted by the directors of the parent corporation and set forth in the certificate of ownership and merger, and upon the effective date of the merger, the name of the corporation shall be changed.

~~(e)(d)~~ K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section; and K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving corporation is the subsidiary corporation and is a *domestic* corporation ~~of this state~~. References to "agreement of merger" in K.S.A. 17-6701(d) and (e), and amendments thereto, shall mean, for purposes of this subsection, the resolution of merger adopted by the board of directors of the parent corporation. Any merger ~~which that~~ effects any changes other than those authorized by this section or made applicable by this subsection shall be accomplished under the provisions of K.S.A. 17-6701, 17-6702, 17-6707 or 17-6708, and amendments thereto. K.S.A. 17-6712, and amendments thereto, shall not apply to any merger effected under this section, except as provided in subsection ~~(d)~~ (e).

~~(d)(e)~~ In the event all of the stock of a subsidiary ~~Kansas~~ *domestic* corporation party to a merger effected under this section is not owned by the parent corporation immediately prior to the merger, the stockholders of the subsidiary ~~Kansas~~ *domestic* corporation party to the merger shall have appraisal rights as set forth in K.S.A. 17-6712, and amendments thereto.

~~(e)~~ A merger may be effected under this section although one or more of the corporations parties to the merger is a corporation

~~organized under the laws of a jurisdiction other than one of the United States, if the laws of such jurisdiction permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction.~~

(f) This section shall apply to nonstock corporations if the parent corporation is such a corporation and is the surviving corporation of the merger, except that references to the directors of the parent corporation shall be deemed to be references to members of the governing body of the parent corporation, and references to the board of directors of the parent corporation shall be deemed to be references to the governing body of the parent corporation.

(g) Nothing in this section shall be deemed to authorize the merger of a corporation with a charitable nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired.

Sec. 32. K.S.A. 2022 Supp. 17-6705 is hereby amended to read as follows: 17-6705. (a) Any two or more nonstock corporations of this state, whether or not organized for profit, may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* nonstock corporation, whether or not organized for profit, formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) Subject to subsection (d), the governing body of each corporation ~~which~~ *that* desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation, *and the agreement shall be executed by an authorized person in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, and if the agreement is filed, it shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto.* The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;

~~(3) such other provisions or facts required or permitted by this code to be stated in articles of incorporation for nonstock corporations as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require~~*in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

~~(4) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as set forth in an attachment to the agreement;~~

~~(5) the manner, if any, of converting the memberships or membership interests of each of the constituent corporations into memberships or membership interests of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such memberships or membership interests, and, if any memberships or membership interests of any of the constituent corporations are not to remain outstanding, to be converted solely into memberships or membership interests of the surviving or resulting corporation, or to be cancelled, the cash, property, rights or securities of any other corporation or entity that the holders of such memberships or membership interests are to receive in exchange for, or upon conversion of, such memberships or membership interests and such cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of memberships or membership~~

interests of the surviving or resulting corporation; and

~~(5)~~(6) such other details or provisions as are deemed desirable, including, but not limited to, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, ~~provided that if~~ the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. ~~The term~~ "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) Subject to subsection (d), the agreement shall be submitted to the members of each constituent corporation at an annual or special meeting thereof for the purpose of acting on the agreement. Due notice of the time, place and purpose of the meeting shall be ~~mailed~~ given to each member of each such corporation who has the right to vote for the election of the members of the governing body of the corporation and to each other member who is entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of such corporation, at the member's *postal* address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof. At the meeting the agreement shall be considered and a vote, in person or by proxy, taken for the adoption or rejection of the agreement. The following vote shall be required for the adoption of the agreement: (1) A majority of the members of each corporation entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of the corporation, except those corporations that are the subject of paragraph (2); or (2) in the case of a nonstock, nonprofit corporation, other than a nonprofit dental service corporation organized and operated under the nonprofit dental service corporation act, ~~cited at K.S.A. 40-19a01 et seq., and amendments thereto~~; a majority of the members of each corporation entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of the corporation voting at the meeting. If the agreement is so adopted, that fact shall be certified on the agreement by the officer of each such corporation performing the duties ordinarily performed by the secretary or assistant secretary of a corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement ~~shall be so~~ is adopted and certified by each constituent corporation in accordance with this section, it shall be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. The provisions set forth in the last sentence of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference ~~therein~~ in such sentence to "stockholder" shall be deemed to include "member" ~~hereunder as used in this section~~.

(d) Notwithstanding subsection (b) or (c), if under the articles of incorporation or ~~the~~ bylaws of any one or more of the constituent corporations, there shall be no members who have the right to vote for

the election of the members of the governing body of the corporation, or for the merger, other than the members of the governing body themselves, no further action by the governing body or the members of such corporation shall be necessary if the resolution approving an agreement of merger or consolidation has been adopted by a majority of all the members of the governing body thereof, and that fact shall be certified on the agreement in the same manner as is provided in the case of the adoption of the agreement by the vote of the members of a corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement, and thereafter the same procedure shall be followed to consummate the merger or consolidation.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(f) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section.

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation if such charitable nonstock corporation would thereby have its charitable status lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation—~~which~~ *that* shall continue as the surviving corporation.

Sec. 33. K.S.A. 2022 Supp. 17-6706 is hereby amended to read as follows: 17-6706. (a) Any one or more nonstock corporations of this state may merge or consolidate with one or more ~~other nonstock corporations of any other state or states of the United States or of the District of Columbia if the laws of such other state or states or of the District of Columbia permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction~~ *foreign nonstock corporations unless the laws of the jurisdiction or jurisdictions under which such foreign nonstock corporation or corporations are organized prohibit such merger or consolidation.* The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* nonstock corporation formed by the consolidation, which may be a corporation of the ~~state jurisdiction of incorporation~~ *organization* of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. ~~In addition, any one or more~~ *As used in this subsection, "foreign nonstock corporations corporation" means a corporation organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more nonstock corporations of this state if the surviving or resulting corporation will be a corporation of this state, and if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction this state.*

(b) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;

(3) *in the case of a merger in which the surviving corporation is a domestic corporation, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of*

incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;

(4) in the case of a consolidation in which the resulting corporation is a domestic corporation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;

(5) the manner, if any, of converting the memberships or membership interests of each of the constituent corporations into memberships or membership interests of the corporation surviving or resulting from such the merger or consolidation, or of cancelling some or all of such memberships or membership interests, and, if any memberships or membership interests of any of the constituent corporations are not to remain outstanding, to be converted solely into memberships or membership interests of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity that the holders of such memberships or membership interests are to receive in exchange for, or upon conversion of, such memberships or membership interests and such cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of memberships or membership interests of the surviving or resulting corporation;

~~(4)(6)~~ *such other details and or provisions as shall be deemed desirable, including, without limiting the generality of this subsection, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto; and*

~~(5)(7)~~ *such other provisions or facts as shall then be required to be stated in articles of incorporation set forth in an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving foreign nonstock corporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation each jurisdiction under which any of the foreign nonstock corporations are organized. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.*

(c) The agreement shall be adopted, approved, certified and executed by each of the constituent corporations in accordance with the laws under which it is formed organized and, in the case of a Kansas domestic corporation, in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6705, and amendments thereto, with respect to the merger of nonstock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of K.S.A. 17-6702(c), and amendments thereto, shall apply to a merger under this section, and the reference therein in such sentence to "stockholder" shall be deemed to include "member" hereunder as used in this section.

(d) If the corporation surviving or resulting from the merger or consolidation is ~~to be governed by the laws of any state other than this state~~ a foreign nonstock corporation, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent domestic corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation and shall irrevocably appoint the secretary of state as its agent to accept service of process in any suit or other proceedings and shall specify the postal address to which a copy of such process shall be mailed by the secretary of state. Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to issue such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall ~~forthwith~~ immediately notify such surviving or resulting corporation thereof by letter, directed to such corporation at its address so specified, unless such surviving or resulting corporation shall have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served upon the secretary of state. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being made pursuant to this subsection, and to pay the secretary of state the sum of ~~\$40~~ \$50 for the use of the state, ~~which~~. Such sum and any administrative fees shall be taxed as a part of the costs in the proceeding if the plaintiff ~~shall prevail therein~~ prevails. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information for a period longer than five years from receipt of the service of process.

(e) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section, if the corporation surviving the merger is a domestic corporation ~~of this state~~.

(f) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation ~~which~~ that shall continue as the surviving corporation.

Sec. 34. K.S.A. 2022 Supp. 17-6707 is hereby amended to read as follows: 17-6707. (a) Any one or more nonstock corporations of this state, whether or not organized for profit, may merge or consolidate with one or more stock corporations of this state, whether or not organized for profit. The constituent corporations may merge into a single surviving corporation, which may be any one of the constituent corporations, or they may consolidate into a new resulting corporation formed by the consolidation, pursuant to an agreement of merger or

consolidation, as the case may be, complying and approved in accordance with this section. The surviving constituent corporation or the ~~new resulting~~ corporation may be organized for profit or not organized for profit and may be a stock corporation or a nonstock corporation.

