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Chapter No. 382
12/HR40/R1427SG
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HOUSE BILL NO. 1162

Originated in House



Clerk

HOUSE BILL NO. 1162

AN ACT TO CREATE THE MISSISSIPPI REGISTERED AGENTS ACT; TO CREATE NEW SECTION 79-35-1, MISSISSIPPI CODE OF 1972, TO ENACT A SHORT TITLE; TO CREATE NEW SECTION 79-35-2, MISSISSIPPI CODE OF 1972, TO ENACT DEFINITIONS; TO CREATE NEW SECTION 79-35-3, MISSISSIPPI CODE OF 1972, TO PRESCRIBE FEES AND ALLOW THE SECRETARY OF STATE TO REDUCE FEES FOR ELECTRONIC FILINGS UNDER THE ACT; TO CREATE NEW SECTION 79-35-4, MISSISSIPPI CODE OF 1972, TO PRESCRIBE STANDARDS FOR STREET AND MAILING ADDRESSES USED IN REGISTERING UNDER THE ACT; TO CREATE NEW SECTION 79-35-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-6, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR LISTING OF A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-7, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TERMINATION OF LISTING OF A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE IN REGISTERED AGENT; TO CREATE NEW SECTION 79-35-9, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE OF NAME OR ADDRESS BY A NONCOMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-10, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A CHANGE OF NAME, ADDRESS OR BUSINESS TYPE BY A COMMERCIAL REGISTERED AGENT; TO CREATE NEW SECTION 79-35-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE RESIGNATION OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-12, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF AN AGENT BY A NONFILING OR NONQUALIFIED FOREIGN ENTITY; TO CREATE NEW SECTION 79-35-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SERVICE OF PROCESS ON ENTITIES AND TO SPECIFY PROCEDURES WHEN SERVICE CANNOT BE HAD; TO CREATE NEW SECTION 79-35-14, MISSISSIPPI CODE OF 1972, TO SPECIFY THE DUTIES OF A REGISTERED AGENT; TO CREATE NEW SECTION 79-35-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE APPOINTMENT OF AN AGENT DOES NOT CONFER JURISDICTION OR DETERMINE VENUE; TO CREATE NEW SECTION 79-35-16, MISSISSIPPI CODE OF 1972, TO DIRECT UNIFORMITY WITH OTHER STATES IN THE CONSTRUCTION OF THE ACT; TO CREATE NEW SECTION 79-35-17, MISSISSIPPI CODE OF 1972, TO DEFINE THE RELATIONSHIP BETWEEN THIS ACT AND THE ELECTRONIC SIGNATURES ACT; TO CREATE NEW SECTION 79-35-18, MISSISSIPPI CODE OF 1972, TO ENACT A SAVINGS CLAUSE; TO CREATE NEW SECTION 79-35-19, MISSISSIPPI CODE OF 1972, TO PRESCRIBE PENALTIES FOR VIOLATION OF THE ACT; TO AMEND SECTIONS 79-4-1.20, 79-4-1.22, 79-4-1.25, 79-4-1.26, 79-4-1.41, 79-4-2.02, 79-4-7.03, 79-4-7.04, 79-4-7.20, 79-4-7.48, 79-4-8.09, 79-4-10.05, 79-4-11.07, 79-4-13.30, 79-4-14.07, 79-4-14.08, 79-4-14.20, 79-4-14.21, 79-4-14.22, 79-4-14.23, 79-4-14.31, 79-4-15.03, 79-4-15.04, 79-4-15.10, 79-4-15.20, 79-4-15.30, 79-4-15.31, 79-4-15.32, 79-4-15.33, 79-4-16.04, 79-4-16.05, 79-4-16.22, 79-11-109, 79-11-115, 79-11-117, 79-11-131, 79-11-137, 79-11-201, 79-11-213, 79-11-289, 79-11-299, 79-11-327, 79-11-345, 79-11-347,

79-11-349, 79-11-351, 79-11-353, 79-11-355, 79-11-357, 79-11-367, 79-11-369, 79-11-381, 79-11-383, 79-11-385, 79-11-389, 79-11-391 AND 79-13-1001, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE LIMITED LIABILITY PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-13-1003, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1004, MISSISSIPPI CODE OF 1972, TO ALLOW FOR A LIMITED LIABILITY PARTNERSHIP TO CORRECT DEFICIENCIES IN ORDER TO AVOID ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-13-1005, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT OF A LIMITED LIABILITY PARTNERSHIP FOLLOWING ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-13-1006, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DENIAL OF REINSTATEMENT; TO AMEND SECTION 79-13-1102, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE FOREIGN LIMITED LIABILITY PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-13-1106, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE OF PENDING REVOCATION OF QUALIFICATION OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVOCATION OF FOREIGN QUALIFICATION; TO CREATE NEW SECTION 79-13-1108, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT OF QUALIFICATION OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO CREATE NEW SECTION 79-13-1109, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DENIAL OF REINSTATEMENT OF A FOREIGN LIMITED LIABILITY PARTNERSHIP; TO AMEND SECTIONS 79-14-104, 79-14-201, 79-14-202 AND 79-14-207, MISSISSIPPI CODE OF 1972, TO CONFORM; TO CREATE NEW SECTION 79-14-809, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-810, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE OF PENDING ADMINISTRATIVE DISSOLUTION OF A LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-811, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT FOLLOWING ADMINISTRATION DISSOLUTION OF A LIMITED PARTNERSHIP; TO REVISE THE LIMITED PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-14-812, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NOTICE FOLLOWING DENIAL OF REINSTATEMENT; TO AMEND SECTION 79-14-902, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REVISE THE FOREIGN LIMITED PARTNERSHIP ACT TO ALLOW ADMINISTRATIVE DISSOLUTION ON GROUNDS OF APPOINTMENT OF A NONCONSENTING AGENT; TO CREATE NEW SECTION 79-14-910, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-911, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-912, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT FOLLOWING REVOCATION OF REGISTRATION OF A FOREIGN LIMITED PARTNERSHIP; TO CREATE NEW SECTION 79-14-913, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR DENIAL OF REINSTATEMENT; TO AMEND SECTIONS 79-14-1104, 79-15-109, 79-15-129, 79-15-131, 79-15-135, 79-16-11, 79-16-27, 79-16-29, 79-16-33, 79-29-201, 79-29-209, 79-29-211, 79-29-231, 79-29-803, 79-29-819, 79-29-823, 79-29-825, 79-29-827, 79-29-913, 79-29-923, 79-29-1003, 79-29-1023, 79-29-1025 AND 79-29-1203, MISSISSIPPI CODE OF 1972, TO CONFORM; TO REPEAL SECTIONS 79-4-5.01, 79-4-5.02, 79-4-5.03 AND 79-4-5.04, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR A REGISTERED AGENT

MAINTAINING A REGISTERED OFFICE, FOR THE CHANGE OF THE REGISTERED OFFICE OF A REGISTERED AGENT, FOR THE RESIGNATION OF A REGISTERED AGENT, FOR SERVICE OF PROCESS ON A CORPORATION, AND WHICH COLLECTIVELY CONSTITUTE ARTICLE 5, OFFICE AND AGENT, OF THE MISSISSIPPI BUSINESS CORPORATION ACT; TO REPEAL SECTION 79-4-15.07, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE REGISTERED OFFICE OF A REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-4-15.08, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CHANGE OF AN OFFICER OR REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-4-15.09, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A REGISTERED AGENT OF A FOREIGN CORPORATION; TO REPEAL SECTION 79-11-163, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A NONPROFIT CORPORATION MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-11-165, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT BY A NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-167, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A NONPROFIT CORPORATION'S REGISTERED AGENT; TO REPEAL SECTION 79-11-169, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-375, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN NONPROFIT CORPORATION MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-11-377, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN NONPROFIT CORPORATION; TO REPEAL SECTION 79-11-379, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE RESIGNATION OF A FOREIGN NONPROFIT CORPORATION'S REGISTERED AGENT; TO REPEAL SECTION 79-15-115, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN INVESTMENT TRUST MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-15-117, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OR RESIGNATION OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN INVESTMENT TRUST; TO REPEAL SECTION 79-15-119, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A FOREIGN INVESTMENT TRUST; TO REPEAL SECTION 79-16-17, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A FOREIGN BUSINESS TRUST MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-16-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CHANGE OR RESIGNATION OF REGISTERED OFFICE OR REGISTERED AGENT BY A FOREIGN BUSINESS TRUST; TO REPEAL SECTION 79-16-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A FOREIGN BUSINESS TRUST; TO REPEAL SECTION 79-29-113, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THAT A LIMITED LIABILITY COMPANY MAINTAIN A REGISTERED OFFICE AND REGISTERED AGENT WITHIN THE STATE; TO REPEAL SECTION 79-29-125, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR SERVICE OF PROCESS UPON A LIMITED LIABILITY COMPANY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 79-35-1, Mississippi Code of 1972:

79-35-1. **Short title.** This chapter shall be known and may be cited as the Mississippi Registered Agents Act.

SECTION 2. The following shall be codified as Section 79-35-2, Mississippi Code of 1972:

79-35-2. **Definitions.** As used in this chapter unless the context otherwise requires:

(1) "Appointment of agent" means a statement appointing an agent for service of process filed by a domestic entity that is not a filing entity or a nonqualified foreign entity under Section 79-35-12.

(2) "Commercial registered agent" means an individual or a domestic or foreign entity listed under Section 79-35-6.

(3) "Domestic entity" means an entity whose internal affairs are governed by the law of this state.

(4) "Entity" means a 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, or similar trust;

(C) An association or relationship that is not a partnership by reason of Section 79-13-202(c) or a similar provision of the law of any other jurisdiction;

(D) A decedent's estate; or

(E) A public corporation, government or governmental subdivision, agency, or instrumentality, or quasi-governmental instrumentality.

(5) "Filing entity" means an entity that is created by the filing of a public organic document.

(6) "Foreign entity" means an entity other than a domestic entity.

(7) "Foreign qualification document" means an application for a certificate of authority or other foreign

qualification filing with the Secretary of State by a foreign entity.

(8) "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:

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for the election of the governors of the entity; or

(C) Receive notice of or vote on any or all issues involving the internal affairs of the entity.

(9) "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.

(10) "Interest" means:

(A) A governance interest in an unincorporated entity;

(B) A transferable interest in an unincorporated entity; or

(C) A share or membership in a corporation.

(11) "Interest holder" means a direct holder of an interest.

(12) "Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.

(13) "Noncommercial registered agent" means a person that is not listed as a commercial registered agent under Section 79-35-6 and that is an individual or a domestic or foreign entity that serves in this state as the agent for service of process of an entity.

(14) "Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this state pursuant to a filing with the Secretary of State.

(15) "Nonresident LLP statement" means:

(A) A statement of qualification of a domestic limited liability partnership that does not have an office in this state; or

(B) A statement of foreign qualification of a foreign limited liability partnership that does not have an office in this state.

(16) "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

(17) "Organic rules" means the public organic document and private organic rules of an entity.

(18) "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.

(19) "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.

(20) "Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.

(21) "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.

(22) "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.

(23) "Registered agent" means a commercial registered agent or a noncommercial registered agent.

(24) "Registered agent filing" means:

(A) The public organic document of a domestic filing entity;

(B) A nonresident LLP statement;

(C) A foreign qualification document; or

(D) An appointment of agent.

(25) "Represented entity" means:

(A) A domestic filing entity;

(B) A domestic or qualified foreign limited liability partnership that does not have an office in this state;

(C) A qualified foreign entity;

(D) A domestic entity that is not a filing entity for which an appointment of agent has been filed; or

(E) A nonqualified foreign entity for which an appointment of agent has been filed.

(26) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic sound, symbol, or process.

(27) "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

(28) "Type," with respect to an entity, means a generic form of entity:

(A) Recognized at common law; or

(B) Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.

SECTION 3. The following shall be codified as Section 79-35-3, Mississippi Code of 1972:

79-35-3. **Fees.** (a) The Secretary of State shall collect the following fees when a filing is made under this chapter:

| Document | Fee |
|---|------------|
| (1) Commercial registered agent listing statement | \$ 100.00 |
| (2) Commercial registered agent termination statement | \$ 50.00 |
| (3) Statement of change | \$ 10.00 |
| | per entity |
| not to exceed | \$1,000.00 |
| (4) (A) Statement of resignation | No fee |
| (B) Statement of nonacceptance | No fee |
| (5) Statement appointing an agent for service of process pursuant to Section 79-35-12 | \$ 10.00 |

(b) The Secretary of State shall collect the following fees for copying and certifying a copy of any document filed under this chapter:

- (1) \$1.00 a page for copying; and
- (2) \$10.00 for a certificate.

(c) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process is entitled to recover the fee as costs if he prevails in the proceeding.

(d) The Secretary of State may collect a filing fee greater than the fee as prescribed by rule, not to exceed Twenty-five Dollars (\$25.00), if the form for such filings prescribed by the Secretary of State has not been used.

(e) The Secretary of State may promulgate rules to reduce the filing fees set forth in this section or provide for discounts of fees as set forth in this section to encourage online filing of documents or for other reasons as determined by the secretary.

SECTION 4. The following shall be codified as Section 79-35-4, Mississippi Code of 1972:

79-35-4. **Addresses in filings.** Whenever a provision of this chapter other than Section 79-35-11(a)(4) requires that a filing state an address, the filing must state:

- (1) An actual street address in this state; and
- (2) A mailing address in this state, if different from the address under paragraph (1) of this section.

SECTION 5. The following shall be codified as Section 79-35-5, Mississippi Code of 1972:

79-35-5. **Appointment of registered agent.** (a) A registered agent filing must state:

- (1) The name of the represented entity's commercial registered agent; or
- (2) If the entity does not have a commercial registered agent, the name and address of the entity's noncommercial registered agent.

(b) The appointment of a registered agent pursuant to subsection (a)(1) or (a)(2) of this section is an affirmation by the represented entity that:

- (1) The entity has:
 - (A) Notified the agent of the appointment; and
 - (B) Provided the agent with a forwarding address as provided in Section 79-35-14; and
- (2) The agent has consented to serve as such.

(c) The Secretary of State shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list must:

- (1) Be available for at least fourteen (14) calendar days;
- (2) List in alphabetical order the names of the registered agents; and

(3) State the type of filing and name of the represented entity making the filing.