(b) The board of directors of each stock corporation ~~which that~~ desires to merge or consolidate and the governing body of each nonstock corporation ~~which that~~ desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) ~~such other provisions or facts required or permitted by this code to be stated in articles of incorporation as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require~~ *in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*
- (4) *in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;*

(5) the manner, if any, of converting the shares of stock of a stock corporation and the memberships or membership interests of a nonstock corporation into shares or other securities of a stock corporation or memberships or membership interests of a nonstock corporation surviving or resulting from such merger or consolidation or of cancelling some or all of such shares or memberships or membership interests, and, if any shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are not to remain outstanding, to be converted solely into shares or other securities of the stock corporation or memberships or membership interests of the nonstock corporation surviving or resulting from such merger or consolidation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which that~~ the holders of shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are to receive in exchange for, or upon conversion of such shares or memberships or membership interests, and the surrender of any certificates evidencing them, ~~which and such~~ cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of any stock corporation or memberships or membership interests of any nonstock corporation surviving or resulting from such merger or consolidation; and

~~(5)~~(6) such other details or provisions as are deemed desirable, *including, without limiting the generality of this subsection, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto.*

~~In such merger or consolidation, the memberships or membership interests of a constituent nonstock corporation may be treated in various ways so as to convert such memberships or membership interests into interests of value, other than shares of stock, in the~~

~~surviving or resulting stock corporation or into shares of stock in the surviving or resulting stock corporation, voting or nonvoting, or into creditor interests or any other interests of value equivalent to their memberships or membership interests in their nonstock corporation. The voting rights of members of a constituent nonstock corporation need not be considered an element of value in measuring the reasonable equivalence of the value of the interests received in the surviving or resulting stock corporation by members of a constituent nonstock corporation, nor need the voting rights of shares of stock in a constituent stock corporation be considered as an element of value in measuring the reasonable equivalence of the value of the interests in the surviving or resulting nonstock corporation received by stockholders of a constituent stock corporation, and the voting or nonvoting shares of a stock corporation may be converted into any type of membership or membership interest, however designated, creditor interests or participating interests, in the nonstock corporation surviving or resulting from such merger or consolidation of a stock corporation and a nonstock corporation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "Facts," as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.~~

(c) The agreement required by subsection (b), in the case of each constituent stock corporation, shall be adopted, approved, certified and executed by each constituent corporation in the same manner as is provided in K.S.A. 17-6701, and amendments thereto, and, in the case of each constituent nonstock corporation, shall be adopted, approved, certified and executed by each of such constituent corporations in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger of stock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference ~~therein~~ *in such sentence* to "stockholder" shall be deemed to include "member" ~~hereunder~~ *as used in this section*.

(d) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section, ~~if the surviving corporation is a corporation of this state,~~ and K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock corporation participating in a merger under this section.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that, for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired, but a stock corporation may be merged into a charitable nonstock corporation ~~which~~ *that* shall continue as the surviving corporation.

Sec. 35. K.S.A. 2022 Supp. 17-6708 is hereby amended to read as

follows: 17-6708. (a) Any one or more corporations of this state, whether stock or nonstock corporations and whether or not organized for profit, may merge or consolidate with one or more ~~other corporations of any other state or states of the United States or of the District of Columbia, whether stock or nonstock corporations and whether or not organized for profit, if the laws under which the other corporation or corporations are formed shall permit such a corporation of such jurisdiction to merge with a corporation of another jurisdiction~~ *foreign corporations unless the laws of the jurisdiction or jurisdictions under which such foreign corporation or corporations are organized prohibit such merger or consolidation.* The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a ~~new~~ *resulting* corporation formed by the consolidation, which may be a corporation of the ~~place~~ *jurisdiction of incorporation* organization of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving or ~~new~~ *resulting* corporation may be either a *domestic or foreign* stock corporation or a *domestic or foreign* nonstock corporation, as shall be specified in the agreement of merger or consolidation required by subsection (b). *For purposes of this section, "foreign corporation" includes a stock or nonstock corporation organized under the laws of any jurisdiction other than this state.*

(b) The method and procedure to be followed by the constituent corporations so merging or consolidating shall be as prescribed in K.S.A. 17-6707, and amendments thereto, in the case of ~~Kansas domestic~~ corporations. The agreement of merger or consolidation shall *be as provided in K.S.A. 17-6707, and amendments thereto, and also set forth such other matters or provisions or facts as shall then be required to be set forth in an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving foreign corporation, by the laws of the state which jurisdiction or jurisdictions that are stated in the agreement to be the laws under which shall govern the surviving or resulting the foreign corporation and that can be stated in the case of a merger or consolidation or corporations are organized.* The agreement, in the case of foreign corporations, shall be adopted, approved, certified and executed ~~by each of the constituent foreign corporations~~ in accordance with the laws under which each is ~~formed~~ *organized*.

(c) The requirements of K.S.A. 17-6702(d), and amendments thereto, as to the appointment of the secretary of state to receive process and the manner of serving the same in the event the surviving or ~~new~~ *resulting* corporation is ~~to be governed by the laws of any other state~~ *a foreign corporation* shall also apply to mergers or consolidations effected under this section *and such appointment, if any, shall be included in the certificate of merger or consolidation, if any, filed pursuant to subsection (b).* K.S.A. 17-6701(e), and amendments thereto, shall apply to mergers effected under this section if the surviving corporation is a *domestic* corporation ~~of this state~~. K.S.A. 17-6701(d), and amendments thereto, shall apply to any constituent corporation participating in a merger or consolidation under this section, except that for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests of the corporation, as applicable, respectively; ~~and~~ K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock *domestic* corporation participating in a merger under this section.

(d) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired; but a stock corporation may be merged into a charitable nonstock corporation—~~which~~ *that* shall continue as the surviving corporation.

Sec. 36. K.S.A. 2022 Supp. 17-6712 is hereby amended to read as follows: 17-6712. (a) Any stockholder of a *domestic* corporation ~~of this state~~ who holds shares of stock on the date of the making of a demand pursuant to subsection (d) with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto, shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c). As used in this section, ~~the word:~~ "Stockholder" means a holder of record of stock in a corporation; ~~the words~~ "stock" and "share" mean and include what is ordinarily meant by those words; and ~~the words~~ "depository receipt" ~~mean~~ *means* a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, ~~which stock~~ *that* is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to K.S.A. 17-6701, ~~and amendments thereto,~~ other than a merger effected pursuant to K.S.A. 17-6701(g), ~~and amendments thereto,~~ and, ~~subject to subsection (b)(3), K.S.A. 17-7601(h), 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto:~~

(1) ~~Except as expressly provided in K.S.A. 2022 Supp. 17-72a03, and amendments thereto,~~ *that* no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of the meeting of stockholders to act upon the agreement of merger or consolidation, *or in the case of a merger pursuant to K.S.A. 17-7601(h), and amendments thereto, as of immediately prior to the execution of the agreement of merger,* were either:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 holders, except that no appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in K.S.A. 17-6701(f), and amendments thereto.

(2) Notwithstanding subsection (b)(1), appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to K.S.A. 17-6701, 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto, to accept for such stock anything except:

(A) Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

(B) shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A) and (B); or

(D) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A), (B) and (C).

(3) In the event all of the stock of a subsidiary ~~Kansas domestic~~ corporation party to a merger effected under K.S.A. ~~17-6701(h)~~ or 17-6703, and amendments thereto, is not owned by the parent immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary ~~Kansas domestic~~ corporation.

(4) *This paragraph shall apply only with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted, as applicable, before July 1, 2023.* In the event of an amendment to a corporation's articles of incorporation contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, appraisal rights shall be available as contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, and the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation," and the word "corporation" substituted for the words "constituent corporation" or "surviving or resulting corporation."

(c) Any corporation may provide in its articles of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its articles of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the articles of incorporation contain such a provision, the ~~procedures~~ *provisions* of this section, including those set forth in subsections (d) ~~and~~, (e); *and* (g) shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for notice of such meeting, or such members who received notice in accordance with K.S.A. 17-6705, and amendments thereto, with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. *A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, expressly designated for that purpose in such notice.* Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand ~~as herein~~ *provided in this subsection.* Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in

favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) if the merger or consolidation was approved pursuant to K.S.A. 17-6518, 17-6701(h) or 17-6703, and amendments thereto, then, either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of ~~mailing of~~ giving such notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, within the later of the consummation of the ~~tender or exchange~~ offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days after the date of ~~mailing of~~ giving such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. *A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, designated for that purpose in such notice.* Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either: (A) Each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation; or (B) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date; ~~provided, however, that~~. If such second notice is sent more than 20 days following the sending of the first notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, later than the later of the consummation of the ~~tender or exchange~~ offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated ~~therein~~ *in such affidavit*. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given; ~~provided, that~~. If the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day ~~on which~~ *when* the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) and who is otherwise

entitled to appraisal rights, may commence an appraisal proceeding by filing a petition in the district court demanding a determination of the value of the stock of all such stockholders. Notwithstanding the ~~foregoing provisions of this subsection~~, at any time within 60 days after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of subsections (a) and (d), upon ~~written~~ request *given in writing, or by electronic transmission directed to an information processing system, if any, expressly designated for that purpose in the notice of appraisal*, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation ~~and, or in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, the aggregate number of shares, other than any excluded stock, as defined in K.S.A. 17-6701(h)(2), and amendments thereto, that were the subject of, and were not tendered into, and accepted for purchase or exchange in, the offer referred to in K.S.A. 17-6701(h)(1)(B), and amendments thereto, and, in either case,~~ with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such ~~written~~ statement shall be ~~mailed~~ *given* to the stockholder within 10 days after such stockholder's ~~written~~ request for such a statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery of demands for appraisal under subsection (d), whichever is later. Notwithstanding subsection (a), a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the clerk of the court ~~in which~~ *where* the petition was filed a duly verified list containing the names and *postal* addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court, if so ordered by the court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses ~~therein~~ *stated in the list*. Such notice shall also be given by one or more publications at least one week before the day of the hearing, in a newspaper of general circulation published in the county ~~in which~~ *where* the court is located or such publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) (1) At the hearing on such petition, the court shall determine the stockholders who have complied with this section and who have become entitled to appraisal rights. The court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the clerk of the court for notation thereon of the pendency of

the appraisal proceedings; and if any stockholder fails to comply with such direction, the court may dismiss the proceedings as to such stockholder.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. If immediately before the merger or consolidation the shares of the class or series of stock of the constituent corporation as to which appraisal rights are available were listed on a national securities exchange, the court shall dismiss the proceedings as to all holders of such shares who are otherwise entitled to appraisal rights unless:

(A) The total number of shares entitled to appraisal exceeds 1% of the outstanding shares of the class or series eligible for appraisal;

(B) the value of the consideration provided in the merger or consolidation for such total number of shares exceeds \$1,000,000; or

(C) the merger was approved pursuant to K.S.A. 17-6703, and amendments thereto.

(h) (1) After the court determines the stockholders entitled to an appraisal, the appraisal proceeding shall be conducted in accordance with the rules of the district court, including any rules specifically governing appraisal proceedings. Through such proceeding the court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the court shall take into account all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, and except as provided in this subsection, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the federal reserve discount rate, including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of the judgment.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. At any time before the entry of judgment in the proceedings, the surviving corporation may pay to each stockholder entitled to appraisal an amount in cash, in which case interest shall accrue thereafter as provided in this paragraph only upon the sum of: (A) The difference, if any, between the amount so paid and the fair market value of the shares as determined by the court; and (B) interest previously accrued unless paid at that time. Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the stockholders entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) and who has submitted such stockholder's certificates of stock to the clerk of the court, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock—~~forthwith~~ immediately, and the case of holders of shares

represented by certificates upon the surrender to the corporation of the certificates representing such stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether such surviving or resulting corporation be a *domestic* corporation ~~of this state~~ or of any state.

(j) The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a stockholder, the court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorney fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to stockholders of record at a date ~~which~~ *that* is prior to the effective date of the merger or consolidation; ~~provided, however,~~ *except* that if no petition for an appraisal shall be filed within the time provided in subsection (e), or if such stockholder shall deliver to the surviving or resulting corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the ~~foregoing~~ *provisions of this subsection*, no appraisal proceeding in the district court shall be dismissed as to any stockholder without the approval of the court, and such approval may be conditioned upon such terms as the court deems just, except that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e).

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

Sec. 37. On and after January 1, 2024, K.S.A. 2022 Supp. 17-6712, as amended by section 36 of this act, is hereby amended to read as follows: 17-6712. (a) Any stockholder of a domestic corporation who holds shares of stock on the date of the making of a demand pursuant to subsection (d) with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto, shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c). As used in this section: "Stockholder" means a holder of record of stock in a corporation; "stock" and "share" mean and include what is ordinarily meant by those words; and "depository receipt" means a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation that

is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to K.S.A. 17-6701, other than a merger effected pursuant to K.S.A. 17-6701(g), and amendments thereto, and 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto:

(1) Except that no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of the meeting of stockholders to act upon the agreement of merger or consolidation, or in the case of a merger pursuant to K.S.A. 17-6701(h), and amendments thereto, as of immediately prior to the execution of the agreement of merger, were either:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 holders, except that no appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in K.S.A. 17-6701(f), and amendments thereto.

(2) Notwithstanding subsection (b)(1), appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to K.S.A. 17-6701, 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto, to accept for such stock anything except:

(A) Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

(B) shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A) and (B); or

(D) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A), (B) and (C).

(3) In the event all of the stock of a subsidiary domestic corporation party to a merger effected under K.S.A. 17-6703, and amendments thereto, is not owned by the parent immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary domestic corporation.

~~(4) This paragraph shall apply only with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted, as applicable, before July 1, 2023. In the event of an amendment to a corporation's articles of incorporation contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, appraisal rights shall be available as contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, and the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation," and the word "corporation" substituted for the words "constituent corporation" or "surviving or resulting corporation."~~

(c) Any corporation may provide in its articles of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its articles of incorporation, any merger or consolidation in which the

corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the articles of incorporation contain such a provision, the provisions of this section, including those set forth in subsections (d), (e) and (g) shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for notice of such meeting, or such members who received notice in accordance with K.S.A. 17-6705, and amendments thereto, with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, expressly designated for that purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as provided in this subsection. Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) if the merger or consolidation was approved pursuant to K.S.A. 17-6518, 17-6701(h) or 17-6703, and amendments thereto, then, either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of giving such notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, within the later of the consummation of the offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days after the date of giving such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, designated for that purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the

stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either: (A) Each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation; or (B) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date. If such second notice is sent more than 20 days following the sending of the first notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, later than the later of the consummation of the offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in such affidavit. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given. If the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day when the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) and who is otherwise entitled to appraisal rights, may commence an appraisal proceeding by filing a petition in the district court demanding a determination of the value of the stock of all such stockholders. Notwithstanding the provisions of this subsection, at any time within 60 days after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of subsections (a) and (d), upon request given in writing, or by electronic transmission directed to an information processing system, if any, expressly designated for that purpose in the notice of appraisal, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation, or in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, the aggregate number of shares, other than any excluded stock, as defined in K.S.A. 17-6701(h)(2), and amendments thereto, that were the subject of, and were not tendered into, and accepted for purchase or exchange in, the offer referred to in K.S.A. 17-6701(h)(1)(B), and amendments thereto, and, in either case, with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such statement shall be given to the stockholder within 10 days after such stockholder's request for such a statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery

of demands for appraisal under subsection (d), whichever is later. Notwithstanding subsection (a), a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the clerk of the court where the petition was filed a duly verified list containing the names and postal addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court, if so ordered by the court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses stated in the list. Such notice shall also be given by one or more publications at least one week before the day of the hearing, in a newspaper of general circulation published in the county where the court is located or such publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) (1) At the hearing on such petition, the court shall determine the stockholders who have complied with this section and who have become entitled to appraisal rights. The court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the clerk of the court for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with such direction, the court may dismiss the proceedings as to such stockholder.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. If immediately before the merger or consolidation the shares of the class or series of stock of the constituent corporation as to which appraisal rights are available were listed on a national securities exchange, the court shall dismiss the proceedings as to all holders of such shares who are otherwise entitled to appraisal rights unless:

(A) The total number of shares entitled to appraisal exceeds 1% of the outstanding shares of the class or series eligible for appraisal;

(B) the value of the consideration provided in the merger or consolidation for such total number of shares exceeds \$1,000,000; or

(C) the merger was approved pursuant to K.S.A. 17-6703, and amendments thereto.

(h) (1) After the court determines the stockholders entitled to an appraisal, the appraisal proceeding shall be conducted in accordance with the rules of the district court, including any rules specifically governing appraisal proceedings. Through such proceeding the court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the court shall take into account all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, and except as

provided in this subsection, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the federal reserve discount rate, including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of the judgment.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. At any time before the entry of judgment in the proceedings, the surviving corporation may pay to each stockholder entitled to appraisal an amount in cash, in which case interest shall accrue thereafter as provided in this paragraph only upon the sum of: (A) The difference, if any, between the amount so paid and the fair market value of the shares as determined by the court; and (B) interest previously accrued unless paid at that time. Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the stockholders entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) and who has submitted such stockholder's certificates of stock to the clerk of the court, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock immediately, and the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing such stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether such surviving or resulting corporation be a domestic corporation or of any state.

(j) The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a stockholder, the court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorney fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to stockholders of record at a date that is prior to the effective date of the merger or consolidation, except that if no petition for an appraisal shall be filed within the time provided in subsection (e), or if such stockholder shall deliver to the surviving or resulting corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the provisions of this subsection, no appraisal proceeding in the district court shall be dismissed as to any stockholder without the approval of the court, and

such approval may be conditioned upon such terms as the court deems just, except that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e).

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

Sec. 38. K.S.A. 2022 Supp. 17-6804 is hereby amended to read as follows: 17-6804. (a) If it should be deemed advisable in the judgment of the board of directors of any corporation that it should be dissolved, the board, after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, shall cause notice of the adoption of the resolution and of a meeting of stockholders to take action upon the resolution to be ~~mailed~~ *given* to each stockholder entitled to vote thereon as of the record date for determining the stockholders entitled to notice of the meeting.

(b) At the meeting a vote shall be taken upon the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote thereon shall vote for the proposed dissolution, a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).

(c) Dissolution of a corporation may also be authorized without action of the directors if all the stockholders entitled to vote thereon shall consent in writing and a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).

(d) If dissolution is authorized in accordance with this section, a certificate of dissolution shall be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such certificate of dissolution shall set forth:

- (1) The name of the corporation;
- (2) the date dissolution was authorized;
- (3) that the dissolution has been authorized by the board of directors and stockholders of the corporation, in accordance with subsections (a) and (b), or that the dissolution has been authorized by all of the stockholders of the corporation entitled to vote on a dissolution, in accordance with subsection (c); and
- (4) the names and *postal* addresses of the directors and officers of the corporation.

(e) The resolution authorizing a proposed dissolution may provide that notwithstanding authorization or consent to the proposed dissolution by the stockholders, or the members of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, the board of directors or governing body may abandon such proposed dissolution without further action by the stockholders or members.

(f) Upon a certificate of dissolution becoming effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, the corporation shall be dissolved.

(g) (l) If the stockholders of a corporation having only two stockholders, each of which owns 50% of the stock therein, are unable to agree upon the desirability of dissolving the corporation and disposing of the corporate assets, either stockholder may file with the district court a petition stating that ~~it~~ *such stockholder* desires to dissolve the corporation and to dispose of the assets thereof in

accordance with a plan to be agreed upon by both stockholders. Such petition shall have attached thereto a copy of the proposed plan of dissolution and distribution and a certificate stating that copies of such petition and plan have been transmitted in writing to the other stockholder and to the directors and officers of such corporation.

(2) Unless both stockholders file with the district court ~~with~~, within three months of the date of the filing of such petition, a certificate stating that they have agreed on such plan, or a modification thereof, and ~~and~~ within one year from the date of the filing of such petition, a certificate stating that the distribution provided by such plan has been completed, the court may either:

(A) Dissolve such corporation and, by appointment of one or more receivers with all the powers and title of a receiver appointed under K.S.A. 17-6808, and amendments thereto, may administer and wind up its affairs;

(B) order the redemption of the stock of one of the stockholders on such terms as are just and equitable; or

(C) decline to grant any relief. Either or both of the above periods of time may be extended by agreement of the stockholders, evidenced by a certificate filed with the court prior to the expiration of such period.

Sec. 39. K.S.A. 2022 Supp. 17-6812 is hereby amended to read as follows: 17-6812. (a) *Upon motion by the attorney general*, the district court shall have jurisdiction to revoke or forfeit the articles of incorporation of any corporation for abuse, misuse or nonuse of its corporate powers, privileges or franchises. The attorney general shall, ~~upon the attorney general's own motion or upon the relation of a proper party~~, proceed for this purpose by petition in the district court of the county ~~in which~~ *where* the registered office of the corporation is located.

(b) The district court shall have power, by appointment of *trustees*, receivers or otherwise, to administer and wind up the affairs of any corporation whose articles of incorporation shall be revoked or forfeited by any court under ~~any this section of this code or otherwise~~, and to make such orders and decrees with respect thereto as shall be just and equitable respecting its affairs and assets and the rights of its stockholders and creditors.

(c) No proceeding shall be instituted under this section for nonuse of any corporation's powers, privileges or franchises during the first two years after its incorporation.