SECTION 6. The following shall be codified as Section 79-35-6, Mississippi Code of 1972:

79-35-6. **Listing of commercial registered agent.** (a) An individual or a domestic or foreign entity may become listed as a commercial registered agent by filing with the Secretary of State a commercial registered agent listing statement signed by or on behalf of the person which states:

(1) The name of the individual or the name, type, and jurisdiction of organization of the entity; and

(2) The address of a place of business of the person in this state to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered.

(b) A commercial registered agent listing statement may include the information regarding acceptance of service of process in a record by the commercial registered agent provided for in Section 79-35-13(d).

(c) If the name of a person filing a commercial registered agent listing statement is not distinguishable on the records of the Secretary of State from the name of another commercial registered agent listed under this section, the person must adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.

(d) A commercial registered agent listing statement takes effect on filing.

(e) The commercial registered agent listing statement must be accompanied by a list in alphabetical order of the entities represented by the person. The Secretary of State shall note the filing of the commercial registered agent listing statement in the index of filings maintained by the Secretary of State for each

listed entity. The statement has the effect of deleting the address of the registered agent from the registered agent filing of each of those entities.

SECTION 7. The following shall be codified as Section 79-35-7, Mississippi Code of 1972:

79-35-7. **Termination of listing of commercial registered agent.** (a) A commercial registered agent may terminate its listing as a commercial registered agent by filing with the Secretary of State a commercial registered agent termination statement signed by or on behalf of the agent which states:

(1) The name of the agent as currently listed under Section 79-35-6; and

(2) That the agent is no longer in the business of serving as a commercial registered agent in this state.

(b) A commercial registered agent termination statement takes effect on the thirty-first day after the day on which it is filed.

(c) The commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial registered agent termination statement.

(d) When a commercial registered agent termination statement takes effect, the registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent appoints a new registered agent, service of process may be made on the entity as provided in Section 79-35-13.

(e) Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.

SECTION 8. The following shall be codified as Section 79-35-8, Mississippi Code of 1972:

79-35-8. **Change of registered agent by entity.** (a) A represented entity may change the information currently on file under Section 79-35-5(a) by filing with the Secretary of State a statement of change signed on behalf of the entity which states:

(1) The name of the entity; and

(2) The information that is to be in effect as a result of the filing of the statement of change.

(b) The interest holders or governors of a domestic entity need not approve the filing of:

(1) A statement of change under this section; or

(2) A similar filing changing the registered agent or registered office of the entity in any other jurisdiction.

(c) The appointment of a registered agent pursuant to subsection (a) of this section is an affirmation by the represented entity that the entity has notified the agent of the appointment and that the agent has consented to serve as such.

(d) A statement of change filed under this section takes effect on filing.

SECTION 9. The following shall be codified as Section 79-35-9, Mississippi Code of 1972:

79-35-9. **Change of name or address by noncommercial registered agent.** (a) If a noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to Section 79-35-5(a), the agent shall file with the Secretary of State, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent which states:

(1) The name of the entity;

(2) The name and address of the agent as currently in effect with respect to the entity;

(3) If the name of the agent has changed, its new name;

and

(4) If the address of the agent has changed, the new address.

(b) A statement of change filed under this section takes effect on filing.

(c) A noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.

SECTION 10. The following shall be codified as Section 79-35-10, Mississippi Code of 1972:

79-35-10. Change of name, address, or type of organization by commercial registered agent.

(a) If a commercial registered agent changes its name, its address as currently listed under Section 79-35-6(a), or its type or jurisdiction of organization, the agent shall file with the Secretary of State a statement of change signed by or on behalf of the agent which states:

(1) The name of the agent as currently listed under Section 79-35-6(a);

(2) If the name of the agent has changed, its new name;

(3) If the address of the agent has changed, the new address; and

(4) If the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization.

(b) The filing of a statement of change under subsection (a) of this section is effective to change the information regarding the commercial registered agent with respect to each entity represented by the agent.

(c) A statement of change filed under this section takes effect on filing.

(d) A commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.

(e) If a commercial registered agent changes its address without filing a statement of change as required by this section, the Secretary of State may cancel the listing of the agent under Section 79-35-6. A cancellation under this subsection has the same effect as a termination under Section 79-35-7. Promptly after canceling the listing of an agent, the Secretary of State shall serve notice in a record in the manner provided in Section 79-35-13(b) or (c) on:

(1) Each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new registered agent, service of process may be made on the entity as provided in Section 79-35-13; and

(2) The agent, stating that the listing of the agent has been canceled under this section.

SECTION 11. The following shall be codified as Section 79-35-11, Mississippi Code of 1972:

79-35-11. **Resignation of registered agent.** (a) A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

(1) The name of the entity;

(2) The name of the agent; and

(3) That the agent resigns from serving as agent for service of process for the entity.

(b) (1) The statement of resignation shall include a certification of the registered agent that at least thirty (30) days prior to the filing of the statement of resignation written notice of the resignation of the registered agent was sent to each represented entity for which the registered agent is resigning as registered agent. This notice shall be addressed and delivered to the last known principal office of each represented entity

identified in the statement. The agent shall indicate in the statement each name and address to which the notice was sent. After receipt of the notice of resignation of its registered agent, the represented entity for which the registered agent was acting shall obtain and designate a registered agent.

(2) For purposes of this subsection, the "last known principal office" of the represented entity shall be the address of the entity on file with the Secretary of State's office or the address most recently supplied to the agent by the entity, whichever is more current, or the actual principal office address if the actual address is known to the agent.

(c) A statement of resignation takes effect on the earlier of the thirty-first day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

(d) When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

(e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

SECTION 12. The following shall be codified as Section 79-35-12, Mississippi Code of 1972:

79-35-12. Appointment of agent by nonfiling or nonqualified foreign entity. (a) A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the Secretary of State a statement appointing an agent for service of process signed on behalf of the entity which states:

(1) The name, type, and jurisdiction of organization of the entity; and

(2) The information required by Section 79-35-5(a).

(b) A statement appointing an agent for service of process takes effect on filing.

(c) The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this state and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this state.

(d) A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Secretary of State from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.

(e) An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which shall take effect upon filing, and must state the name of the entity and that the entity is canceling its appointment of an agent for service of process in this state.

(f) A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.

SECTION 13. The following shall be codified as Section 79-35-13, Mississippi Code of 1972:

79-35-13. **Service of process on entities.** (a) A registered agent is an agent of the represented entity authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity.

(b) If an entity that previously filed a registered agent filing with the Secretary of State no longer has a registered agent, or if its registered agent cannot with reasonable diligence be served, the governors of the entity will be treated as the entity's agent for service of process who may be served pursuant

to the provisions of the Mississippi Rules of Civil Procedure. The names of the governors and the address of the principal office may be as shown in the most recent annual report filed with the Secretary of State. If the governors of the entity cannot with reasonable diligence be served, service of process against the entity shall be upon the Secretary of State in accordance with the Mississippi Rules of Civil Procedure.

(c) If notice or demand cannot be made on an entity pursuant to subsection (a) or (b) of this section, notice or demand may be made by handing a copy to the manager or other individual in charge of any regular place of business or activity of the entity.

(d) Notice or demand on a registered agent must be in the form of a written document, except that notice or demand may be made on a commercial registered agent in such other forms of a record, and subject to such requirements as the agent has stated from time to time in its listing under Section 79-35-6 that it will accept.

(e) Service of process, notice, or demand may be perfected by any other means prescribed by law other than this chapter, including provisions in the organic entity laws that provide for service of process on the Secretary of State in the event that registration of an organic entity has been canceled, withdrawn or revoked or the domestic organic entity has been administratively dissolved or voluntarily dissolved under the applicable organic entity statute.

SECTION 14. The following shall be codified as Section 79-35-14, Mississippi Code of 1972:

79-35-14. **Duties of registered agent.** (a) The only duties under this chapter of a registered agent that has complied with this chapter are:

(1) To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand that is served on the agent;

(2) To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, to keep current the information required by Section 79-35-5(a) in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, to keep current the information listed for it under Section 79-35-6(a).

(b) A person named as the registered agent for a represented entity in a registered agent filing pursuant to this chapter without the person's consent is not considered to be a "registered agent" of the entity for purposes of this chapter and therefore the person shall not have, and shall not be required to perform, the duties prescribed by this section with respect to the represented entity described in this subsection (b).

(1) In the event a person described in this subsection (b) is served with notice of service of process pursuant to Section 79-35-13(a), service on the person shall be deemed to be service on the entity that named the agent, even if the person does not forward the service to the entity.

(2) The person described in this subsection (b) shall have no responsibility to forward the service described in this subsection (b) to the entity, even if the person accepts the service by mistake; and the person further may not be held liable regardless of whether the person files a notice of nonacceptance with the Secretary of State:

(A) Under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the represented entity, whether arising in contract, tort, or otherwise, solely because of the person's designation or appointment as registered agent; or

(B) To the represented entity or to a person who reasonably relied on the unauthorized designation or appointment solely because of the person's failure or refusal to perform the duties of a registered agent under this section.

(3) A person described in subsection (b) of this section may file a notice of nonacceptance with the Secretary of State's office for the purpose of removing the person's name from the records of the Secretary of State that relate to the entity described in subsection (b) of this section.

Upon the filing of the notice of nonacceptance, the Secretary of State shall notify the entity in writing of the nonacceptance. After receipt of the notice from the Secretary of State, the entity shall obtain and designate a registered agent.

SECTION 15. The following shall be codified as Section 79-35-15, Mississippi Code of 1972:

79-35-15. **Jurisdiction and venue.** The appointment or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or proceeding involving the entity.

SECTION 16. The following shall be codified as Section 79-35-16, Mississippi Code of 1972:

79-35-16. **Consistency of application.** In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it.

SECTION 17. The following shall be codified as Section 79-35-17, Mississippi Code of 1972:

79-35-17. **Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 USCS Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 USCS

Section 7001(c), or authorize delivery of any of the notices described in Section 103(b) of that act, 15 USCS Section 7003(b).

SECTION 18. The following shall be codified as Section 79-35-18, Mississippi Code of 1972:

79-35-18. **Savings clause.** This chapter does not affect an action or proceeding commenced or right accrued before the effective date of this chapter.

SECTION 19. The following shall be codified as Section 79-35-19, Mississippi Code of 1972:

79-35-19. **Designation of registered agent without consent; penalties and liabilities.** In addition to other penalties, a person commits an offense if the person makes a false statement in a registered agent filing that names a person the registered agent of a represented entity without the person's written consent. The following penalties and liabilities shall apply with respect to a false statement in a registered agent filing made under this chapter that names a person the registered agent of a represented entity without the person's consent:

(1) Section 79-4-1.29 (Domestic Corporations); Section 79-4-15.30 (Foreign Corporations); Section 79-11-123 (Domestic Nonprofit Corporations); Section 79-11-385 (Foreign Nonprofit Corporations); Section 79-29-207 (Domestic Limited Liability Companies); Section 79-29-1019 (Foreign Limited Liability Companies); Section 79-13-1003 (Limited Liability Partnerships); Section 79-13-1106 (Foreign Limited Liability Partnerships); Section 79-14-207 (Domestic Limited Partnerships); Section 79-15-129 (Foreign Investment Trusts); and Section 79-16-27 (Foreign Business Trusts).

(2) The Secretary of State may commence a proceeding to administratively dissolve the domestic entity or to revoke the foreign entity's certificate of authority or similar certificate as prescribed by Section 79-4-14.20 (Corporations); Section 79-4-15.30 (Foreign Corporations); Section 79-11-347 (Nonprofit

Corporations); Section 79-11-385 (Foreign Nonprofit Corporations); Section 79-13-1003 (Limited Liability Partnerships); Section 79-13-1106 (Foreign Limited Liability Partnerships); Section 79-29-809 (Limited Liability Companies); Section 79-29-1011 (Foreign Limited Liability Companies); Section 79-14-809 (Limited Partnerships); Section 79-14-910 (Foreign Limited Partnerships); Section 79-15-129 (Foreign Investment Trusts); and Section 79-16-27 (Foreign Business Trusts). Any entity that is administratively dissolved or whose certificate of authority is revoked pursuant to this paragraph shall not be reinstated unless it complies with the applicable statutory reinstatement requirements and unless it provides to the Secretary of State with its application for reinstatement a statement of appointment of registered agent signed by its appointed registered agent and an additional reinstatement fee of Two Hundred Fifty Dollars (\$250.00), in addition to the applicable statutory reinstatement fee.

SECTION 20. Section 79-4-1.20, Mississippi Code of 1972, is amended as follows:

79-4-1.20. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(b) Section 79-4-1.01 et seq. must require or permit filing the document in the Office of the Secretary of State.

(c) The document must contain the information required by Section 79-4-1.01 et seq. It may contain other information as well.

(d) The document must be typewritten or printed, or, if electronically transmitted, it must be in a format that can be retrieved or reproduced by the Secretary of State in typewritten or printed form.

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain a corporate seal, an attestation, acknowledgment or verification. A document required or permitted to be filed under this chapter which contains a copy of a signature, however made, is acceptable for filing.

(h) If the Secretary of State has prescribed a mandatory form for the document under Section 79-4-1.21, the document must be in or on the prescribed form.

(i) The document must be delivered to the Office of the Secretary of State for filing. Delivery may be made by electronic transmission if, to the extent and in the manner permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require one (1) exact or conformed copy to be delivered with the document * * *.

(j) When the document is delivered to the Office of the Secretary of State for filing, the correct filing fee, and any franchise tax, license fee, or penalty required to be paid

therewith by this section or any other law must be paid or provision for payment made in a manner permitted by the Secretary of State.

(k) Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

(2) The facts may include, but are not limited to:

(i) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(ii) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(iii) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(3) As used in this subsection:

(i) "Filed document" means a document filed with the Secretary of State under any provision of this chapter except Article 15 or Section 79-4-16.21; and

(ii) "Plan" means a plan of domestication, nonprofit conversion, entity conversion, merger or share exchange.

(4) The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:

(i) The name and address of any person required in a filed document.

(ii) [Reserved]

(iii) The registered agent of any entity required in a filed document.

(iv) The number of authorized shares and designation of each class or series of shares.

(v) The effective date of a filed document.

(vi) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(5) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in subsection (k)(2)(i) or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the Secretary of State articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this subsection (k)(5) are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

SECTION 21. Section 79-4-1.22, Mississippi Code of 1972, is amended as follows:

79-4-1.22. (a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

| Document | Fee |
|---|------------|
| (1) Articles of incorporation | \$ 50.00 |
| (2) Application for use of indistinguishable name | 25.00 |
| (3) Application for reserved name | 25.00 |

| | |
|--|--------|
| (4) Notice of transfer of reserved name | 25.00 |
| (5) Application for registered name | 50.00 |
| (6) Application for renewal of registered name | 50.00 |
| (7) <u>[Reserved]</u> | |
| (8) <u>[Reserved]</u> | |
| (9) <u>[Reserved]</u> | |
| (10) Amendment of articles of Incorporation .. | 50.00 |
| (11) Restatement of articles of incorporation | 50.00 |
| with amendment of articles | 50.00 |
| (12) Articles of merger or share exchange | 50.00 |
| (13) Articles of dissolution | 25.00 |
| (14) Articles of revocation of dissolution ... | 25.00 |
| (15) Certificate of administrative dissolution | No fee |
| (16) Application for reinstatement following administrative dissolution | 50.00 |
| (17) Certificate of reinstatement | No fee |
| (18) Certificate of judicial dissolution | No fee |
| (19) Application for certificate of authority | 500.00 |
| (20) Application for amended certificate of authority | 50.00 |
| (21) Application for certificate of withdrawal | 25.00 |
| (22) Certificate of revocation of authority to transact business | No fee |
| (23) Application for reinstatement following administrative revocation | 100.00 |
| (24) Certificate of reinstatement | No fee |
| (25) Annual report | 25.00 |
| (26) Articles of correction | 50.00 |

- (27) Application for certificate of existence
or authorization 25.00
- (28) Any other document required or permitted
to be filed by Section 79-4-1.01 et seq. 25.00

(b) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on him under Section 79-4-1.01 et seq. The party to a proceeding causing service of process is entitled to recover this fee as costs if he prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) One Dollar (\$1.00) a page for copying; and
- (2) Ten Dollars (\$10.00) for the certificate.

(d) The Secretary of State may collect a filing fee greater than the fee set out herein, not to exceed the actual costs of processing the filing, if the form for filing as prescribed by the Secretary of State has not been used.

(e) The Secretary of State may promulgate rules to:

(1) Reduce the filing fees prescribed in this section or provide for discounts of fees to encourage online filing of documents or for other reasons as determined by the Secretary of State; and

(2) Provide for documents to be filed and accepted on an expedited basis upon the request of the applicant. The Secretary of State may promulgate rules to provide for an additional reasonable filing fee not to exceed Twenty-five Dollars (\$25.00) to be paid by the applicant and collected by the Secretary of State for the expedited filing services.

SECTION 22. Section 79-4-1.25, Mississippi Code of 1972, is amended as follows:

79-4-1.25. (a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of Section 79-4-1.20, the Secretary of State shall file it.

(b) The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, * * * the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgment of the date and time of filing.

(c) If the Secretary of State refuses to file a document, he shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for his refusal.

(d) The Secretary of State's duty to file documents under this section is ministerial. His filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or part;

(2) Relate to the correctness or incorrectness of information contained in the document;

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 23. Section 79-4-1.26, Mississippi Code of 1972, is amended as follows:

79-4-1.26. (a) If the Secretary of State refuses to file a document delivered to his office for filing, the domestic or foreign corporation may appeal the refusal to the chancery court of the county where the corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. The appeal is commenced by

petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of his refusal to file.

(b) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

SECTION 24. Section 79-4-1.41, Mississippi Code of 1972, is amended as follows:

79-4-1.41. (a) Notice under Section 79-4-1.01 et seq. shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

(b) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.

(c) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective (i) upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders, or (ii) when electronically transmitted to the shareholder in a manner authorized by the shareholder.

(d) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent * * * or to the secretary of the corporation at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has

not yet delivered an annual report, in its application for a certificate of authority.

(e) Except as provided in subsection (c), written notice, if in a comprehensible form, is effective at the earliest of the following:

(1) When received;

(2) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(f) Oral notice is effective when communicated if communicated in a comprehensible manner.

(g) If Section 79-4-1.01 et seq. prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation, or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of Section 79-4-1.01 et seq., those requirements govern.

SECTION 25. Section 79-4-2.02, Mississippi Code of 1972, is amended as follows:

79-4-2.02. (a) The articles of incorporation must set forth:

(1) A corporate name for the corporation that satisfies the requirements of Section 79-4-4.01;

(2) The number of shares the corporation is authorized to issue and any information concerning the authorized shares as required by Section 79-4-6.01;

(3) The information required by Section 79-35-5(a); and

(4) The name and address of each incorporator.

(b) The articles of incorporation may set forth:

(1) The names and addresses of the individuals who are to serve as the initial directors;

- (2) Provisions not inconsistent with law regarding:
- (i) The purpose or purposes for which the corporation is organized;
 - (ii) Managing the business and regulating the affairs of the corporation;
 - (iii) Defining, limiting and regulating the powers of the corporation, its board of directors and shareholders; and
 - (iv) A par value for authorized shares or classes of shares;
- (3) Any provision that under Section 79-4-1.01 et seq. is required or permitted to be set forth in the bylaws;
- (4) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:
- (i) The amount of a financial benefit received by a director to which he is not entitled;
 - (ii) An intentional infliction of harm on the corporation or the shareholders;
 - (iii) A violation of Section 79-4-8.33; or
 - (iv) An intentional violation of criminal law; and
- (5) A provision permitting or making obligatory indemnification of a director for liability as defined in Section 79-4-8.50(5) to any person for any action taken, or any failure to take any action, as a director, except liability for:
- (i) Receipt of a financial benefit to which he is not entitled;
 - (ii) An intentional infliction of harm on the corporation or its shareholders;
 - (iii) A violation of Section 79-4-8.33; or
 - (iv) An intentional violation of criminal law.
- (c) The articles of incorporation need not set forth any of the corporate powers enumerated in Section 79-4-1.01 et seq.

(d) For the purposes of this section, a "director" shall include any person vested with the discretion or powers of a director under Section 79-4-7.32.

(e) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with Section 79-4-1.20(k).

SECTION 26. Section 79-4-7.03, Mississippi Code of 1972, is amended as follows:

79-4-7.03. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order a meeting to be held:

(1) On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting or written consent in lieu thereof; or

(2) On application of a shareholder who signed a demand for a special meeting valid under Section 79-4-7.02 if:

(i) Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to the corporation's secretary; or

(ii) The special meeting was not held in accordance with the notice.

(b) The court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that

the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

SECTION 27. Section 79-4-7.04, Mississippi Code of 1972, is amended as follows:

79-4-7.04. (a) Action required or permitted by Section 79-4-1.01 et seq. to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A unanimous consent signed under this subsection is the act of the shareholders when consents signed by all shareholders have been delivered to the corporation.

(b) The articles of incorporation may provide that any action required or permitted by Section 79-4-1.01 et seq. to be taken at a shareholder's meeting may be taken without a meeting and without prior notice, if consents in writing setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consent shall bear the date of signature of the shareholder who signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under Section 79-4-7.03 or 79-4-7.07, and if prior board action is not required respecting the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed written consent

is delivered to the corporation. If not otherwise fixed under Section 79-4-7.03 or 79-4-7.07, and if prior board action is required respecting the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board taking such prior action is adopted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest date on which a consent delivered to the corporation as required by this section was signed, written consents signed by the holders of shares having sufficient votes to take the action have been delivered to the corporation. A written consent may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporation action are delivered to the corporation.

(d) A consent signed pursuant to the provisions of this section has the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by less than unanimous written consent shall be effective when written consents signed by the holders of shares having sufficient votes to take the action are delivered to the corporation.

(e) If Section 79-4-1.01 et seq. requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten (10) days after (i) written consents sufficient to take the action have been delivered to the corporation, or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection (d). The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under Section

79-4-1.01 et seq., would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f) If action is taken by less than unanimous written consent of the voting shareholders, the corporation must give its nonconsenting voting shareholders written notice of the action not more than ten (10) days after (i) written consents sufficient to take the action have been delivered to the corporation, or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection (d). The notice must reasonably describe the action taken and contain or be accompanied by the same material that, under Section 79-4-1.01 et seq., would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

(g) The notice requirements in subsections (e) and (f) shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.

(h) An electronic transmission may be used to consent to an action, if the electronic transmission contains or is accompanied by information from which the corporation can determine the date on which the electronic transmission was signed and that the electronic transmission was authorized by the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact.

(i) Delivery of a written consent to the corporation under this section is delivery to the corporation's registered

agent * * * or to the secretary of the corporation at its principal office.

SECTION 28. Section 79-4-7.20, Mississippi Code of 1972, is amended as follows:

79-4-7.20. (a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group (and within each voting group by class or series of shares) and show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder beginning two (2) business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, his agent or attorney is entitled on written demand to inspect and, subject to the requirements of Section 79-4-16.02(c), to copy the list during regular business hours and at his expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, his agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, his agent or attorney to inspect the shareholders' list before or at the meeting (or copy the list as permitted by subsection (b)), the chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, on application of the shareholder, may summarily order the inspection or copying at

the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting.

SECTION 29. Section 79-4-7.48, Mississippi Code of 1972, is amended as follows:

79-4-7.48. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that:

(1) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(2) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(b) The court:

(1) May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

(2) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

(3) Has jurisdiction over the corporation and all of its property, wherever located.

(c) The court may appoint an individual or domestic or foreign corporation (authorized to transact business in this state) as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(d) The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers,

(1) A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation; and

(2) A receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in the receiver's own name as receiver in all courts of this state.

(e) The court during a custodianship may redesignate the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

(f) The court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets

SECTION 30. Section 79-4-8.09, Mississippi Code of 1972, is amended as follows:

79-4-8.09. (a) The chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its

shareholders holding at least ten percent (10%) of the outstanding shares of any class if the court finds that (1) the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, and (2) removal is in the best interest of the corporation.

(b) The court that removes a director may bar the director from reelection for a period prescribed by the court.

(c) If shareholders commence a proceeding under subsection (a), they shall make the corporation a party defendant.

SECTION 31. Section 79-4-10.05, Mississippi Code of 1972, is amended as follows:

79-4-10.05. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To change the information required by Section 79-35-5(a);

(4) If the corporation has only one (1) class of shares outstanding:

(a) To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

(b) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(5) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited" or the abbreviation "corp.," "inc.," "co." or "ltd." for a similar word

or abbreviation in the name, or by adding, deleting or changing a geographical attribution for the name;

(6) To reflect a reduction in authorized shares, as a result of the operation of Section 79-4-6.31(b), when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;

(7) To delete a class of shares from the articles of incorporation, as a result of the operation of Section 79-4-6.31(b), when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or

(8) To make any change expressly permitted by Section 79-4-6.02(a) or (b) to be made without shareholder approval.

SECTION 32. Section 79-4-11.07, Mississippi Code of 1972, is amended as follows:

79-4-11.07. (a) When a merger becomes effective:

(1) The corporation or other entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be;

(2) The separate existence of every corporation or other entity that is merged into the survivor ceases;

(3) All property owned by, and every contract right possessed by, each corporation or other entity that merges into the survivor is vested in the survivor without reversion or impairment;

(4) All liabilities of each corporation or other entity that is merged into the survivor are vested in the survivor subject to the limitations as provided in Sections 79-33-1 through 79-33-9;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) The articles of incorporation or organizational documents of the survivor are amended to the extent provided in the plan of merger;

(7) The articles of incorporation or organizational documents of a survivor that is created by the merger become effective; and

(8) The shares of each corporation that is a party to the merger, and the interests in another entity that is a party to a merger, that are to be converted under the plan of merger into shares, interests, obligations, rights to acquire securities, other securities, cash, other property, or any combination of the foregoing, are converted and the former holders of such shares or interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under Title 79, Chapter 4, Article 13.

(b) When a share exchange becomes effective, the shares of each domestic corporation that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or securities, other securities, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under Title 79, Chapter 4, Article 13.

(c) Any shareholder of a domestic corporation that is a party to a merger or share exchange who, prior to the merger or share exchange, was liable for the liabilities or obligations of such corporation, shall not be released from such liabilities or obligations by reason of the merger or share exchange.

(d) Upon a merger becoming effective, a foreign corporation, or a foreign other entity, that is the survivor of the merger is deemed to:

(1) Agree that service of process in a proceeding to enforce the rights of shareholders of each domestic corporation

that is a party to the merger who exercise appraisal rights may be made in the manner provided in Section 79-35-13; and

(2) Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under Title 79, Chapter 4, Article 13.

SECTION 33. Section 79-4-13.30, Mississippi Code of 1972, is amended as follows:

79-4-13.30. (a) If a shareholder makes demand for payment under Section 79-4-13.26 which remains unsettled, the corporation shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to Section 79-4-13.26 plus interest.

(b) The corporation shall commence the proceeding in the appropriate court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. If the corporation is a foreign corporation * * *, it shall commence the proceeding in the county in this state where the principal office * * * of the domestic corporation merged with the foreign corporation was located or, if the domestic corporation did not have its principal office in this state at the time of the transaction, in Chancery Court of the First Judicial District of Hinds County, Mississippi.

(c) The corporation shall make all shareholders (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(d) The jurisdiction of the court in which the proceeding is commenced under subsection (b) is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each shareholder made a party to the proceeding is entitled to judgment (i) for the amount, if any, by which the court finds the fair value of the shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares or (ii) for the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under Section 79-4-13.25.

SECTION 34. Section 79-4-14.07, Mississippi Code of 1972, is amended as follows:

79-4-14.07. (a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice must:

(1) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office * * * is or was * * * located, or in Hinds County if the corporation does not have a principal office in this state;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the

claim is commenced within three (3) years after the publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within the lesser of three (3) years after the publication date of the newspaper notice, or any other applicable limitations period established by applicable law:

(1) A claimant who was not given written notice under Section 79-4-14.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by Section 79-4-14.06(c) or Section 79-4-14.07(c) may be enforced:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) Except as provided in Section 79-4-14.08(d), if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to the shareholder.