Sec. 40. K.S.A. 2022 Supp. 17-7001 is hereby amended to read as follows: 17-7001. (a) At any time prior to the expiration of three years following the dissolution of a corporation pursuant to K.S.A. 17-6804, and amendments thereto, or *such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, or*, at any time prior to the expiration of *three years following the expiration of the time limited for the corporation's existence as provided in its articles of incorporation or* such longer period as the court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a corporation may revoke the dissolution ~~theretofore~~ effected by it *or restore its articles of incorporation after it has expired of its own limitation* in the following manner:

(1) For purposes of this section, ~~the term "stockholders" shall mean~~ *means* the stockholders of record on the date the dissolution became effective *or the date of expiration by limitation*.

(2) The board of directors shall adopt a resolution recommending that the dissolution be revoked *in the case of a dissolution or that the articles of incorporation be restored in the case of an expiration by limitation* and directing that the question of the revocation *or*

restoration be submitted to a vote at a special meeting of stockholders.

(3) Notice of the special meeting of stockholders shall be given in accordance with K.S.A. 17-6512, and amendments thereto, to each of the stockholders.

(4) At the meeting, a vote of the stockholders shall be taken on a resolution to revoke the dissolution *in the case of a dissolution or to restore the articles of incorporation in the case of an expiration by limitation*. If a majority of the stock of the corporation—~~which that~~ was outstanding and entitled to vote upon a dissolution at the time of its dissolution, *in the case of a revocation of dissolution, or that was outstanding and entitled to vote upon an amendment to the articles of incorporation to change the period of the corporation's duration at the time of its expiration by limitation, in the case of restoration*, shall be voted for the resolution, a certificate of revocation of dissolution *or a certificate of restoration* shall be executed in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, ~~which and filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto~~. *Such certificate shall be specifically designated as a certificate of revocation of dissolution or a certificate of restoration in its heading and shall state:*

(A) The name of the corporation;

(B) the *postal* address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 2022 Supp. 17-7924(c), and amendments thereto, and the name of its resident ~~agent~~ *agent* at such address;

(C) the names and respective *postal* addresses of its officers;

(D) the names and respective *postal* addresses of its directors; and

(E) that a majority of the stock of the corporation—~~which that~~ was outstanding and entitled to vote upon a dissolution at the time of its dissolution have voted in favor of a resolution to revoke the dissolution, *in the case of a revocation of dissolution, or that a majority of the stock of the corporation that was outstanding and entitled to vote upon an amendment to the articles of incorporation to change the period of the corporation's duration at the time of its expiration by limitation, in the case of a restoration, have voted in favor of a resolution to restore the articles of incorporation*; or that, if applicable, in lieu of a meeting and vote of stockholders, the stockholders have given their—~~written~~ consent to the revocation *or restoration* in accordance with K.S.A. 17-6518, and amendments thereto; *and*

(F) *in the case of a restoration, the new specified date limiting the duration of the corporation's existence or that the corporation shall have perpetual existence.*

(b) Upon the *effective time of filing* in the office of the secretary of state of the certificate of revocation of dissolution *or the certificate of restoration*, the revocation of the dissolution *or the restoration of the corporation* shall become effective and the corporation may again carry on its business.

(c) Upon the ~~filing of the certificate with the secretary of state to which effectiveness of the revocation of the dissolution or the restoration of the corporation as provided in subsection (b) refers~~, the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern, and the period of time the corporation was in dissolution *or was expired by limitation* shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers. An election of directors, however, may be held at the special meeting of stockholders to which subsection (a) refers, and in that event, that meeting of stockholders shall be deemed an annual meeting of stockholders for purposes of K.S.A. 17-6501(c), and amendments thereto.

(d) If, after the dissolution became effective *or after the expiration by limitation*, any other entity identified in K.S.A. 2022 Supp. 17-7918, and amendments thereto, shall have adopted the same name as the corporation, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation, or any foreign covered entity shall have qualified to do business in this state under the same name as the corporation or under a name so nearly similar thereto as not to distinguish it from the corporation, then, in such case, the corporation shall not be reinstated under the same name ~~which~~ *that* it bore when its dissolution became effective *or it expired by limitation*, but shall adopt and be reinstated *or restored* under some other name, and in such case the certificate to be filed under this section shall set forth the name borne by the corporation at the time its dissolution became effective *or it expired by limitation* and the new name under which the corporation is to be reinstated.

(e) Nothing in this section shall be construed to affect the jurisdiction or power of the district court under K.S.A. 17-6808 and 17-6809, and amendments thereto.

(f) At any time prior to the expiration of three years following the dissolution of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, *or such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto*, or, at any time prior to the expiration of *three years following the expiration of the time limited for a nonstock corporation's existence as provided in its articles of incorporation* or such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a nonstock corporation may revoke the dissolution effected by it *or restore its articles of incorporation after it has expired by limitation* in a manner analogous to that by which the dissolution was authorized *or, in the case of a restoration, in the manner in which an amendment to the articles of incorporation to change the period of the corporation's duration would have been authorized at the time of its expiration by limitation*, including: (1) If applicable, a vote of the members entitled to vote, if any, on the dissolution *or the amendment*; and (2) the filing of a certificate of revocation of dissolution *or a certificate of restoration* containing information comparable to that required by subsection (a)(4). Notwithstanding the ~~foregoing~~ *provisions of this subsection*, only subsections (b), (d) and (e) shall apply to nonstock corporations.

Sec. 41. K.S.A. 2022 Supp. 17-7002 is hereby amended to read as follows: 17-7002. (a) As used in this section, ~~the term~~:

(1) "Articles of incorporation" includes the articles of incorporation of a corporation organized under any special act or any law of this state; and

(2) "authority to engage in business" includes the registration of any foreign corporation under K.S.A. 2022 Supp. 17-7931, and amendments thereto.

(b) ~~Except as provided further, any corporation may, at any time before the expiration of the time limited for its existence and any corporation whose articles of incorporation or authority to engage in business has become forfeited or void pursuant to this code and any corporation whose articles of incorporation or authority to engage in business has expired by reason of failure to renew it or whose articles of incorporation or authority to engage in business has been renewed revived, but, through failure to comply strictly with the provisions of this code, the validity of whose renewal revival has been brought into question, at any time procure an extension, renewal or reinstatement a revival of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with~~

all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities that had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, by complying with the requirements of this section. *This section shall not be applicable to a corporation whose articles of incorporation have been revoked or forfeited pursuant to K.S.A. 17-6812, and amendments thereto.*

(c) ~~The extension, renewal or reinstatement~~ *revival* of the articles of incorporation or authority to engage in business may be procured *as authorized by the board of directors or members of the governing body of the corporation in accordance with subsection (h) and* by executing and filing a certificate *of revival* in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto.

(d) The certificate required by subsection (c) shall state:

(1) ~~The name date of filing of the corporation, which shall be the existing corporation's original articles of incorporation, the name under which the corporation was originally incorporated, the name of the corporation or at the name it bore when time its articles of incorporation or authority to engage in business expired, except as provided in became forfeited or void pursuant to this code and the new name under which the corporation is to be revived to the extent required by subsection (f);~~

(2) the *postal* address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 2022 Supp. 17-7924(c), and amendments thereto, and the name of its resident agent at such address;

(3) ~~whether or not the renewal, or reinstatement is to be perpetual and, if not perpetual, the time for which the renewal or reinstatement is to continue and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;~~

(4) that the corporation desiring to be ~~renewed or reinstated~~ *revived* and so ~~renewing or reinstating~~ *reviving* its corporate existence was duly organized under the laws of the state of its original incorporation;

(5)(4) the date when the articles of incorporation or the authority to engage in business ~~would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become~~ *became* forfeited or void pursuant to this code, or that the validity of any ~~renewal~~ *revival* has been brought into question; and

(6)(5) that the certificate ~~for reinstatement~~ *of revival* is filed by authority of ~~those who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected~~ *the board of directors or members of the governing body of the corporation as provided in accordance with subsection (h).*

(e) Upon the filing of the certificate in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, the corporation shall be ~~renewed or reinstated~~ *revived* with the same force and effect as if its articles of incorporation or authority to engage in business had not been forfeited or void pursuant to this code ~~or had not expired by limitation.~~ Such ~~reinstatement~~ *revival* shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation or authority to engage in business by the corporation, its *directors or members of its governing body, officers and, agents and stockholders or members* during the time when

its articles of incorporation or authority to engage in business was forfeited or void pursuant to this code, ~~or after their expiration by limitation~~, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, ~~which that~~ belonged to the corporation at the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, ~~or expired by limitation and which that~~ were not disposed of prior to the time of its ~~renewal or reinstatement shall be vested in the corporation after its renewal or reinstatement, as fully and amply as they were held by the corporation at and before the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, or expired by limitation~~, revival and *all real and personal property, rights and credits acquired by the corporation after its renewal or reinstatement articles of incorporation became forfeited or void pursuant to this code shall be vested in the corporation, after its revival, as if its articles of incorporation had at all times remained in full force and effect. The corporation after its revival shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its directors or members of its governing body, officers and, agents and stockholders or members prior to its reinstatement revival, as if its articles of incorporation or authority to engage in business had at all times remained in full force and effect.*

(f) If, since the articles of incorporation became forfeited or void pursuant to this code, ~~or expired by limitation~~, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be ~~renewed or reinstated~~ *revived* or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be ~~renewed or reinstated~~ *revived*, or any foreign corporation registered in accordance with K.S.A. 2022 Supp. 17-7931, and amendments thereto, shall have adopted the same name as the corporation sought to be ~~renewed or reinstated~~ *revived*, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be ~~renewed or reinstated~~ *revived*, then in such case the corporation to be ~~renewed or reinstated~~ *revived* shall not be ~~renewed~~ *revived* under the same name ~~which that~~ it bore when its articles of incorporation became forfeited or void pursuant to this code ~~or expired~~, but shall ~~adopt or be renewed~~ *be revived* under some other name; ~~and in such case as set forth in the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became forfeited or void pursuant to this code, or expired and the new name under which the corporation is to be renewed or reinstated pursuant to subsection (c).~~

(g) Any corporation that ~~renews or reinstates~~ *revives* its articles of incorporation or authority to engage in business under this code shall file all past due business entity information reports for the immediately preceding 10 years and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the business entity information reports for the most recent reporting period and pay to the secretary of state an amount equal to all fees due.