SECTION 35. Section 79-4-14.08, Mississippi Code of 1972, is amended as follows:

79-4-14.08. (a) A dissolved corporation that has published a notice under Section 79-4-14.07 may file an application with the chancery court of the county where the dissolved corporation's principal office * * * is located, or the Chancery Court of the

First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under Section 79-4-14.07(c).

(b) Within ten (10) days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(d) Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection (a) of this section shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a shareholder who received assets in liquidation.

SECTION 36. Section 79-4-14.20, Mississippi Code of 1972, is amended as follows:

79-4-14.20. The Secretary of State may commence a proceeding under Section 79-4-14.21 to administratively dissolve a corporation if:

(1) The corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Sections 79-4-1.01 et seq. or other law;

(2) The corporation does not deliver its annual report to the Secretary of State within sixty (60) days after it is due;

(3) The corporation is without a registered agent * * * in this state for sixty (60) days or more;

(4) The corporation does not notify the Secretary of State within sixty (60) days that its registered agent * * * has been changed, or that its registered agent has resigned; * * *

(5) The corporation's period of duration stated in its articles of incorporation expires; or

(6) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing.

SECTION 37. Section 79-4-14.21, Mississippi Code of 1972, is amended as follows:

79-4-14.21. (a) If the Secretary of State determines that one or more grounds exist under Section 79-4-14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination * * *, except that such determination may be served by first-class mail.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected * * *, the Secretary of State shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the

corporation * * *, except that such certificate may be served by first-class mail.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under Section 79-4-14.05 and notify claimants under Sections 79-4-14.06 and 79-4-14.07.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 38. Section 79-4-14.22, Mississippi Code of 1972, is amended as follows:

79-4-14.22. (a) A corporation administratively dissolved under Section 79-4-14.21 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The applicant must:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution;
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated;
- (3) State that the corporation's name satisfies the requirements of Section 79-4-4.01; and
- (4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the corporation have been paid.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) and that the information is correct, he shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his determination and the effective date of reinstatement, file the original of the certificate and serve a copy on the corporation * * *.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative

dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 39. Section 79-4-14.23, Mississippi Code of 1972, is amended as follows:

79-4-14.23. (a) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation * * * with a written notice that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County * * * or the chancery court of the county where the corporation's principal office is located or where the corporation is domiciled within thirty (30) days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 40. Section 79-4-14.31, Mississippi Code of 1972, is amended as follows:

79-4-14.31. (a) Venue for a proceeding brought by any party named in Section 79-4-14.30 lies in the county where a corporation's principal office * * * is or was * * * located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state.

(b) It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(c) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(d) Within ten (10) days of the commencement of a proceeding under Section 79-4-14.30(2) to dissolve a corporation that is not a public corporation, the corporation shall send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under Section 79-4-14.34 and accompanied by a copy of Section 79-4-14.34.

SECTION 41. Section 79-4-15.03, Mississippi Code of 1972, is amended as follows:

79-4-15.03. (a) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application must set forth:

(1) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 79-4-15.06;

(2) The name of the state or country under whose law it is incorporated;

(3) Its date of incorporation and period of duration;

(4) The street address of its principal office;

(5) The information required by Section 79-35-5(a); and

(6) The names and usual business addresses of its current directors and officers.

(b) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 42. Section 79-4-15.04, Mississippi Code of 1972, is amended as follows:

79-4-15.04. (a) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the Secretary of State if it changes:

- (1) Its corporate name;
- (2) The period of its duration; * * *
- (3) Any of the information required by Section

79-35-5(a); or

- (4) The state or country of its incorporation.

(b) The requirements of Section 79-4-15.03 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

SECTION 43. Section 79-4-15.10, Mississippi Code of 1972, is amended as follows:

79-4-15.10. * * * Notice or demand required or permitted by law * * * on a foreign corporation authorized to transact business in this state is governed by Section 13 of the Mississippi Registered Agents Act. Service of process is governed by the Mississippi Rules of Civil Procedure.

* * *

SECTION 44. Section 79-4-15.20, Mississippi Code of 1972, is amended as follows:

79-4-15.20. (a) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Secretary of State.

(b) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

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

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

(3) That it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(4) A mailing address to which the Secretary of State may mail a copy of any process served on him under paragraph (3) of this subsection; and

(5) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(c) After the withdrawal of the corporation is effective, service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign corporation at the mailing address set forth in its application for withdrawal.

SECTION 45. Section 79-4-15.30, Mississippi Code of 1972, is amended as follows:

79-4-15.30. The Secretary of State may commence a proceeding under Section 79-4-15.31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Sections 79-4-1.01 et seq. or other law;

(3) The foreign corporation is without a registered agent * * * in this state for sixty (60) days or more;

(4) The foreign corporation does not inform the Secretary of State by an appropriate filing that its registered agent * * * has changed or that its registered agent has resigned, * * * within sixty (60) days of the change or resignation * * *;

(5) An incorporator, director, officer or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing;

(6) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger.

SECTION 46. Section 79-4-15.31, Mississippi Code of 1972, is amended as follows:

79-4-15.31. (a) If the Secretary of State determines that one or more grounds exist under Section 79-4-15.30 for revocation of a certificate of authority, he shall serve the foreign corporation with written notice of his determination under Section 79-4-15.10, except that such determination may be served by first-class mail.

(b) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of

the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected under Section 79-4-15.10, the Secretary of State may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign corporation under Section 79-4-15.10, except that such certificate may be served by first-class mail.

(c) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(d) The Secretary of State's revocation of a foreign corporation's certificate of authority appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

SECTION 47. Section 79-4-15.32, Mississippi Code of 1972, is amended as follows:

79-4-15.32. (a) A foreign corporation whose certificate of authority is administratively revoked under Section 79-4-15.31 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the corporation and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of Section 79-4-4.01; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the corporation has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) and that the information is correct, he shall reinstate the certificate of authority, prepare a certificate that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under Section 79-35-13.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative revocation and the corporation resumes carrying on its business as if the administrative revocation had never occurred.

SECTION 48. Section 79-4-15.33, Mississippi Code of 1972, is amended as follows:

79-4-15.33. (a) If the Secretary of State denies a foreign corporation's application for reinstatement following administrative revocation, he shall serve the corporation * * * with a written communication that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the corporation is domiciled or where the corporation's principal office is located within thirty (30) days after service of the communication of denial is perfected. The corporation appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the revoked corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 49. Section 79-4-16.04, Mississippi Code of 1972, is amended as follows:

79-4-16.04. (a) If a corporation does not allow a shareholder who complies with Section 79-4-16.02(a) to inspect and copy any records required by that subsection to be available for inspection, the chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with Section 79-4-16.02(b) and (c) may apply to the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for an order to permit inspection and copying of the records demanded.

The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's costs (including reasonable counsel fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

SECTION 50. Section 79-4-16.05, Mississippi Code of 1972, is amended as follows:

79-4-16.05. (a) A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) The chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and

prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs (including reasonable counsel fees) incurred in connection with the application.

SECTION 51. Section 79-4-16.22, Mississippi Code of 1972, is amended as follows:

79-4-16.22. (a) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver within sixty (60) days of each anniversary date of its incorporation with respect to a domestic corporation or its authorization to transact business in this state with respect to a foreign corporation, or such other date as may be established by the Secretary of State * * *, to the Secretary of State for filing an annual report that sets forth:

- (1) The name of the corporation and the state or country under whose law it is incorporated;
- (2) The information required by Section 79-35-5(a);
- (3) The address of its principal office;
- (4) The names and business addresses of its directors and principal officers;
- (5) A brief description of the nature of its business;
- (6) The total number of authorized shares, itemized by class and series, if any, within each class; and
- (7) The total number of issued and outstanding shares, itemized by class and series, if any, within each class.

(b) Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) If an annual report does not contain the information required by this section, the Secretary of State shall notify promptly the reporting domestic or foreign corporation in writing

and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 52. Section 79-11-109, Mississippi Code of 1972, is amended as follows:

79-11-109. (1) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:

| Document | Fee |
|---|------------|
| (a) Articles of incorporation | \$50.00 |
| (b) Application for use of indistinguishable name | 25.00 |
| (c) Application for reserved name | 25.00 |
| (d) Notice of transfer of reserved name | 25.00 |
| (e) Application for registered name | 50.00 |
| (f) Application for renewal of registered name .. | 50.00 |
| (g) <u>[Reserved]</u> | |
| (h) <u>[Reserved]</u> | |
| (i) <u>[Reserved]</u> | |
| (j) Amendment of articles of incorporation | 50.00 |
| (k) Restatement of articles of incorporation with amendments | 50.00 |
| (l) Articles of merger | 50.00 |
| (m) Articles of dissolution | 25.00 |
| (n) Articles of revocation of dissolution | 25.00 |
| (o) Certificate of administrative dissolution | No Fee |
| (p) Application for reinstatement following administrative dissolution | 50.00 |
| (q) Certificate of reinstatement | No Fee |
| (r) Certificate of judicial dissolution | No Fee |

| | |
|--|--------|
| (s) Application for certificate of authority | 100.00 |
| (t) Application for amended certificate of authority | 50.00 |
| (u) Application for certificate of withdrawal . . . | 25.00 |
| (v) Certificate of revocation of authority to transact business | No Fee |
| (w) Status report | 25.00 |
| (x) Articles of correction | 50.00 |
| (y) Application for certificate of existence or authorization | 25.00 |
| (z) Any other document required or permitted to be filed by Section 79-11-101 et seq. | 25.00 |

(2) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) upon being served with process under Section 79-11-101 et seq. The party to a proceeding causing service of process is entitled to recover the fee paid the Secretary of State as costs if the party prevails in the proceeding.

(3) Except as otherwise provided in subsection (4) of this section, the Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (a) One Dollar (\$1.00) a page for copying; and
- (b) Ten Dollars (\$10.00) for the certificate.

(4) The Secretary of State may collect a filing fee greater than the fee set forth in subsections (1), (2) and (3) in an amount not to exceed twice the fee set forth in subsections (1), (2) and (3) of processing the filing, if the form prescribed by the Secretary of State for such filing has not been used.

SECTION 53. Section 79-11-115, Mississippi Code of 1972, is amended as follows:

79-11-115. (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of Section 79-11-105, the Secretary of State shall file it.

(2) The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, except as provided in Section 79-35-11, the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgement of the date and time of filing.

(3) Upon refusing to file a document, the Secretary of State shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason or reasons for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial. Filing or refusal to file a document does not:

(a) Affect the validity or invalidity of the document, in whole or in part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 54. Section 79-11-117, Mississippi Code of 1972, is amended as follows:

79-11-117. (1) If the Secretary of State refuses to file a document delivered for filing to the Secretary of State's office, the domestic or foreign corporation may appeal the refusal to the chancery court in the county where the corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state. The

appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

(2) The court may summarily order the Secretary of State to file the document or take other action the court considered appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 55. Section 79-11-131, Mississippi Code of 1972, is brought forward as follows:

79-11-131. (1) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws or Section 79-11-101 et seq., then upon petition of a director, officer, delegate, member or the Attorney General, the chancery court of the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized in such a manner as the court finds fair and equitable under the circumstances.

(2) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws and Section 79-11-101 et seq., whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(3) The order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws or Section 79-11-101 et seq.

(4) Whenever practical any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger or sale of assets.

(5) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the force and effect as if it complied with every requirement imposed by the articles, bylaws and Section 79-11-101 et seq.

SECTION 56. Section 79-11-137, Mississippi Code of 1972, is amended as follows:

79-11-137. (1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of Section 79-11-157;

(b) The period of duration, which may be perpetual;

(c) The information required by Section 79-35-5(a);

(d) The name and address of each incorporator;

(e) If the corporation is incorporated on or after January 1, 2012, the corporation's initial planned, primary nonprofit activity; and

(f) Any other information the Secretary of State may reasonably require by rule, including, without limitation, the contact name, electronic mail address, telephone number or business or mailing address of the corporation or that can be used to contact the corporation.

(2) The articles of incorporation may set forth:

(a) The names and addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

(i) The purpose or purposes for which the corporation is organized;

(ii) Managing the business and regulating the affairs of the corporation;

(iii) Defining, limiting and regulating the powers of the corporation, its board of directors and members;

(c) Any provision that under Section 79-11-101 et seq. is required or permitted to be set forth in the bylaws; and

(d) A provision permitting or making obligatory indemnification of a director for liability (as defined in Section 79-11-281(1)(c)) to any person for any action taken, or any failure to take any action as a director, except liability for:

(i) Receipt of a financial benefit to which the director is not entitled;

(ii) An intentional infliction of harm;

(iii) A violation of Section 79-11-270; or

(iv) An intentional violation of criminal law.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in Section 79-11-101 et seq.

(4) The liability of a director of a corporation that is not a charitable organization as defined in Section 79-11-501 may be

eliminated or limited by a provision of the articles of incorporation that a director shall not be liable to the corporation or its members for money damages for any action taken or any failure to take any action as a director, except liability for:

- (a) The amount of a financial benefit received by the director to which the director is not entitled;
- (b) An intentional infliction of harm;
- (c) A violation of Section 79-11-270; or
- (d) An intentional violation of criminal law.

SECTION 57. Section 79-11-201, Mississippi Code of 1972, is amended as follows:

79-11-201. (1) The chancery court of the county where a corporation's principal office * * * is or will be located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order a meeting to be held:

(a) On application of any member or other person entitled to participate in the annual meeting, if an annual meeting was not held within the earlier of six (6) months after the end of the corporation's fiscal year or fifteen (15) months after its last annual meeting; or

(b) On application of a member who signed a demand for a special meeting valid under Section 79-11-199, or a person or persons entitled to call a special meeting, if:

(i) Notice of the special meeting was not given within thirty (30) days after the date the demand was delivered to a corporate officer; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of

the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(3) If the court orders a meeting, it may also order the corporation to pay the member's cost (including reasonable counsel fees) incurred to obtain the order.

SECTION 58. Section 79-11-213, Mississippi Code of 1972, is amended as follows:

79-11-213. (1) After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis and be part of the list of members.

(2) The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the limitations of Sections 79-11-285(c) and 79-11-291, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

(3) The corporation shall make the list of members available at the meeting, and any member, a member's agent, or attorney is

entitled to inspect the list at any time during the meeting or any adjournment.

(4) If the corporation refuses to allow a member, a member's agent, or attorney to inspect the list of members before or at the meeting (or copy the list as permitted by subsection (2) of this section); the chancery court of the county where a corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

(5) Unless a written demand to inspect and copy a membership list has been made under subsection (2) of this section prior to the membership meeting and a corporation improperly refuses to comply with the demand, refusal or failure to comply with this section does not affect the validity of action taken at the meeting.

SECTION 59. Section 79-11-289, Mississippi Code of 1972, is amended as follows:

79-11-289. (1) If a corporation does not allow a member who complies with Section 79-11-285(1) to inspect and copy any records required by that subsection to be available for inspection, the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(2) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who

complies with Section 79-11-285(2) and (3) may apply to the chancery court in the county where the corporation's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the member's costs (including reasonable attorney's fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

SECTION 60. Section 79-11-299, Mississippi Code of 1972, is amended as follows:

79-11-299. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles of incorporation without action by members:

(a) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(b) To delete the names and addresses of the initial directors;

(c) To change the information required by Section 79-35-5(a);

(d) To make any other change expressly permitted by Section 79-11-101 et seq. to be made without member action.

SECTION 61. Section 79-11-327, Mississippi Code of 1972, is amended as follows:

79-11-327. (1) One or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

(a) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(b) The foreign corporation complies with Section 79-11-323 if it is the surviving corporation of the merger; and

(c) Each domestic nonprofit corporation complies with the applicable provisions of Sections 79-11-319 and 79-11-321 and, if it is the surviving corporation of the merger, with Section 79-11-323.

(2) Upon the merger taking effect, the surviving foreign business or nonprofit corporation may be served with process in any proceeding brought against it as provided in the Mississippi Rules of Civil Procedure.

SECTION 62. Section 79-11-345, Mississippi Code of 1972, is amended as follows:

79-11-345. (1) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published one (1) time in a newspaper of general circulation in the county where the dissolved corporation's principal office * * * is or was * * * located, or in Hinds County if the corporation does not have a principal office in this state;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent;

and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after publication of this notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two (2) years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under Section 79-11-343;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

SECTION 63. Section 79-11-347, Mississippi Code of 1972, is amended as follows:

79-11-347. The Secretary of State may commence a proceeding under Section 79-11-349 to administratively dissolve a corporation if:

(a) The corporation does not pay within sixty (60) days after they are due any taxes or penalties imposed by Section 79-11-101 et seq. or other law;

(b) The corporation does not deliver a requested status report to the Secretary of State within sixty (60) days after it is due;

(c) The corporation is without a registered agent * * * in this state for sixty (60) days or more;

(d) The corporation does not notify the Secretary of State within one hundred twenty (120) days that its registered agent * * * has been changed or that its registered agent has resigned * * *;

(e) The corporation's period of duration, if any, stated in its articles of incorporation expires; * * *

(f) The corporation fails to report within the time period specified in Section 79-11-405 the suspension or revocation of its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code; or

(g) An incorporator, director, officer or agent of the corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing.

SECTION 64. Section 79-11-349, Mississippi Code of 1972, is amended as follows:

79-11-349. (1) Upon determining that one or more grounds exist under Section 79-11-347 for dissolving a corporation, the Secretary of State shall notify the corporation in the form of a record of that determination. * * *

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within at least sixty (60) days after service of the notice is perfected, the Secretary of State may

administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the corporation * * *.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to wind up and liquidate its affairs under Section 79-11-341 and notify its claimants under Sections 79-11-343 and 79-11-345.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

SECTION 65. Section 79-11-351, Mississippi Code of 1972, is amended as follows:

79-11-351. (1) A corporation administratively dissolved under Section 79-11-349 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(a) Recite the name of the corporation and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of Section 79-11-157; and

(d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the

effective date of reinstatement, file the original of the certificate and serve a copy on the corporation * * *.

(3) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its activities as if the administrative dissolution had never occurred.

SECTION 66. Section 79-11-353, Mississippi Code of 1972, is amended as follows:

79-11-353. (1) The Secretary of State, upon denying a corporation's application for reinstatement following administrative dissolution, shall serve the corporation * * * with a written notice that explains the reason or reasons for denial.

(2) The corporation may appeal the denial of reinstatement to the chancery court of the county where the corporation's principal office * * * is or was located, or in the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, within ninety (90) days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 67. Section 79-11-355, Mississippi Code of 1972, is amended as follows:

79-11-355. (1) The chancery court of the county where the corporation's principal office * * * is or was located, or in the

Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state, may dissolve a corporation:

(a) In a proceeding by the Attorney General or the Secretary of State if it is established that:

(i) The corporation obtained its articles of incorporation through fraud;

(ii) The corporation has continued to exceed or abuse the authority conferred upon it by law; or

(iii) If the corporation is a charitable organization, as defined in Section 79-11-501, that:

1. The corporate assets are being misapplied or wasted;

2. The corporation is unable to carry out its purpose(s); or

3. The corporation has violated the laws regulating the solicitation of charitable contributions, Section 79-11-501 et seq.;

(b) In a proceeding by fifty (50) members or members holding five percent (5%) of the voting power, whichever is less, or by a director if it is established that:

(i) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to breach the deadlock;

(ii) The directors or those in control of the corporation have acted, are acting or will act in a manner that is illegal, oppressive or fraudulent;

(iii) The members are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have, or would otherwise have, expired; or

(iv) The corporate assets are being misapplied or wasted;

(c) In a proceeding by a creditor if it is established that:

(i) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied and the corporation is insolvent; or

(ii) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(d) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(2) Prior to dissolving a corporation, the court shall consider whether there are reasonable alternatives to dissolution.

SECTION 68. Section 79-11-357, Mississippi Code of 1972, is amended as follows:

79-11-357. (1) Venue for a proceeding to dissolve a corporation lies in the county where a corporation's principal office * * * is or was * * * located, or in the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the corporation does not have a principal office in this state.

(2) It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located and carry on the activities of the corporation until a full hearing can be held.

SECTION 69. Section 79-11-367, Mississippi Code of 1972, is amended as follows:

79-11-367. (1) A foreign corporation may apply for a certificate of authority to transact business in this state by

delivering an application to the Secretary of State. The application must set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of Section 79-11-373;

(b) The name of the state or country under whose law it is incorporated;

(c) The date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The information required under Section 79-35-5(a);

(f) The names and usual business or home addresses of its current directors and officers; and

(g) Whether the foreign corporation has members.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import), dated not more than sixty (60) days prior to the date the application is filed in this state, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

SECTION 70. Section 79-11-369, Mississippi Code of 1972, is amended as follows:

79-11-369. (1) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its corporate name;

(b) The period of its duration; * * *

(c) Any information required by Section 79-35-5(a); or

(d) The state or country or its incorporation.

(2) The requirements of Section 79-11-367 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

SECTION 71. Section 79-11-381, Mississippi Code of 1972, is amended as follows:

79-11-381. * * * Notice or demand required or permitted by law on a foreign corporation authorized to transact business in this state is governed by Section 13 of the Mississippi Registered Agents Act. Service of process is governed by the Mississippi Rules of Civil Procedure.

* * *

SECTION 72. Section 79-11-383, Mississippi Code of 1972, is amended as follows:

79-11-383. (1) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Secretary of State.

(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) A representation that it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) A representation that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state;

(d) A mailing address to which the Secretary of State may mail a copy of any process served on him or her under paragraph (c) of this subsection; and

(e) A commitment to notify the Secretary of State in the future of any change in the mailing address.

(3) After the withdrawal of the corporation is effective, service of process on the Secretary of State under the Mississippi Rules of Civil Procedure is service on the foreign corporation. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign corporation at the * * * address set forth in its application for withdrawal.

SECTION 73. Section 79-11-385, Mississippi Code of 1972, is amended as follows:

79-11-385. (1) The Secretary of State may commence a proceeding under Section 79-11-387 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(a) The foreign corporation does not deliver the status report to the Secretary of State within sixty (60) days after it is due;

(b) The foreign corporation does not pay within sixty (60) days after they are due any franchise taxes or penalties imposed by Section 79-11-101 et seq. or other law;

(c) The foreign corporation is without a registered agent * * * in this state for sixty (60) days or more;

(d) The foreign corporation does not inform the Secretary of State by an appropriate filing that its registered agent * * * has changed or that its registered agent has resigned * * * within ninety (90) days of the change or resignation * * *;

(e) An incorporator, director, officer or agent of the foreign corporation signed a document such person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(f) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated

stating that it has been dissolved or has disappeared as the result of a merger.

(2) The Attorney General may commence a proceeding under Section 79-11-387 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if the corporation has continued to exceed or abuse the authority conferred upon it by law.

SECTION 74. Section 79-11-389, Mississippi Code of 1972, is amended as follows:

79-11-389. (1) A foreign corporation may appeal the Secretary of State's revocation of its certificate of authority to the Chancery Court of the First Judicial District of Hinds County, Mississippi, or the chancery court of the county where the corporation's principal * * * office * * * is located within thirty (30) days after the service of the certificate of revocation is perfected under Section 79-11-381. The foreign corporation applies by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.

(2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 75. Section 79-11-391, Mississippi Code of 1972, is amended as follows:

79-11-391. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall upon request deliver to the Secretary of State a status report on a form prescribed and furnished by the Secretary of State that sets forth:

(a) The name of the corporation and the jurisdiction under whose law it is incorporated;

(b) The information required by Section 79-35-5(a);

(c) The address of its principal office;

(d) The names and business or residence addresses of its directors and principal officers;

(e) A brief description of the nature of its activities; and

(f) Whether or not it has members.

(2) Upon receiving the request for a status report, a domestic or foreign corporation shall have ninety (90) days to deliver the report to the Secretary of State.

(3) The information in the status report must be current on the date the status report is executed on behalf of the corporation.

(4) The Secretary of State may request a status report from time to time, but not more frequently than once every five (5) years, beginning five (5) years from the date upon which a domestic corporation was incorporated or a foreign corporation was authorized to transact business.

(5) If a status report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty (30) days after the effective date of notice, it is deemed to be timely filed.

SECTION 76. Section 79-13-1001, Mississippi Code of 1972, is amended as follows:

79-13-1001. (a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote

necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b), a partnership may become a limited liability partnership by filing a statement of qualification. The statement must contain:

(1) The name of the partnership;

(2) The street address of the partnership's chief executive office and, if different, the street address of an office in this state, if any;

(3) If the partnership does not have an office in this state, the information required by Section 79-35-5(a);

(4) A statement that the partnership elects to be a limited liability partnership; and

(5) A deferred effective date, if any.

(d) [Reserved]

(e) The status of a partnership as a limited liability partnership is effective on the later of the filing of the statement or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 79-13-105(d).

(f) The status of a partnership as a limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c).

(g) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(h) An amendment or cancellation of a statement of qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

SECTION 77. The following shall be codified as Section 79-13-1003, Mississippi Code of 1972:

79-13-1003. The Secretary of State may commence a proceeding under Section 79-13-1004 to administratively dissolve a statement of qualification if:

(1) The limited liability partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(2) [Reserved]

(3) The limited liability partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited liability partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned; or

(5) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited liability partnership pursuant to this chapter.

SECTION 78. The following shall be codified as Section 79-13-1004, Mississippi Code of 1972:

79-13-1004. (a) If the Secretary of State determines that one or more grounds exist under Section 79-13-1003 for the administrative dissolution of a statement of qualification, the Secretary of State shall serve the limited liability partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the limited liability partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice, the Secretary of State shall administratively dissolve the statement of qualification by

signing a certification of the dissolution that recites the ground for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve the limited liability partnership with a copy of the certificate, except that such certificate may be served by first-class mail.

(c) The administrative dissolution of a statement of qualification affects only the partnership's status as a limited liability partnership and is not an event of dissolution of the partnership.

(d) A limited liability partnership administratively dissolved continues its existence but may carry on only business necessary to wind up and liquidate its business and affairs under Section 79-13-803.

(e) The administrative dissolution of the statement of qualification of a limited partnership does not terminate the authority of its agent for service of process.

SECTION 79. The following shall be codified as Section 79-13-1005, Mississippi Code of 1972:

79-13-1005. (a) A limited liability partnership whose statement of qualification has been administratively dissolved under Section 79-14-1004 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(1) Recite the name of the limited liability partnership and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the limited liability partnership's name satisfies the requirements of Section 79-13-1002; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the limited liability partnership have been paid.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate and serve the limited liability partnership with a copy of the certificate.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(2) Any liability incurred by a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(3) The limited liability partnership may resume its business as if the administrative dissolution had never occurred.

SECTION 80. The following shall be codified as Section 79-13-1006, Mississippi Code of 1972:

79-13-1006. (a) If the Secretary of State denies a limited liability partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability partnership with a record that explains the reason or reasons for denial.

(b) The limited liability partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited liability partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the limited

liability partnership's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved limited liability partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 81. Section 79-13-1102, Mississippi Code of 1972, is amended as follows:

79-13-1102. (a) Before transacting business in this state, a foreign limited liability partnership must file a statement of foreign qualification. The statement must contain:

(1) The name of the foreign limited liability partnership which satisfies the requirements of the state or other jurisdiction under whose law it is formed and ends with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP" or "LLP";

(2) The street address of the partnership's chief executive office * * *;

(3) The information required by Section 79-35-5(a); and

(4) A deferred effective date, if any.

(b) [Reserved]

(c) The status of a partnership as a foreign limited liability partnership is effective on the later of the filing of the statement of foreign qualification or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is canceled pursuant to Section 79-13-105(d).

(d) An amendment or cancellation of a statement of foreign qualification is effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

SECTION 82. The following shall be codified as Section 79-13-1106, Mississippi Code of 1972:

79-13-1106. (a) The Secretary of State may commence a proceeding under Section 79-14-1107 to revoke the statement of foreign qualification of a foreign limited liability partnership authorized to transact business in this state if:

(1) [Reserved]

(2) The foreign limited liability partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(3) The foreign limited partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other public official having custody of corporate records in the state or country under whose law the foreign limited liability partnership is organized stating that it has been dissolved or disappeared as the result of a merger; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited liability partnership pursuant to this chapter.