(h) ~~If a sufficient number of the last acting officers of any corporation desiring to renew or reinstate its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers~~ *For purposes of this section the board of directors or governing body of the*

corporation shall be comprised of the persons, who, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly elected or appointed directors or members of the governing body of the corporation. The requirement for authorization by the board of directors under subsection (c) shall be satisfied if a majority of the directors or members of the governing body then in office, even though less than a quorum, or the sole director or member of the governing body then in office, authorizes the revival of the articles of incorporation of the corporation and the filing of the certificate required by subsection (c). In any case where there shall be no directors of the corporation available for the purposes—~~as~~—described in this subsection, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board shall then elect such officers as are provided by law, by so elected may then authorize the revival of the articles of incorporation—~~or by the bylaws to carry on the business and affairs~~ of the corporation and the filing of the certificate required by subsection (c). A special meeting of the stockholders for the ~~purposes~~ purpose of electing directors may be called by any officer, ~~director~~ or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto. For purposes of this section, the bylaws shall be the bylaws of the corporation that, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly adopted bylaws of the corporation.

(i) After a ~~reinstatement~~ revival of the articles of incorporation of the corporation shall have been effected, the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern and the period of time *during which* the articles of incorporation of the corporation was forfeited or void pursuant to this code, ~~or after its expiration by limitation~~, shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers. A special meeting of stockholders held in accordance with subsection (h) shall be deemed an annual meeting of the stockholders for purposes of K.S.A. 17-6501(c), and amendments thereto.

(j) Whenever it shall be desired to ~~renew or reinstate~~ *revive* the articles of incorporation or authority to engage in business of any nonstock corporation, the governing body shall perform all the acts necessary for the ~~renewal or reinstatement~~ revival of the articles of incorporation of the corporation or its authority to engage in business ~~which that~~ are performed by the board of directors in the case of a corporation having capital stock, and the members of any nonstock corporation who are entitled to vote for the election of members of its governing body and any other members entitled to vote for dissolution under the articles of incorporation or bylaws of such corporation, shall perform all the acts necessary for the ~~renewal or reinstatement~~ revival of the articles of incorporation of the corporation or its authority to engage in business ~~which that~~ are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the ~~renewal or reinstatement~~ revival of the articles of incorporation or authority to engage in business of a nonstock corporation shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the ~~renewal or~~ revival of the articles of incorporation of a corporation having capital stock, except that subsection (i) shall not apply to nonstock corporations.

Sec. 42. K.S.A. 2022 Supp. 17-7003 is hereby amended to read as follows: 17-7003. Any corporation desiring to renew, *restore, revive,* extend and continue its corporate existence, shall, upon complying with the provisions of ~~K.S.A. 17-7002~~ *article 70 of chapter 17 of the Kansas*

Statutes Annotated, and amendments thereto, continue ~~for the time stated as provided~~ in its certificate of renewal *effecting such action*, as a corporation and shall, in addition to the rights, privileges and immunities conferred by its articles of incorporation, possess and enjoy all the benefits of this code, ~~which~~ *that* are applicable to the nature of its business, and shall be subject to the restrictions and liabilities by this code imposed on such corporations.

Sec. 43. K.S.A. 2022 Supp. 17-72a04 is hereby amended to read as follows: 17-72a04. Any stock certificate issued by a public benefit corporation shall note conspicuously that the corporation is a public benefit corporation formed pursuant to K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto. Any notice ~~sent~~ *given* by a public benefit corporation pursuant to K.S.A. 17-6401(f), and amendments thereto, shall state conspicuously that the corporation is a public benefit corporation formed pursuant to K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto.

Sec. 44. K.S.A. 2022 Supp. 17-72a05 is hereby amended to read as follows: 17-72a05. (a) The board of directors shall manage or direct the business and affairs of the public benefit corporation in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by the corporation's conduct and the specific public benefit or public benefits identified in its articles of incorporation.

(b) A director of a public benefit corporation shall not, by virtue of the public benefit provisions or K.S.A. 2022 Supp. 17-72a02(a), and amendments thereto, have any duty to any person on account of any interest of such person in the public benefit or public benefits identified in the articles of incorporation or on account of any interest materially affected by the corporation's conduct and, with respect to a decision implicating the ~~balance~~ *balancing* requirement in subsection (a), will be deemed to satisfy such director's fiduciary duties to stockholders and the corporation if such director's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

(c) ~~The articles of incorporation of a public benefit corporation may include a provision that any disinterested failure to satisfy this section shall not~~ *A director's ownership of or other interest in the stock of the public benefit corporation shall not alone, for the purposes of this section, create a conflict of interest on the part of the director with respect to the director's decision implicating the balancing requirement in subsection (a), except to the extent that such ownership or interest would create a conflict of interest if the corporation were not a public benefit corporation. In the absence of a conflict of interest, no failure to satisfy that balancing requirement shall, for the purposes of K.S.A. 17-6002(b)(8) or 17-6305, and amendments thereto, constitute an act or omission not in good faith, or a breach of the duty of loyalty unless the articles of incorporation so provide.*

Sec. 45. K.S.A. 2022 Supp. 17-72a07 is hereby amended to read as follows: 17-72a07. ~~Stockholders of a public benefit corporation owning~~ *Any action to enforce the balancing requirement of K.S.A. 17-72a05(a), and amendments thereto, including any individual, derivative, or any other type of action, shall not be brought unless the plaintiffs in such action own* individually or collectively, as of the date of instituting such derivative suit ~~the action is instituted~~, at least 2% of the corporation's outstanding shares or, in the case of a corporation with shares listed on a national securities exchange, the lesser of such percentage or shares ~~of the corporation with a market value of at least \$2,000,000 in market value, may maintain a derivative lawsuit to enforce the requirements set forth in K.S.A. 2022 Supp. 17-72a05(a),~~

~~and amendments thereto~~ *as of the date the action is instituted. This section shall not relieve the plaintiffs from complying with any other conditions applicable to filing a derivative action including K.S.A. 60-223a(b)(1), and amendments thereto, and any rules of the court where the action is filed.*

Sec. 46. K.S.A. 2022 Supp. 17-7302 is hereby amended to read as follows: 17-7302. (a) Whenever any foreign corporation admitted to do business in this state is a party to a merger or consolidation with any other foreign corporation, whether or not admitted to do business in this state, such foreign corporation shall file with the secretary of state of this state, within 30 days after the time the merger or consolidation becomes effective, a certificate of the proper officer of the jurisdiction under the laws of which the merger or consolidation was effected, attesting to such merger or consolidation ~~and, or a form prescribed by the secretary of state of this state, in each case~~ stating:

- (1) The corporate parties thereto;
- (2) *the jurisdiction of incorporation of each corporate party;*
- (3) the time when such merger or consolidation became effective;

and

~~(3)~~(4) that the resulting or surviving corporation is a corporation in good standing in such jurisdiction.

(b) Whenever any foreign corporation admitted to do business in this state shall amend its articles of incorporation in a manner ~~which~~ *that* affects any of the information contained on such corporation's application to do business in Kansas, the corporation shall file with the secretary of state, within 30 days after the amendment is adopted, a certificate of the proper officer of the jurisdiction in which such corporation has been incorporated attesting to such amendment. In the alternative, any foreign corporation may amend its original application for authority to do business in Kansas by filing a certificate of amendment certifying that such amendment has been duly adopted and executed in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto.

Sec. 47. K.S.A. 2022 Supp. 17-7503 is hereby amended to read as follows: 17-7503.(a) Every domestic corporation organized for profit shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms prescribed by the secretary of state and shall be filed biennially, as determined by the year that the domestic corporation filed its formation documents. A domestic corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A domestic corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

- (c) The report shall contain the following information:
- (1) The name of the corporation;
 - (2) the location of the principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code;*
 - (3) ~~the names and addresses of~~ *name and postal address* for the president, secretary, treasurer or equivalent of such officers and members of the board of directors;

~~(4) the number of shares of capital stock issued;~~

~~(5)~~ the nature and kind of business in which the corporation is engaged; and

~~(6)~~(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 48. K.S.A. 2022 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms prescribed by the secretary of state and shall be filed biennially, as determined by the year that the corporation organized not for profit filed its formation documents. A corporation organized not for profit that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A corporation organized not for profit that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than on the 15th day of the sixth month following the close of the taxable year.

(c) The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code;*
- (3) ~~the names and addresses of~~ *name and postal address for* the president, secretary and treasurer or equivalent of such officers, and the members of the governing body; *and*
- (4) ~~the number of memberships or the number of shares of capital stock issued; and~~
- (5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders or members of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and
- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each nonprofit corporation shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 49. K.S.A. 2022 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year.

(b) The report shall be made on a form prescribed by the secretary of state and shall be filed biennially, as determined by the year that the foreign corporation filed its foreign corporation application in Kansas. A foreign corporation that filed an application in an even-numbered year shall file a report in each even-numbered year. A foreign corporation that filed an application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall contain the following information:

(1) The name of the corporation and under the laws of what state or country it is incorporated;

(2) the location of its principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code*;

(3) ~~the names and addresses of~~ *name and postal address for* the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;

~~(4) the number of shares of capital stock issued;~~

~~(5) the nature and kind of business in which the company is engaged; and~~

~~(6)~~(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each such foreign corporation shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 50. K.S.A. 2022 Supp. 17-7506 is hereby amended to read as follows: 17-7506. (a) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations, but not exceeding \$250, for issuing or filing and indexing articles of incorporation of a for-profit or a foreign corporation application.

(b) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding \$50, for articles of incorporation of a nonprofit corporation.

(c) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding \$150, for issuing or filing and indexing any of the corporate documents described below:

(1) Certificate of extension, *revocation of dissolution*, restoration, ~~renewal~~ or revival of articles of incorporation;

(2) certificate of amendment of articles of incorporation, either prior to or after payment of capital;

(3) certificate of designation of preferences;

(4) certificate of retirement of preferred stock;

(5) certificate of increase or reduction of capital;

(6) certificate of dissolution, either prior to or after beginning business;

(7) certificate of revocation of voluntary dissolution;

(8) certificate of change of location of registered office and resident agent;

(9) *certificate of merger or consolidation* or agreement of merger or consolidation;

(10) certificate of ownership and merger;

(11) certificate of extension, restoration, renewal or revival of a certificate of authority of foreign corporation to do business in Kansas;

(12) change of resident agent or amendment by foreign corporation;

(13) certificate of withdrawal of foreign corporation;

(14) certificate of correction of any of the instruments designated in this section;

(15) reservation of corporate name;

(16) restated articles of incorporation;

(17) extension of a business entity information report; and

(18) certificate of validation.