(b) The Secretary of State may not revoke a statement of foreign qualification of a foreign limited liability partnership unless the Secretary of State sends the limited liability partnership notice of the revocation at least sixty (60) days before its effective date, by a record addressed to its registered agent, or to the limited liability partnership if the limited liability partnership fails to appoint and maintain a proper agent in this state. The notice must specify the cause for the revocation of the registration. The authority of the limited liability partnership to transact business in this state ceases on

the effective date of the revocation unless the foreign limited liability partnership cures the failure before that date.

SECTION 83. The following shall be codified as Section 79-13-1107, Mississippi Code of 1972:

79-13-1107. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-1106 for revocation of a statement of foreign qualification, he shall serve the foreign limited liability partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the foreign limited liability partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State may revoke the foreign limited liability partnership's statement of foreign qualification by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign limited liability partnership, except that such certificate may be served by first-class mail.

(c) The authority of a foreign limited liability partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(d) The Secretary of State's revocation of a foreign limited liability partnership's registration appoints the Secretary of State the foreign limited liability partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability partnership was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited liability

partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability partnership at its principal office shown in its most recent communication received from the foreign limited liability partnership stating the current mailing address of its principal office, or, if none are on file, in its application for a registration.

(e) Revocation of a foreign limited liability partnership's statement of foreign qualification does not terminate the authority of the registered agent of the limited liability partnership.

SECTION 84. The following shall be codified as Section 79-13-1108, Mississippi Code of 1972:

79-13-1108. (a) A foreign limited liability partnership whose statement of foreign qualification is administratively revoked under Section 79-13-1107 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the limited liability partnership and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the limited liability partnership's name satisfies the requirements of Section 79-13-1002; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the limited liability partnership has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, he shall reinstate the registration, prepare a certificate that recites

his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability partnership.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

(2) Any liability incurred by a member after the administrative revocation and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(3) The limited liability partnership may resume its business as if the administrative revocation had never occurred.

SECTION 85. The following shall be codified as Section 79-13-1109, Mississippi Code of 1972:

79-13-1109. (a) If the Secretary of State denies a foreign limited liability partnership's application for reinstatement of the statement of foreign qualification following administrative revocation, he shall serve the limited liability partnership with a written communication that explains the reason or reasons for denial.

(b) The limited liability partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited liability partnership is domiciled within thirty (30) days after service of the communication of denial is perfected. The limited liability partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the registration of the limited liability partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 86. Section 79-14-104, Mississippi Code of 1972, is amended as follows:

79-14-104. * * * Each limited partnership shall have and maintain continuously in the State of Mississippi * * * an office, which may but need not be a place of its business in the State of Mississippi, at which shall be kept the records required by Section 79-14-105 to be maintained. * * *

* * *

SECTION 87. Section 79-14-201, Mississippi Code of 1972, is amended as follows:

79-14-201. (a) In order to form a limited partnership, a certificate of limited partnership must be signed and delivered to the office of the Secretary of State for filing. The certificate must set forth:

(1) The name of the limited partnership;

(2) The information required by Section 79-35-5(a);

(3) The name and the street and mailing address of each general partner;

(4) The latest date upon which the limited partnership is to dissolve; and

(5) Any other matters the general partners determine to include therein.

(b) A limited partnership is formed at the date and time of the filing of the certificate of limited partnership in the office of the Secretary of State, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing, or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive

evidence of the formation of a limited partnership and prima facie evidence of its existence.

SECTION 88. Section 79-14-202, Mississippi Code of 1972, is amended as follows:

79-14-202. (a) A certificate of limited partnership is amended by delivery of a certificate of amendment thereto to the office of the Secretary of State for filing. The certificate shall set forth:

- (1) The name of the limited partnership;
- (2) The future effective date of the amendment, which must be a date certain, unless it is effective upon the filing of the certificate of amendment; and
- (3) The amendment to the certificate.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, or if appropriate, deliver to the Secretary of State for filing a statement of change of agent pursuant to Section 79-35-8.

(c) Notwithstanding the requirements of subsection (b) of this section, within thirty (30) days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be delivered to the office of the Secretary of State for filing:

- (1) The admission of a new general partner;
- (2) The withdrawal of a general partner;
- (3) The continuation of the business under Section 79-14-801 after an event of withdrawal of a general partner;
- (4) A change in the name of the limited partnership; or
- (5) A change in the street or mailing address of the office of the limited partnership. * * *

* * *

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(e) Except as provided in Section 79-14-402(b), if an amendment to a certificate of limited partnership is delivered to the office of the Secretary of State in compliance with subsection (c) of this section, no person is subject to liability because the amendment was not filed earlier.

SECTION 89. Section 79-14-207, Mississippi Code of 1972, is amended as follows:

79-14-207. (a) If a certificate of limited partnership or certificate of amendment, dissolution or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) A person who signed the certificate, or caused another to sign it on his behalf, and knew, and a general partner who knew or should have known, the statement to be false at the time the certificate was signed; and

(2) A general partner who knew or should have known after the filing of the certificate that an arrangement or other fact described in the certificate had changed, making the statement in the filed certificate inaccurate in any respect, within a reasonably sufficient time before the statements were relied upon to have enabled that general partner to amend, dissolve or cancel the certificate, * * * to file a petition for its amendment, dissolution or cancellation under Section 79-14-205, or to file a statement of change of agent pursuant to Section 79-35-8.

(b) Except as provided in Section 79-14-402(b), no person shall have any liability for failing pursuant to subsection (a)(2) of this section to cause the amendment, dissolution or cancellation of a certificate to be filed or failing to file a petition for its amendment, dissolution or cancellation pursuant

to subsection (a)(2) of this section if the certificate of amendment, certificate of dissolution, certificate of cancellation or petition is filed by the Secretary of State within thirty (30) days of when that person knew or should have known to the extent provided in subsection (a)(2) of this section that the statement in the certificate was inaccurate in any respect.

SECTION 90. The following shall be codified as Section 79-14-809, Mississippi Code of 1972:

79-14-809. The Secretary of State may commence a proceeding under Section 79-14-810 to administratively dissolve a limited partnership if:

(a) The limited partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(b) [Reserved]

(c) The limited partnership is without a registered agent in this state for sixty (60) days or more;

(d) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;
or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership pursuant to this chapter.

SECTION 91. The following shall be codified as Section 79-14-810, Mississippi Code of 1972:

79-14-810. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-809 for administratively dissolving a limited partnership, the Secretary of State shall serve the limited partnership with written notice of his determination except that such determination may be served by first-class mail.

(b) If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice, the Secretary of State shall administratively dissolve the limited partnership by signing a certification of the dissolution that recites the ground for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve the limited partnership with a copy of the certificate, except that such certificate may be served by first-class mail.

(c) A limited partnership administratively dissolved continues its existence but may carry on only business necessary to wind up and liquidate its business and affairs under Section 79-14-803.

(d) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process.

SECTION 92. The following shall be codified as Section 79-14-811, Mississippi Code of 1972:

79-14-811. (a) A limited partnership administratively dissolved under Section 79-14-810 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(1) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the limited partnership's name satisfies the requirements of Section 79-14-102; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that all taxes owed by the limited partnership have been paid.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the limited partnership with a copy of the certificate.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(2) Any liability incurred by a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(3) The limited partnership may resume its business as if the administrative dissolution had never occurred.

SECTION 93. The following shall be codified as Section 79-14-812, Mississippi Code of 1972:

79-14-812. (a) If the Secretary of State denies a limited partnership's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited partnership with a record that explains the reason or reasons for denial.

(b) The limited partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited partnership appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the limited partnership's

application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may summarily order the Secretary of State to reinstate the dissolved limited partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 94. Section 79-14-902, Mississippi Code of 1972, is amended as follows:

79-14-902. Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall deliver to the Office of the Secretary of State for filing one (1) original of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state and date of its formation;

(3) The information required by Section 79-35-5(a);

(4) [Reserved]

(5) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, the address of the principal office of the foreign limited partnership;

(6) The name and mailing and street address of each general partner; and

(7) The mailing and street address of the office at which is kept a list of the names and addresses of the limited partners and their contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is cancelled.

SECTION 95. The following shall be codified as Section 79-14-910, Mississippi Code of 1972:

79-14-910. (a) The Secretary of State may commence a proceeding under Section 79-14-911 to revoke the registration of a foreign limited partnership authorized to transact business in this state if:

(1) [Reserved]

(2) The foreign limited partnership does not pay within sixty (60) days after they are due any fees, taxes, or penalties imposed by this chapter or other law;

(3) The foreign limited partnership is without a registered agent in this state for sixty (60) days or more;

(4) The limited partnership does not notify the Secretary of State within sixty (60) days that its registered agent has been changed or that its registered agent has resigned;

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other public official having custody of corporate records in the state or country under whose law the foreign limited partnership is organized stating that it has been dissolved or disappeared as the result of a merger; or

(6) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership pursuant to this chapter.

(b) The Secretary of State may not revoke a registration of a foreign limited partnership unless the Secretary of State sends the limited partnership notice of the revocation at least sixty (60) days before its effective date, by a record addressed to its registered agent, or to the limited partnership if the limited partnership fails to appoint and maintain a proper agent in this state. The notice must specify the cause for the revocation of the registration. The authority of the limited partnership to transact business in this state ceases on the effective date of

the revocation unless the foreign limited partnership cures the failure before that date.

SECTION 96. The following shall be codified as Section 79-14-911, Mississippi Code of 1972:

79-14-911. (a) If the Secretary of State determines that one or more grounds exist under Section 79-14-910 for revocation of a registration, he shall serve the foreign limited partnership with written notice of his determination, except that such determination may be served by first-class mail.

(b) If the foreign limited partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State may revoke the foreign limited partnership's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the foreign limited partnership, except that such certificate may be served by first-class mail.

(c) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(d) The Secretary of State's revocation of a foreign limited partnership's registration appoints the Secretary of State the foreign limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited partnership was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited partnership. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited partnership at its principal office shown in its

most recent communication received from the limited partnership stating the current mailing address of its principal office, or, if none are on file, in its application for registration.

(e) Revocation of a foreign limited partnership's registration does not terminate the authority of the registered agent of the limited partnership.

SECTION 97. The following shall be codified as Section 79-14-912, Mississippi Code of 1972:

79-14-912. (a) A foreign limited partnership whose registration is administratively revoked under Section 79-14-911 may apply to the Secretary of State for reinstatement at any time after the effective date of such revocation. The application must:

(1) Recite the name of the limited partnership and the effective date of the administrative revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated;

(3) State that the limited partnership's name satisfies the requirements of Section 79-14-102; and

(4) Contain a certificate from the Mississippi Department of Revenue reciting that the limited partnership has properly filed all reports and paid all taxes and penalties required by revenue laws of this state.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, he shall reinstate the registration, prepare a certificate that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership.

(c) When the reinstatement is effective:

(1) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

(2) Any liability incurred by a member after the administrative revocation and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(3) The limited partnership may resume its business as if the administrative revocation had never occurred.

SECTION 98. The following shall be codified as Section 79-14-913, Mississippi Code of 1972:

79-14-913. (a) If the Secretary of State denies a foreign limited partnership's application for reinstatement of the registration following administrative revocation, he shall serve the limited partnership with a written communication that explains the reason or reasons for denial.

(b) The limited partnership may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County or the chancery court of the county where the limited partnership is domiciled within thirty (30) days after service of the communication of denial is perfected. The limited partnership appeals by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's communication of denial.

(c) The court may summarily order the Secretary of State to reinstate the registration of the limited partnership or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SECTION 99. Section 79-14-1104, Mississippi Code of 1972, is amended as follows:

79-14-1104. Pursuant to this chapter, the Secretary of State shall charge and collect a fee for:

- (a) Filing of Reservation of Partnership Name ... \$25.00
- (b) [Reserved]
- (c) [Reserved]

| | |
|--|---------------|
| (d) Filing of Certificate of Limited Partnership | 50.00 |
| (e) Filing of Amendment to Certificate of Limited Partnership | 50.00 |
| (f) Filing of Certificate of Dissolution | 25.00 |
| (g) Filing of Certificate of Cancellation | 25.00 |
| (h) Filing of Restated Certificate of Limited Partnership or Amended and Restated Certificate of Limited Partnership | 25.00 |
| (i) Filing of Certificate of Withdrawal | 25.00 |
| (j) Filing of Application for Registration of Foreign Limited Partnership | 250.00 |
| (k) Filing of Certificate Correcting Application for Registration of Foreign Limited Partnership | 50.00 |
| (l) Filing of Certificate of Cancellation of Registration of Foreign Limited Partnership | 25.00 |
| (m) <u>Certificate of Administrative Dissolution</u> | <u>No fee</u> |
| (n) <u>Filing of Application for Reinstatement Following Administrative Dissolution</u> | <u>50.00</u> |
| (o) <u>Certificate of Revocation of Registration to Transact Business</u> | <u>No fee</u> |
| (p) <u>Filing of Application for Reinstatement Following Administrative Revocation</u> | <u>100.00</u> |

SECTION 100. Section 79-15-109, Mississippi Code of 1972, is amended as follows:

79-15-109. A foreign investment trust, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Secretary of State, which application shall set forth:

(a) The name of the foreign investment trust and the state or country under the laws of which it is organized.

(b) If the name of the foreign investment trust does not contain the words "investment trust," then the name containing the words "investment trust" which it elects to use in this state.

(c) The date of declaration of trust and the period of duration of the trust.

(d) The address of the principal office of the foreign investment trust in the state or country under the laws of which it is organized.

(e) The information required by Section 79-35-5(a).

(f) The purpose or purposes of the foreign investment trust which it proposes to pursue in the transaction of business in this state.

(g) The names and respective addresses of the trustees of the foreign investment trust.

(h) A statement of the aggregate number of shares of beneficial interest which the foreign investment trust has authority to issue and the unit value in dollars to be received by the trust for the issuance of each of such shares.