(d) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations but not exceeding \$50 for issuing certified copies, photocopies, certificates of good standing and certificates of fact; and any other certificate or filing for which a filing or indexing fee is not prescribed by law.

(e) The secretary of state shall not charge fees for providing the following information: Name of the corporation; *postal* address of its registered office and the name of its resident agent; the amount of its authorized capital stock; the state of its incorporation; date of filing of articles of incorporation, foreign corporation application or business entity information report; and date of expiration.

(f) The secretary of state shall prescribe by rules and regulations any fees required by this act.

Sec. 51. K.S.A. 2022 Supp. 17-76,136 is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of \$20 for issuing or filing and indexing any of the following documents:

(A) A certificate of amendment of articles of organization;

(B) restated articles of organization;

(C) a certificate of cancellation, which ~~fee~~ shall be multiplied by

the number of series of the limited liability company named in the certificate of cancellation;

(D) a certificate of change of location of registered office or resident agent;

(E) a certificate of merger or consolidation;

(F) a certificate of division; and

(G) any certificate, affidavit, agreement or any other paper provided for in the Kansas revised limited liability company act, for which no different fee is specifically prescribed;

(2) a fee of \$7.50 for each certified copy ~~plus a fee per page, if, regardless of whether~~ the secretary of state supplies the copies, ~~in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto~~ copy;

(3) a fee of \$7.50 for each certificate of good standing, including a certificate of good standing for a series of a limited liability company, and certificate of fact issued by the secretary of state;

(4) a fee of \$5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the *postal* address of its registered office; name and *postal* address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or business entity information report; and date of expiration; and

(5) ~~a fee of \$20 for photocopies of instruments~~ a copy of an instrument on file or prepared by the secretary of state's office ~~and which are not, whether or not the copy is certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.~~

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of \$150.

(d) The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 52. K.S.A. 2022 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized and on and after July 1, 2020, each series thereof formed or in existence under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited liability company or series, as applicable, at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's or series' tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited liability company or series filed its formation documents. A limited liability company or series that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability company or series that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. It is permissible to file at one time the biennial report information for more than one limited liability company

or series, regardless of whether the formation documents were filed in an even-numbered or odd-numbered year, ~~provided~~ *except* that all the reports shall be filed in the first year a biennial report is due under this law and in odd-numbered years thereafter. The report shall be filed after the close of the limited liability company's tax period or series' tax period but not later than at the time prescribed by law for filing the limited liability company's or series' annual Kansas income tax return, or if applicable law does not prescribe a time for filing an annual Kansas income tax return for a series, the report for the series shall be filed at, and for purposes of this section its tax period shall be deemed to be, the time prescribed by law for filing the annual Kansas income tax return for the limited liability company to which the series is associated.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information for each limited liability company or series:

(1) The name of the limited liability company or series, as applicable; ~~and~~

(2) a list of the members owning at least 5% of the capital of the limited liability company or series, as applicable, with the ~~post office~~ *postal* address of each; *and*

(3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) (1) Every foreign limited liability company shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(2) The report shall be filed biennially, as determined by the year that the foreign limited liability company filed its foreign limited liability company application. A foreign limited liability company that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability company that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability company's tax period but not later than at the time prescribed by law for filing the limited liability company's annual Kansas income tax return.

(3) The report shall be made on a form prescribed by the secretary of state and shall contain the name of the limited liability company.

(e) The business entity information report required by this section shall be executed by one or more authorized persons, and filed with the secretary of state. The execution of such report by a person who is authorized by the Kansas revised limited liability company act to execute such report, upon filing such report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated ~~therein~~ *in such report* are true.

(f) At the time of filing the business entity information report, each limited liability company or series shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file business entity

information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file business entity information report or pay the required fee, shall be applicable to the articles of organization of any domestic limited liability company, the certificate of designation of any series thereof, or to the authority of any foreign limited liability company ~~which~~ *that* fails to file its business entity information report or pay the fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same. Whenever the articles of organization of a domestic limited liability company, the certificate of designation of a series thereof, or the authority of any foreign limited liability company are forfeited or canceled for failure to file business entity information report or to pay the required fee, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2022 Supp. 17-76,146, and amendments thereto, and the certificate of designation may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2022 Supp. 17-76,147, and amendments thereto, and in each case, paying to the secretary of state all fees, including any penalties thereon, due to the state.

~~(h) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.~~

~~(i) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company or series during any part of the period covered by the extension.~~

Sec. 53. K.S.A. 2022 Supp. 17-78-102 is hereby amended to read as follows: 17-78-102. As used in this act:

(a) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.

(b) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

(c) "Agreement" means a plan or agreement of merger, interest exchange, conversion or domestication.

(d) "Approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law; and other law to:

- (1) Propose a transaction subject to this act;
- (2) adopt and approve the terms and conditions of the transaction; and
- (3) conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(e) "Conversion" means a transaction authorized by K.S.A. 2022 Supp. 17-78-401 through 17-78-406, and amendments thereto.

(f) "Converted entity" means the converting entity as it continues in existence after a conversion.

(g) "Converting entity" means the domestic entity that approves an agreement of conversion pursuant to K.S.A. 2022 Supp. 17-78-403, and amendments thereto, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.

(h) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.

(i) "Domesticated entity" means the domesticating entity as it continues in existence after a domestication.

(j) "Domesticating entity" means the domestic entity that approves an agreement of domestication pursuant to K.S.A. 2022 Supp. 17-78-503, and amendments thereto, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

(k) "Domestication" means a transaction authorized by K.S.A. 2022 Supp. 17-78-501 through 17-78-506, and amendments thereto.

(l) "Entity" means:

(1) A corporation;

(2) a general partnership, including a limited liability partnership;

(3) a limited partnership, including a limited liability limited partnership;

(4) a limited liability company;

(5) a business trust or statutory trust entity;

(6) a cooperative; or

(7) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

(A) An individual;

(B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;

(C) an association or relationship that is not a partnership solely by reason of ~~subsection (c)~~ of K.S.A. 56a-202(c), and amendments thereto, or a similar provision of the law of any other jurisdiction;

(D) a decedent's estate; or

(E) a government, a governmental subdivision, agency, or instrumentality or a quasi-governmental instrumentality.

(m) "Filing entity" means an entity that is created by the filing of a public organic document.

(n) "Foreign entity" means an entity whose internal affairs are governed by the laws of a jurisdiction other than this state.

(o) "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:

(1) Receive or demand access to information concerning, or the books and records of, the entity;

(2) vote for the election of the governors of the entity; or

(3) receive notice of or vote on any or all issues involving the internal affairs of the entity.

(p) "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(q) "Interest" means:

(1) A governance interest in an unincorporated entity;

(2) a transferable interest in an unincorporated entity; or

(3) a share or membership in a corporation.

(r) "Interest exchange" means a transaction authorized by K.S.A. 2022 Supp. 17-78-301 through 17-78-306, and amendments thereto.

(s) "Interest holder" means a direct holder of an interest.

(t) "Interest holder liability" means:

(1) Personal liability for a liability of an entity that is imposed on a person:

(A) Solely by reason of the status of the person as an interest holder; or

(B) by the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one or more specified

interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(2) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(u) "Jurisdiction of organization" of an entity means the jurisdiction whose law includes the organic law of the entity.

(v) "Liability" means a debt, obligation or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent.

(w) "Merger" means a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of state.

(x) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(y) "Organic law" means the statutes, if any, other than this act, governing the internal affairs of an entity.

(z) "Organic rules" means the public organic document and private organic rules of an entity.

(aa) "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government, or governmental subdivision, agency; or instrumentality, or any other legal or commercial entity.

(bb) "Private organic rules" mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.

(cc) "Protected agreement" means:

(1) A record evidencing indebtedness and any related agreement in effect on the effective date of this act;

(2) an agreement that is binding on an entity on the effective date of this act;

(3) the organic rules of an entity in effect on the effective date of this act; or

(4) an agreement that is binding on any of the governors or interest holders of an entity on the effective date of this act.

(dd) "Public organic document" means the public record the filing of which creates an entity and any amendment to or restatement of that record.

(ee) "Qualified foreign entity" means a foreign entity that is authorized to transact business in this state pursuant to a filing with the secretary of state.

(ff) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(gg) "Sign" means, with present intent to authenticate or adopt a record:

(1) To execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic sound, symbol or process.

(hh) "Surviving entity" means the entity that continues in existence after or is created by a merger.

(ii) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(jj) "Type," with regard to an entity, means a generic form of entity:

(1) Recognized at common law; or

(2) organized *or formed* under an organic law, whether or not some entities organized *or formed* under that organic law are subject to

provisions of that law that create different categories of the form of entity.

Sec. 54. K.S.A. 2022 Supp. 17-78-202 is hereby amended to read as follows: 17-78-202. (a) A domestic entity may become a party to a merger under K.S.A. 2022 Supp. 17-78-201 through 17-78-206, and amendments thereto, by approving an agreement of merger *unless approval is not required under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto*. The agreement shall be in a record and contain:

(1) As to each merging entity, its name, jurisdiction of organization and type;

(2) if the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of organization and type;

(3) the manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities, cash or other property or any combination ~~of the foregoing thereof~~, *except that if the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, apply and the merger entity does not own all of the interests of the domestic corporation or corporations, then an interest holder in a domestic corporation shall not become a general partner in a surviving entity that is a partnership, other than a limited liability partnership*;

(4) if the surviving entity exists before the merger, any proposed amendments to its public organic document or to its private organic rules, *which may amend and restate its public organic document or its private organic rules or both*, that are, or are proposed to be, in a record;

(5) if the surviving entity is to be created in the merger, its proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

(6) the other terms and conditions of the merger; and

(7) any other provision required by the law of a merging entity's jurisdiction of organization or the organic rules of a merging entity.

(b) An agreement of merger shall be signed on behalf of each merging entity, *except under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, in which case the agreement of merger shall only be signed on behalf of the merging entity that owns at least 90% of the interests of a domestic corporation or corporations*.

(c) An agreement of merger may contain any other provision not prohibited by law.

Sec. 55. K.S.A. 2022 Supp. 17-78-203 is hereby amended to read as follows: 17-78-203. (a) *Except as provided in subsection (c)*, an agreement of merger is not effective unless it has been approved:

(1) By a domestic merging entity:

(A) In accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a corporation, a merger; or

(ii) in the case of a corporation, a merger requiring approval by a vote of the interest holders of the corporation; or

(B) if neither its organic law nor organic rules provide for approval of a merger described in subparagraph (A), by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) in a record, by each interest holder of a domestic merging entity that will have interest holder liability for liabilities that arise after the merger becomes effective, unless, in the case of an entity that is not a corporation:

(A) The organic rules of the entity provide in a record for the approval of a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(B) the interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A merger involving a foreign merging entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

(c) If a merging entity owns at least 90% of the interests of a domestic corporation or corporations, other than a domestic corporation that has in its articles of incorporation the provisions required by K.S.A. 17-6701(g)(7)(B), and amendments thereto, of which there are interests that, absent this subsection would be entitled to approve an agreement of merger, an agreement of merger is effective if such merging entity has approved the agreement of merger as provided in subsection (a) or (b) and the approval of such domestic corporation or corporations is not required.

Sec. 56. K.S.A. 2022 Supp. 17-78-205 is hereby amended to read as follows: 17-78-205. (a) A certificate of merger shall be signed on behalf of the surviving entity and filed with the secretary of state.

(b) A certificate of merger shall contain:

(1) The name, jurisdiction of organization and type of each merging entity that is not the surviving entity;

(2) the name, jurisdiction of organization and type of the surviving entity;

(3) if the certificate of merger is not to be effective upon filing, the later date and time ~~on which~~ *when* it will become effective, which ~~may~~ *shall* not be more than 90 days after the date of filing;

(4) a statement that the merger was approved by each domestic merging entity, if any, in accordance with K.S.A. 2022 Supp. 17-78-201 through 17-78-206, and amendments thereto, *or if not required to be approved under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, a statement that the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, apply*; and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of organization;

(5) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the agreement of merger, *which may amend and restate its public organic document*;

(6) if the surviving entity is created by the merger and is a domestic filing entity, its public organic document, as an attachment;

(7) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and

(8) if the surviving entity is a foreign entity that is not a qualified foreign entity, a ~~mailing~~ *postal* address to which the secretary of state may send any process served on the secretary of state pursuant to ~~subsection (e)~~ of K.S.A. 2022 Supp. 17-78-206(e), and amendments thereto.

(c) In addition to the requirements of subsection (b), a certificate of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its name and any attached public organic document shall satisfy the requirements of the law of this state, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document. If the surviving entity is a qualified foreign

entity, its name shall satisfy the requirements of the law of this state.

(e) An agreement of merger that is signed on behalf of all of the merging entities, *or under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, only signed on behalf of the merging entity that owns at least 90% of the interest of a domestic corporation or corporations,* and meets all of the requirements of subsection (b) may be filed with the secretary of state instead of a certificate of merger and upon filing has the same effect. If an agreement of merger is filed as provided in this subsection, references in this act to a certificate of merger refer to the agreement of merger filed under this subsection.

(f) A certificate of merger becomes effective upon the date and time of filing or the later date and time specified in the certificate of merger.

Sec. 57. K.S.A. 2022 Supp. 17-78-302 is hereby amended to read as follows: 17-78-302. (a) A domestic entity may be the acquired entity in an interest exchange under K.S.A. 2022 Supp. 17-78-301 through 17-78-306, and amendments thereto, by approving an agreement of interest exchange. The agreement shall be in a record and contain:

- (1) The name and type of the acquired entity;
- (2) the name, jurisdiction of organization and type of the acquiring entity;
- (3) the manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property or any combination of the foregoing thereof;
- (4) any proposed amendments to the public organic document or private organic rules, *which may amend and restate its public organic document or its private organic rules or both,* that are, or are proposed to be, in a record of the acquired entity;
- (5) the other terms and conditions of the interest exchange; and
- (6) any other provision required by the law of this state or the organic rules of the acquired entity.

(b) An agreement of interest exchange may contain any other provision not prohibited by law.

Sec. 58. K.S.A. 2022 Supp. 17-78-606 is hereby amended to read as follows: 17-78-606. ~~This act modifies, limits and supersedes~~*In the event that any provision of article 78 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, is deemed to modify, limit or supersede the federal electronic signatures in global and national commerce act 15, U.S.C. § 7001 et seq., but does not modify, limit or supersede section 101(e) of that act 15 U.S.C. § 7001(e) or authorize electronic delivery of any of the notices described in section 103(b) of that act the provisions of this article shall control to the fullest extent permitted by 15 U.S.C. § 7003(b) 7002(a)(2).*

Sec. 59. K.S.A. 2022 Supp. 17-7914 is hereby amended to read as follows: 17-7914. (a) Any document required to be filed by this act with the secretary of state may be filed by telefacsimile *or electronic* communication. If such telefacsimile *or electronic* communication is accompanied with the appropriate fees, and meets the statutory requirements, it shall be effective upon its filing date or future effective date as prescribed in the document. The secretary of state shall prescribe a telefacsimile *or electronic* communication fee in addition to any filing fees to cover the cost of the services. The fee must be paid prior to acceptance of a telefacsimile *or electronic* communication under this section. The telefacsimile *or electronic* communication fee shall be deposited into the information and services fee fund.

(b) As used in this act, "telefacsimile *or electronic* communication" means the use of electronic equipment to send or

transfer a document, *including attachment to an electronic mail or direct upload*. This section shall not be construed so as to require the secretary of state to accept any filing through ~~electronic mail~~ *any particular means*. The secretary of state may designate acceptable types or formats of telefacsimile *or electronic* communication for filing documents pursuant to this act.

~~(e) This section shall take effect on and after January 1, 2015.~~

Sec. 60. K.S.A. 2022 Supp. 17-7918 is hereby amended to read as follows: 17-7918. (a) Except as otherwise provided in subsection (b), the names of all covered entities, except for banks, savings and loan associations and savings banks, must be distinguishable on the records of the office of the secretary of state from:

(1) The name of any other covered entity or foreign covered entity;

(2) the name of any non-covered entity, other than a general partnership, that has filed with the office of the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;

(3) any entity name reserved pursuant to K.S.A. 2022 Supp. 17-7923, and amendments thereto; and

(4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic documents, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state with the written consent of the other entity, which written consent shall be filed with the secretary of state *on a form prescribed by the secretary of state*.

(c) A covered entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (3) if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

Sec. 61. K.S.A. 2022 Supp. 17-7919 is hereby amended to read as follows: 17-7919. (a) The name of a corporation, except for banks, savings and loan associations, savings banks and public benefit corporations, shall contain:

(1) One of the following words: "Association"; "church" *or well-recognized words for religious institutions*; "college"; "company"; "corporation"; "club"; "foundation"; "fund"; "incorporated"; "institute"; "society"; "union"; "university"; "syndicate" or "limited";

(2) one of the following abbreviations: "Co."; "corp."; "inc." or "Ltd."; or

(3) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

(b) The name of a public benefit corporation shall contain either or both of one of the words, abbreviations or designations in subsection (a) or:

(1) The words "public benefit corporation";

(2) the abbreviation "P.B.C.";

(3) the designation "PBC"; or

(4) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

Sec. 62. K.S.A. 2022 Supp. 17-7924 is hereby amended to read as follows: 17-7924. (a) Every covered entity shall have and maintain in this state a registered office ~~which~~ *that* may, but need not be, the same as its place of business.

(b) Whenever the term "principal office or place of business in this state" or "principal office or place of business of the (applicable covered entity) in this state," or other term of like import, is or has been used in the covered entity's public organic documents, or in any other document or in any statute other than the Kansas uniform commercial code, unless the context indicates otherwise, it shall be deemed to mean and refer to the covered entity's registered office required by this section, and it shall not be necessary for any covered entity to amend its public organic documents or any other document to comply with this section.

(c) As contained in any covered entity's organic documents or other document filed with the secretary of state under the business entity standard treatment act, the *postal* address of a registered office shall include the ~~street, number, city and postal code~~ *building and suite number, street name or rural route number with box number, city, state and zip code*.

Sec. 63. K.S.A. 2022 Supp. 17-7929 is hereby amended to read as follows: 17-7929. (a) The resident agent of ~~one or more a covered entities~~ *entity, including a resident agent that no longer qualifies to be a resident agent under K.S.A. 2022 Supp. 17-7925, and amendments thereto*, may resign without appointing a successor by paying a fee if authorized by law, as provided by K.S.A. 2022 Supp. 17-7910, and amendments thereto, and filing a certificate of resignation, with the secretary of state stating that the resident agent resigns as resident agent for the covered *entity or* entities identified in the certificate, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall be executed by the resident agent, shall contain a statement that written notice of resignation was given to each affected covered entity at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the covered entity at its address last known to the resident agent and shall set forth the date of such notice. *The certificate shall also include the postal address and name and contact information of an officer, director, employee or designated agent who is then authorized to receive communications from the resident agent with respect to the affected covered entities last known to the resident agent, and such information shall not be deemed public information and will not constitute a public record as defined in K.S.A. 45-217, and amendments thereto.*

(b) After receipt of the notice of the resignation of its resident agent, provided for in subsection (a), any covered entity for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resident agent so resigning. Such covered entity shall pay a fee if authorized by law, as provided by K.S.A. 2022 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate setting forth the name and *postal* address of the successor resident agent. Upon such filing, the successor resident agent shall become the resident agent of such covered entity and the successor resident agent's *postal* address, as stated in such certificate, shall become the *postal* address of the covered entity's registered office in this state. If such covered entity fails to obtain and designate a new resident agent as aforesaid, prior to the expiration of the period of 60 days after the filing by the resident agent of the certificate of resignation, the secretary of state shall declare the entity's organizing documents forfeited.