(i) A statement of the aggregate number of issued shares of beneficial interest.

(j) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in Section 79-15-135 prescribed.

Such application shall be made on forms prescribed and furnished by the Secretary of State and shall be executed in duplicate by at least three (3) of the trustees and verified.

SECTION 101. Section 79-15-129, Mississippi Code of 1972, is amended as follows:

79-15-129. The certificate of authority of a foreign investment trust to transact business in this state may be revoked

by the Secretary of State upon the conditions prescribed in this section when:

(a) The foreign investment trust has failed to pay any fees prescribed by Sections 79-15-101 through 79-15-139 when they have become due and payable; * * *

(b) The foreign investment trust has failed to appoint and maintain a registered agent in this state as required by Section 79-15-115; * * *

(c) The foreign investment trust has failed, after change of its * * * registered agent, to file in the Office of the Secretary of State a statement of such change as required by Section 79-35-8; * * *

(d) The foreign investment trust has failed to file in the Office of the Secretary of State any amendment to its declaration of trust within the time prescribed by Section 79-15-121; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such foreign investment trust pursuant to Sections 79-15-101 through 79-15-139.

No certificate of authority of a foreign investment trust shall be revoked by the Secretary of State unless (1) he shall have given the foreign investment trust not less than sixty (60) days' notice thereof by mail as provided by Section 79-35-13, and (2) the foreign investment trust shall fail prior to revocation to pay such fees, or file the required statement of change of registered agent * * *, or file such articles of amendment or correct such misrepresentation.

SECTION 102. Section 79-15-131, Mississippi Code of 1972, is amended as follows:

79-15-131. Upon revoking any such certificate of authority, the Secretary of State shall:

(a) Issue a certificate of revocation in duplicate.

(b) File one (1) of such certificates in his office.

(c) Mail to such foreign investment trust as provided in Section 79-35-13 a notice of such revocation accompanied by one (1) of such certificates.

Upon issuance of such certificate of revocation, the authority of the foreign investment trust to transact business in this state shall cease.

SECTION 103. Section 79-15-135, Mississippi Code of 1972, is amended as follows:

79-15-135. The Secretary of State shall charge and collect from foreign investment trust for:

(a) The fees required by Section 79-35-3.

(b) Filing an application of a foreign investment trust for a certificate of authority to transact business in this state and issuing a certificate of authority, One Hundred Dollars (\$100.00).

(c) Filing an application of a foreign investment trust for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, Twenty Dollars (\$20.00).

(d) Filing a copy of an amendment to the articles of incorporation of a foreign investment trust holding a certificate of authority to transact business in this state, Twenty Dollars (\$20.00).

(e) Filing an application for withdrawal of a foreign investment trust and issuing a certificate of withdrawal, Five Dollars (\$5.00).

(f) Filing any other statement or report of a foreign investment trust, Five Dollars (\$5.00).

(g) For furnishing a certified copy of any document, instrument, or paper relating to a foreign investment trust, Sixty Cents (60¢) per page and Two Dollars (\$2.00) for the certificate

and affixing the seal thereto, with a minimum charge of Three Dollars (\$3.00).

(h) At the time of any service of process on him as resident agent of a foreign investment trust, Five Dollars (\$5.00), which amount may be recovered as taxable cost by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

SECTION 104. Section 79-16-11, Mississippi Code of 1972, is amended as follows:

79-16-11. (1) A foreign business trust, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Secretary of State, which application shall set forth:

(a) The name of the foreign business trust and the state or country under the laws of which it is organized;

(b) The date of declaration of trust and the period of duration of the trust;

(c) The address of the principal office of the foreign business trust in the state or country under the laws of which it is organized;

(d) The information required by Section 79-35-5(a);

(e) The purpose or purposes of the foreign business trust which it proposes to pursue in the transaction of business in this state;

(f) The names and respective addresses of the trustees of the foreign business trust; and

(g) A statement of the aggregate number of shares of beneficial interest which the foreign business trust has authority to issue and the unit value in dollars to be received by the trust for the issuance of each of such shares.

(2) Such application shall be made on forms prescribed and furnished by the Secretary of State and shall be executed by at least one (1) of the trustees.

(3) A business trust shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of trust records in the state or country under whose law it is created.

SECTION 105. Section 79-16-27, Mississippi Code of 1972, is amended as follows:

79-16-27. (1) The certificate of authority of a foreign business trust to transact business in this state may be revoked by the Secretary of State upon the condition prescribed in this section when:

(a) The foreign business trust has failed to pay any fees prescribed by law when they become due and payable;

(b) The foreign business trust has failed to appoint and maintain a registered agent in this state;

(c) The foreign business trust has failed, after change of its registered office or registered agent, to file in the Office of Secretary of State an appropriate filing as required by the Mississippi Registered Agents Act, Chapter 35, Title 79, Mississippi Code of 1972; or

(d) A misrepresentation has been made of any material matter in an application, report, affidavit or other document submitted by such foreign business trust pursuant to law.

(2) No certificate of authority of a foreign business trust shall be revoked by the Secretary of State unless:

(a) He shall have given the foreign business trust not less than sixty (60) days' notice thereof by mail addressed to its registered office in this state; and

(b) The foreign business trust shall fail prior to revocation to pay such fees, any taxes owed or file the required appropriate filing as required by the Mississippi Registered Agents Act, Chapter 35, Title 39, Mississippi Code of 1972, to

report a change of registered agent or address of registered agent, or file such amendment or correct such misrepresentation.

SECTION 106. Section 79-16-29, Mississippi Code of 1972, is amended as follows:

79-16-29. (1) Upon revoking such certificate of authority, the Secretary of State shall:

- (a) Issue a certificate of revocation;
- (b) File one (1) of such certificates in his office;

and

(c) Mail to such foreign business trust to its registered agent as provided in Section 79-35-13 a notice of such revocation accompanied by one (1) of such certificates.

(2) Upon issuance of such certificate of revocation, the authority of the foreign business trust to transact business in this state shall cease.

SECTION 107. Section 79-16-33, Mississippi Code of 1972, is amended as follows:

79-16-33. The Secretary of State shall charge and collect from foreign business trust for:

- (1) Filings required by the Mississippi Registered Agents Act, the fees required by Section 79-35-3;
- (2) Filing an application of a foreign business trust for a certificate of authority to transact business in this state and issuing a certificate of authority, Two Hundred Fifty Dollars (\$250.00);
- (3) Filing a certificate of correction or amendment of a foreign business trust authorized to transact business in this state, Fifty Dollars (\$50.00);
- (4) Filing an application for withdrawal of a foreign business trust and issuing a certificate of withdrawal, Twenty-five Dollars (\$25.00);
- (5) Filing any other statement or report of a foreign business trust, Twenty-five Dollars (\$25.00);

(6) For furnishing a certified copy of any document, instrument or paper relating to a foreign business trust, One Dollar (\$1.00) per page and Ten Dollars (\$10.00) for the certificate and affixing the seal thereto; and

(7) At the time of any service of process on him as resident agent of a foreign business trust, Twenty-five Dollars (\$25.00), which amount may be recovered as taxable cost by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

SECTION 108. Section 79-29-201, Mississippi Code of 1972, is amended as follows:

79-29-201. (1) In order to form a limited liability company, a certificate of formation must be signed and delivered to the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited liability company;

(b) The information required by Section 79-35-5(a); and

(c) If the limited liability company is to have a specific date of dissolution, the latest date upon which the limited liability company is to dissolve.

(2) The certificate of formation may set forth any other matters the members determine to include therein.

(3) A limited liability company is formed at the date and time of the filing of the certificate of formation by the Secretary of State, as evidenced by such means as the Secretary of State may use for the purpose of recording the date and time of filing, or at any later date or time specified in the certificate of formation if, in either case, the certificate of formation so filed substantially complies with the requirements of this chapter. A delayed effective date specified in a certificate of formation may not be later than the ninetieth day after the date and time it is filed by the Secretary of State.

(4) For all purposes, a copy of the certificate of formation duly certified by the Secretary of State is conclusive evidence of the formation of a limited liability company and prima facie evidence of its existence.

SECTION 109. Section 79-29-209, Mississippi Code of 1972, is amended as follows:

79-29-209. If a person required by this Article 2 to sign a certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the chancery court of the county in which the principal office * * * is located or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the limited liability company does not have a principal office in this state to direct the signing of the certificate. If the court finds that it is proper for the certificate to be signed and that any person so designated has failed or refused to sign the certificate, it shall order appropriate relief, including an order to the Secretary of State to file an appropriate certificate.

SECTION 110. Section 79-29-211, Mississippi Code of 1972, is amended as follows:

79-29-211. (1) The certificate of formation and any certificate of amendment, dissolution, correction or merger and any restated certificate * * * must be delivered to the Office of the Secretary of State. A person who signs a certificate as an agent or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing by the Secretary of State. Unless the Secretary of State finds that a certificate is not acceptable for filing, upon receipt of all filing fees required by Section 79-29-1203 and delivery of the certificate the Secretary of State shall:

(a) Certify that the certificate has been filed in the Secretary of State's office by endorsing upon the signed certificate the word "Filed" and the date and time of the filing.

This endorsement is conclusive evidence of the date and time of its filing in absence of actual fraud;

(b) File the certificate; and

(c) Return a copy to the person who delivered it for filing or that person's representative with an acknowledgment of the date and time of filing.

(2) Upon the filing of a certificate of amendment * * * or upon the future effective date of a certificate of amendment (or judicial decree thereof) or an amended and restated certificate, as provided for therein, the certificate of formation shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of dissolution (or a judicial decree thereof) by the Secretary of State or upon the future effective date of a certificate of dissolution (or a judicial decree thereof), the certificate of formation is dissolved.

(3) Each certificate delivered to the Office of the Secretary of State for filing must be typewritten or printed, or, if electronically transmitted, it must be in a format that can be retrieved or reproduced by the Secretary of State in typewritten or printed form, and must be in the English language. A limited liability company name need not be in English if written in English letters or Arabic or Roman numerals.

(4) Refused documents shall be returned by the Secretary of State to the limited liability company or its representative within ten (10) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(a) If the Secretary of State refuses to file a document, the limited liability company may appeal the refusal to the chancery court of the county where the limited liability company's principal office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

(b) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

(5) A certificate from the Secretary of State delivered with a copy of the document filed by the Secretary of State is conclusive evidence that the original document is on file with the Secretary of State.

SECTION 111. Section 79-29-231, Mississippi Code of 1972, is amended as follows:

79-29-231. (1) The certificate of formation or written operating agreement may eliminate, expand or restrict the appraisal rights granted in this section and may vary, modify, eliminate or expand any of the provisions of this section.

(2) **Definitions.** In this section:

(a) "Entitled persons" means all owners of financial interests. Financial interests may be owned by members and may also be owned by persons who are not members of the limited liability company. Members of the limited liability company who have no financial interests in the limited liability company are not entitled to appraisal rights pursuant to this section.

(b) "Fair value" means the value of the financial interests of the limited liability company determined:

(i) Immediately before the effectuation of the action to which the entitled person objects;

(ii) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(iii) Without discounting for lack of marketability or minority status.

(3) **Right to appraisal.** (a) Unless otherwise provided in the certificate of formation or written operating agreement or

other written agreement each entitled person is entitled to appraisal rights, and to obtain payment of the fair value of the entitled person's financial interest in the event of any of the following actions:

(i) Consummation of a merger to which the limited liability company is a party;

(ii) Consummation of a sale, lease, exchange, or other disposition of assets if the disposition would leave the limited liability company without a significant continuing business activity. If a limited liability company retains a business activity that represented at least twenty-five percent (25%) of total assets at the end of the most recently completed fiscal year, and twenty-five percent (25%) of either income from continuing operations or revenues from continuing operations for that fiscal year, in each case of the limited liability company and its subsidiaries on a consolidated basis, the limited liability company will conclusively be deemed to have retained a significant continuing business activity;

(iii) Any other action to the extent provided by the certificate of formation or written operating agreement.

(b) An entitled person may not challenge a completed action for which appraisal rights are available unless such action:

(i) Was not effectuated in accordance with the applicable provisions of this chapter or the limited liability company's certificate of formation or operating agreement; or

(ii) Was procured as a result of fraud or material misrepresentation.

(4) **Notice of appraisal rights.** If a proposed action described in subsection (3) of this section is to be submitted to a vote, the meeting notice must state that the limited liability company has concluded that entitled persons are entitled to assert appraisal rights under this section and a copy of this section or

a copy of the appraisal rights and procedures as provided in the written operating agreement, as applicable, must accompany the meeting notice sent to the entitled persons.

(5) **Notice of intent to demand payment.** (a) If a proposed action requiring appraisal rights under subsection (3)(a) of this section is submitted to a vote, entitled persons who wish to assert appraisal rights with respect to any class or series of financial interests:

(i) Must deliver to the limited liability company before the vote is taken written notice of the person's intent to demand payment if the proposed action is effectuated; and

(ii) Must not vote, or cause or permit to be voted, any of the person's financial interests in favor of the proposed action.

(b) An entitled person who does not satisfy the requirements of subsection (5)(a) of this section is not entitled to payment under this section.

(6) **Appraisal notice and form.** (a) If a proposed action requiring appraisal rights under subsection (3) of this section becomes effective, the limited liability company must deliver a written appraisal notice and form required by this subsection (6) to all entitled persons who satisfied the requirements of subsection (5) of this section.

(b) The appraisal notice must be sent no earlier than the date the action became effective and no later than ten (10) days after such date and must:

(i) Supply a form that specifies the date of the first announcement to entitled persons of the principal terms of the proposed action and requires the person asserting appraisal rights to certify: 1. whether the entitled person acquired ownership of the interests for which appraisal rights are asserted before that date; and 2. that the person did not vote for the transaction;

(ii) State:

1. Where the form must be sent and where certificates for certificated interests must be deposited and the date by which those certificates must be deposited, which date may not be earlier than the date for receiving the required form under subsection (6)(b)(ii)2 of this section;

2. A date by which the limited liability company must receive the form which date may not be fewer than forty (40) nor more than sixty (60) days after the date the subsection (6)(a) appraisal notice and form are sent, and state that the person shall have waived the right to demand appraisal with respect to the interests unless the form is received by the limited liability company by such specified date;

3. The limited liability company's estimate of the fair value of the financial interests;

4. That, if requested in writing, the limited liability company will provide to the person so requesting, within ten (10) days after the date specified in subsection (6)(b)(ii)2 of this section, the number of persons who return the forms by the specified date and the aggregate interests owned by them; and

5. The date by which the notice to withdraw under subsection (7) must be received, which date must be within twenty (20) days after the date specified in subsection (6)(b)(ii)2 of this section; and

(c) Be accompanied by a copy of this section or by a copy of the appraisal rights and procedures as provided in the written operating agreement, as applicable.