(c) After the resignation of the resident agent shall have become effective, as provided in subsection (a), and if no new resident agent shall have been obtained and designated in the time and manner provided for in subsection (b), service of legal process against the covered entity, or in the case of a domestic or foreign limited liability

company, any series of such limited liability company, for which the resigned resident agent had been acting shall thereafter be upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(d) Any covered entity affected by the filing of a certificate under this section shall not be required to take any further action to amend its public organic documents to reflect a change of registered office or resident agent.

Sec. 64. K.S.A. 2022 Supp. 17-7933 is hereby amended to read as follows: 17-7933. (a) Except as otherwise provided in subsection (b), the names of all foreign covered entities must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;
- (3) any entity name reserved pursuant to K.S.A. 2022 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic document, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A foreign covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state:

- (1) With the written consent of the other entity, which ~~written consent~~ shall be filed with the secretary of state *on a form prescribed by the secretary of state*; or
- (2) if the foreign covered entity indicates, as a means of identification and in its advertising within this state, the state in which the foreign covered entity was formed, and the application sets forth this condition.

Sec. 65. K.S.A. 2022 Supp. 56-1a605 is hereby amended to read as follows: 56-1a605. (a) The secretary of state shall charge each domestic and foreign limited partnership the following fees:

- (1) For issuing or filing and indexing any of the documents described below, a fee of \$20:
 - (A) A certificate of amendment of limited partnership;
 - (B) a restated certificate of limited partnership;
 - (C) a certificate of cancellation of limited partnership;
 - (D) a certificate of change of location of registered office or registered agent; and
 - (E) any certificate, affidavit, agreement or any other paper provided for in this act, for which no different fee is specifically prescribed;
- (2) for certified copies, a fee of \$7.50 for each copy certified ~~plus a fee per page, if, regardless of whether~~ the secretary of state supplies the copies, ~~in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto;~~
- (3) for each certificate of good standing and certificate of fact issued by the secretary of state, a fee of \$7.50;
- (4) for a report of record search, a fee of \$5, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: name of the limited partnership and the *postal* address of its registered office; name and *postal* address of the resident agent; the state of the limited partnership's formation; the date

of filing of its certificate of limited partnership or business entity information report; and date of expiration; and

~~(5) for photocopies of instruments a fee of \$20 for a copy of an instrument on file or prepared by the secretary of state's office and which are not, whether or not the copy is certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto.~~

(b) Every limited partnership hereafter formed in this state shall pay to the secretary of state at the time of filing its certificate of limited partnership, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited partnership shall pay to the secretary of state an application and recording fee of \$150.

(d) The secretary of state shall not charge any fees for the documents or services described in this section upon an official request by any agency of this state or of the United States, or by any officer or employee thereof.

Sec. 66. K.S.A. 2022 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited partnership filed its formation documents. A limited partnership that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

- (1) The name of the limited partnership; ~~and~~
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the *postal* address of each; *and*
- (3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) Every limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and

(2) whether any of the agricultural land held and reported under paragraph (1) was acquired after July 1, 1981.

(e) The report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing its business entity information report, the limited partnership shall pay to the secretary of state a fee in an amount

equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file a business entity information report or pay the required fee, shall be applicable to the certificate of partnership of any limited partnership ~~which~~ *that* fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file a business entity information report or to pay the required fee, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 67. K.S.A. 2022 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the foreign limited partnership filed its foreign limited partnership application. A foreign limited partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

- (1) The name of the limited partnership; *and*
- (2) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) Every foreign limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and
- (2) whether any of the agricultural land held and reported under paragraph (1) was acquired after July 1, 1981.

(e) The report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing its business entity information report, the foreign limited partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(b), and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file a business entity information report or pay the required fee, shall be applicable to the authority of any foreign limited partnership ~~which~~ *that* fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file a business entity information report or to pay the required fee, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 68. K.S.A. 56a-105 is hereby amended to read as follows: 56a-105. (a) A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state. Any statement may be filed by telefacsimile *or electronic* communication if the telefacsimile *or electronic* communication is accompanied with the appropriate fee and meets statutory requirements it shall be effective upon its filing date. Each filing has the effect provided in this act with respect to partnership property located in or transactions that occur in this state.

(b) A certified copy of a statement that has been filed in the office of the secretary of state and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this act. A recorded statement that is not a certified copy of a statement filed in the office of the secretary of state does not have the effect provided for recorded statements in this act.

(c) A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this act. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by this act to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to

any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

(f) The secretary of state may collect a fee for filing or providing a certified copy of a statement. The officer responsible for recording transfers of real property may collect a fee for recording a statement.

(g) The secretary of state shall set by rules and regulations any fees provided by this act.

(h) The secretary of state shall prescribe a telefacsimile *or electronic communication* fee in addition to any filing fees to cover the costs of the services. The fee must be paid prior to acceptance of a telefacsimile communication under this section. The telefacsimile *or electronic* communication fee shall be deposited into the information and copy fee fund. As used in this section, telefacsimile *or electronic* communication means the use of electronic equipment to send or transfer a document, *including as an attachment to electronic mail or direct upload.*

(i) Any signature on documents authorized to be filed with the secretary of state under the provisions of this chapter may be a facsimile, a conformed signature, *an electronic signature* or an electronically transmitted signature.

Sec. 69. K.S.A. 2022 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited liability partnership filed its limited liability partnership formation documents. A limited liability partnership that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited liability partnership's tax period but not later than at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

- (1) The name of the limited liability partnership; ~~and~~
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the *postal* address ~~of~~ for each; *and*
- (3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by a partner of the limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the limited liability partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity

information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of qualification of any limited liability partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file a business entity information report or to pay the required fee, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 70. K.S.A. 2022 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the foreign limited liability partnership filed its foreign limited liability partnership application. A foreign limited liability partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability partnership's tax period but not later than at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

- (1) The name of the foreign limited liability partnership; *and*
- (2) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by a partner of the foreign limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the foreign limited liability partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership that fails to file

its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file a business entity information report or to pay the required fee, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 71. K.S.A. 79-1119 is hereby amended to read as follows: 79-1119. (a) All reports, statements, lists and returns required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, shall be preserved for three years and thereafter until the director of taxation orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) of this section, ~~subsection (g) of K.S.A. 17-7511~~ or K.S.A. 46-1106, and amendments thereto, it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, statement, list, return, federal return or federal return information required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto; and it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer or employee of the department of revenue engaged in the administration of the tax imposed under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to engage in the business or profession of tax accounting or to accept employment, with or without consideration, for any person, firm or corporation for the purpose, directly or indirectly, or preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may:

(1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all statements, lists, reports or returns in accordance with and subject to the provisions of ~~subsection (g) of K.S.A. 46-1106(g)~~, and amendments thereto; or

(4) disclose to the secretary of commerce specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any privilege tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit program administered by the secretary of commerce.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of ~~subsections~~ *subsection* (b) or (c) ~~of this section~~ shall be a class A misdemeanor; and if the offender be an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Notwithstanding the provisions of this section, the secretary of revenue may, in his or her discretion, permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax or privilege tax on financial institutions, or the authorized representative of either, to inspect the reports, statements, lists or returns made under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in statements, lists, reports, or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to any of the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state or of the United States.

Sec. 72. K.S.A. 2022 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or ~~in K.S.A. 17-7511~~, K.S.A. 46-1106(e), 46-1114; or 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may:

(1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of K.S.A. 46-1106(e) or 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for

completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, parks and tourism to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department for children and families for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing

commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 et seq., and amendments thereto;

(13) (A) provide taxpayer information of persons suspected of violating K.S.A. 44-766, and amendments thereto, to the secretary of labor or such secretary's designee for the purpose of determining compliance by any person with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the results or status of such audit or investigation;

(B) any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality; and

(C) each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the provisions of this paragraph;

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, "associated persons" includes spouses or dependents listed on income tax returns;

(15) after receipt of information pursuant to subsection (f), forward such information and provide the following reported Kansas individual income tax information for each listed defendant, if available, to the state board of indigents' defense services in an electronic format and in the manner determined by the secretary: (A) The defendant's name; (B) social security number; (C) Kansas adjusted gross income; (D) number of exemptions claimed; and (E) the relevant tax year of such records. Any social security number provided to the secretary and the state board of indigents' defense services pursuant to this section shall remain confidential; and

(16) disclose taxpayer information that is received from income tax returns to the department of commerce that may be disclosed pursuant to the provisions of K.S.A. 2022 Supp. 74-50,227, and amendments thereto, for the purpose of including such information in the database required by K.S.A. 2022 Supp. 74-50,227, and amendments thereto.

(d) Any person receiving information under the provisions of

subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) For the purpose of determining whether a defendant is financially able to employ legal counsel under the provisions of K.S.A. 22-4504, and amendments thereto, in all felony cases with appointed counsel where the defendant's social security number is accessible from the records of the district court, the court shall electronically provide the defendant's name, social security number, district court case number and county to the secretary of revenue in the manner and format agreed to by the office of judicial administration and the secretary.

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 73. K.S.A. 17-6520, 17-7514, 56-1a608, 56-1a610, 56a-105, 56a-1203, 56a-1204 and 79-1119 and K.S.A. 2022 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-6002, 17-6004, 17-6008, 17-6010, 17-6011, 17-6014, 17-6301, 17-6305, 17-6401, 17-6408, 17-6410, 17-6413, 17-6426, 17-6427, 17-6428, 17-6502, 17-6503, 17-6509, 17-6512, 17-6514, 17-6518, 17-6522, 17-6701, 17-6702, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6712, 17-6804, 17-6812, 17-7001, 17-7002, 17-7003, 17-72a04, 17-72a05, 17-72a07, 17-7302, 17-7503, 17-7504, 17-7505, 17-7506, 17-7511, 17-76,136, 17-76,139, 17-78-102, 17-78-202, 17-78-203, 17-78-205, 17-78-302, 17-78-606, 17-7914, 17-7918, 17-7919, 17-7924, 17-7929, 17-7933, 56-1a605, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 79-3234 are hereby repealed.

Sec. 74. On and after January 1, 2024, K.S.A. 2022 Supp. 17-6712, as amended by section 36 of this act, and 17-72a03 are hereby repealed.

Sec. 75. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.