(7) **Perfection of rights; right to withdraw.** (a) An entitled person who receives notice pursuant to subsection (6) of this section and who wishes to exercise appraisal rights must certify on the form sent by the limited liability company whether the entitled person acquired ownership of the person's financial interests before the date required to be set forth in the notice

pursuant to subsection (6)(b) of this section. If an entitled person fails to make this certification, the limited liability company may elect to treat the entitled person's financial interests as after-acquired interests under subsection (9) of this section. In addition, an entitled person who wishes to exercise appraisal rights must execute and return the form and, in the case of certificated interests, deposit the entitled person's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to subsection (6)(b)(ii)2 of this section. Once an entitled person deposits that person's certificates or, in the case of uncertificated interests, returns the executed forms, that entitled person loses all rights as a member or owner of a financial interest, unless the entitled person withdraws pursuant to subsection (7)(b) of this section.

(b) An entitled person who has complied with subsection (7)(a) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the limited liability company in writing by the date set forth in the appraisal notice pursuant to subsection (6)(b)(ii)5 of this section. An entitled person who fails to so withdraw from the appraisal process may not thereafter withdraw from the appraisal process without the limited liability company's written consent.

(c) An entitled person who does not execute and return the form and, in the case of certificated interests, deposit that person's certificates where required, each by the date set forth in the notice described in subsection (6)(b)(ii)2 of this section, shall not be entitled to payment under this subsection.

(8) **Payment.** (a) Except as provided in subsection (7) of this section, within thirty (30) days after the form required by subsection (6)(b)(ii)2 of this section is due, the limited liability company shall pay in cash to those entitled persons who complied with subsection (7)(a) of this section the amount the

limited liability company estimates to be the fair value of their financial interests, plus interest at the legal rate.

(b) The payment to each person pursuant to subsection (8)(a) of this section must be accompanied by:

(i) Financial statements of the limited liability company that issued the financial interests to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen (16) months before the date of payment, an income statement for that year, a statement of changes in equity for that year, and the latest available interim financial statements, if any;

(ii) A statement of the limited liability company's estimate of the fair value of the financial interests, which estimate must equal or exceed the limited liability company's estimate given pursuant to subsection (6)(b)(ii)3 of this section;

(iii) A statement that persons described in this subsection (8) have the right to demand further payment under subsection (10) of this section and that if any such person does not do so within the time period specified therein, the person shall be deemed to have accepted the payment in full satisfaction of the limited liability company's obligations under this section.

(9) **After-acquired interests.** (a) A limited liability company may elect to withhold payment required by subsection (8) of this section from any entitled person who did not certify that ownership of all of the entitled person's financial interests for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to subsection (6)(b)(i) of this section.

(b) If the limited liability company elected to withhold payment under subsection (9)(a) of this section, it must, within thirty (30) days after the form required by subsection

(6) (b) (ii) 2 of this section is due, notify all entitled persons who are described in subsection (9) (a) of this section:

(i) Of the information required by subsection (8) (b) (i) of this section;

(ii) Of the limited liability company's estimate of fair value pursuant to subsection (8) (b) (ii) of this section;

(iii) That they may accept the limited liability company's estimate of fair value, plus interest at the legal rate, in full satisfaction of their demands, or demand appraisal under subsection (10) of this section;

(iv) That those entitled persons who wish to accept the offer must so notify the limited liability company of the person's acceptance of the limited liability company's offer within thirty (30) days after receiving the offer; and

(v) That those entitled persons who do not satisfy the requirements for demanding appraisal under subsection (10) of this section shall be deemed to have accepted the limited liability company's offer.

(c) Within ten (10) days after receiving the entitled person's acceptance pursuant to subsection (9) (b) of this section, the limited liability company must pay in cash the amount it offered under subsection (9) (b) (ii) of this section to each person who agreed to accept the limited liability company's offer in full satisfaction of the person's demand.

(d) Within forty (40) days after sending the notice described in subsection (9) (b) of this section, the limited liability company must pay in cash the amount it offered to pay under subsection (8) (b) of this section to each entitled person described in subsection (9) (b) (ii) of this section.

(10) **Procedure if entitled person dissatisfied with payment or offer.** (a) An entitled person paid pursuant to subsection (8) of this section who is dissatisfied with the amount of the payment must notify the limited liability company in writing of that

person's estimate of the fair value of the financial interests and demand payment of that estimate plus interest at the legal rate less any payment under subsection (8) of this section. An entitled person offered payment under subsection (9) of this section who is dissatisfied with that offer must reject the offer and demand payment of the person's stated estimate of the fair value of the financial interests plus interest at the legal rate.

(b) An entitled person who fails to notify the limited liability company in writing of that entitled person's demand to be paid the entitled person's stated estimate of the fair value plus interest at the legal rate under subsection (10)(a) of this section within thirty (30) days after receiving the limited liability company's payment or offer of payment under subsection (8) or (9) of this section, respectively, waives the right to demand payment under this subsection (10) and shall be entitled only to the payment made or offered pursuant to those respective subsections.

(11) **Court action.** (a) If an entitled person makes demand for payment under subsection (10) of this section which remains unsettled, the limited liability company shall commence a proceeding within sixty (60) days after receiving the payment demand and petition the court to determine the fair value of the financial interests and accrued interest at the legal rate. If the limited liability company does not commence the proceeding within the sixty-day period, it shall pay in cash to each the entitled person the amount the entitled person demanded pursuant to subsection (10)(a) of this section plus interest at the legal rate.

(b) The limited liability company shall commence the proceeding in the chancery court of the county where the limited liability company's principal office is located. If the limited liability company is a foreign limited liability company * * *, it shall commence the proceeding in the county in this state where

the principal office of the domestic limited liability company merged with the foreign limited liability company was located at the time of the transaction.

(c) The limited liability company shall make all entitled persons whose demands remain unsettled, whether or not residents of this state, parties to the proceeding as in an action against their interests, and all parties must be served with a copy of the complaint. Nonresidents may be served as otherwise provided by law.

(d) The jurisdiction of the court in which the proceeding is commenced under subsection (11)(b) of this section is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The entitled persons demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each entitled person made a party to the proceeding is entitled to judgment: (i) for the amount, if any, by which the court finds the fair value of the entitled person's financial interests, plus interest at the legal rate, exceeds the amount paid by the limited liability company to the entitled person for such financial interests; or (ii) for the fair value, plus interest at the legal rate, of the entitled person's financial interests for which the limited liability company elected to withhold payment under subsection (9) of this section.

(12) **Court costs and counsel fees.** (a) The court in an appraisal proceeding commenced under subsection (11) of this section shall determine all costs of the proceeding including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited liability company, except that the court may assess costs against

all or some of the entitled persons demanding appraisal, in amounts the court finds equitable, to the extent the court finds such persons acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subsection.

(b) The court in an appraisal proceeding may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(i) Against the limited liability company and in favor of any or all entitled persons demanding appraisal if the court finds the limited liability company did not substantially comply with the requirements of subsection (4), (6), (8) or (9) of this section; or

(ii) Against either the limited liability company or an entitled person demanding appraisal, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subsection.

(c) If the court in an appraisal proceeding finds that the services of counsel for any entitled person were of substantial benefit to other persons similarly situated, and that the fees for those services should not be assessed against the limited liability company, the court may award to such counsel reasonable fees to be paid out of the amounts awarded the entitled persons who were benefited.

(d) To the extent the limited liability company fails to make a required payment pursuant to subsection (8), (9) or (10) of this section, the entitled person may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the limited liability company all costs and expenses of the suit, including counsel fees.

SECTION 112. Section 79-29-803, Mississippi Code of 1972, is amended as follows:

79-29-803. (1) On application by or for a member, the chancery court for the county in which the principal office of the limited liability company is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the limited liability company does not have a principal office in this state, may decree dissolution of a limited liability company:

(a) Whenever it is not reasonably practicable to carry on the business in conformity with the certificate of formation or the operating agreement;

(b) Whenever the managers or the members in control of the limited liability company have been guilty of or have knowingly countenanced persistent and pervasive fraud or abuse of authority, or the property of the limited liability company is being misapplied or wasted by such persons; or

(c) In a proceeding by the limited liability company to have its voluntary dissolution continued under court supervision.

(2) If a limited liability company has no members due to the expulsion or withdrawal of the last remaining member pursuant to the terms of the certificate of formation or the written operating agreement and the certificate of formation or the written operating agreement of the limited liability company prohibits the substitution of a member, then an officer, manager or any assignee or owner of a financial interest of the limited liability company or the personal representative of the member may apply to the chancery court to dissolve the limited liability company; * * * however, * * * if there are no persons that hold the above-described positions, then any creditor of the limited liability company or the Secretary of State may apply to the chancery court to dissolve the limited liability company.

(3) A court in a judicial proceeding brought to dissolve a limited liability company may appoint one or more receivers to wind-up and liquidate, or one or more custodians to manage, the business and affairs of the limited liability company. The court

appointing a receiver or custodian has jurisdiction over the limited liability company and all its property wherever located. The court may appoint an individual or entity (authorized to transact business in this state) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver (i) may dispose of all or any part of the assets of the limited liability company wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in the receiver's own name as receiver of the limited liability company in all courts of this state; and

(b) The custodian may exercise all the powers of the limited liability company, through or in place of its members, managers or officers, to the extent necessary to manage the affairs of the limited liability company in the best interests of its members and creditors.

The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the limited liability company, its members and creditors.

The court from time to time during the receivership or custodianship may order compensation paid and expenses paid or reimbursed to the receiver or custodian from the assets of the limited liability company or proceeds from the sale of the assets.

SECTION 113. Section 79-29-819, Mississippi Code of 1972, is amended as follows:

79-29-819. (1) A dissolved limited liability company may publish notice of its dissolution pursuant to this section which requests that persons with claims against the limited liability company present them in accordance with the notice.

(2) The notice must:

(a) Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office * * * is or was last located, or in Hinds County if the limited liability company does or did not have a principal office in this state;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the limited liability company not otherwise barred will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the latter of the publication of the notice or the filing of a certificate of dissolution with respect to the limited liability company.

(3) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (2) and files a certificate of dissolution pursuant to Section 79-29-205, the claim of each of the following claimants which is not otherwise barred is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within three (3) years after the latter of the publication date of the newspaper notice or the filing of the certificate of dissolution:

(a) A claimant who did not receive written notice under Section 79-29-817;

(b) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on within the three-year period; and

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved limited liability company, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the assets of the limited liability company distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total amount of assets distributed to the member, subject to Section 79-29-611(1).

SECTION 114. Section 79-29-823, Mississippi Code of 1972, is amended as follows:

79-29-823. (1) If the Secretary of State determines that one or more grounds exist under Section 79-29-821 for administratively dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination under Section 79-35-13, except that such determination may be served by first-class mail.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the service of the notice, the Secretary of State shall administratively dissolve the limited liability company by signing a certification of the administrative dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate of administrative dissolution and serve the limited liability company with a copy of the certificate of administrative dissolution under Section 79-35-13, except that such certificate of administrative dissolution may be served by first-class mail.

SECTION 115. Section 79-29-825, Mississippi Code of 1972, is amended as follows:

79-29-825. (1) A limited liability company administratively dissolved under Section 79-29-823 may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application must:

(a) Recite the name of the limited liability company and the effective date of its administrative dissolution;

(b) State that the ground or grounds for administrative dissolution either did not exist or have been eliminated; and

(c) State that the limited liability company's name satisfies the requirements of Section 79-29-109.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall cancel the certificate of administrative dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate of reinstatement, and serve the limited liability company with a copy of the certificate of reinstatement under Section 79-35-13, except that such certificate of reinstatement may be served by first-class mail.

(3) When the reinstatement is effective:

(a) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(b) Any liability incurred by the limited liability company or a member after the administrative dissolution and before the reinstatement shall be determined as if the administrative dissolution had never occurred; and

(c) The limited liability company may resume carrying on its business as if the administrative dissolution had never occurred.

SECTION 116. Section 79-29-827, Mississippi Code of 1972, is amended as follows:

79-29-827. (1) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company under Section 79-35-13 with a record that explains the reason or reasons for denial, except that such record may be served by first-class mail.

(2) The limited liability company may appeal the denial of reinstatement to the Chancery Court of the First Judicial District of Hinds County * * * or the chancery court where the limited liability company is domiciled within thirty (30) days after service of the notice of denial is perfected. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of administrative dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved limited liability company or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 117. Section 79-29-913, Mississippi Code of 1972, is amended as follows:

79-29-913. (1) If the disqualified member does not accept the professional limited liability company's offer under Section 79-29-912(2) within the thirty-day period, the member during the following thirty-day period may deliver a written notice to the professional limited liability company demanding that it commence a proceeding to determine the fair value of the membership interest. The limited liability company may commence a proceeding at any time during the sixty (60) days following the effective date of its offer notice. If it does not do so, the member may commence a proceeding against the professional limited liability

company to determine the fair value of the disqualified person's membership interest.

(2) The professional limited liability company or disqualified member shall commence the proceeding in the chancery court of the county where the professional limited liability company's principal office * * * is located, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if the professional limited liability company does not have a principal office in this state. The professional limited liability company shall make the disqualified person a party to the proceeding as in an action against the disqualified person's membership interest. The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive.

(3) The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it.

(4) The disqualified member is entitled to judgment for the fair value of the disqualified person's membership interest determined by the court as of the date of death, disqualification or transfer, together with interest from that date at a rate found by the court to be fair and equitable.

(5) The court may order the judgment paid in installments determined by the court.

(6) "Fair value" means the value of the membership interest of the professional limited liability company determined:

(a) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(b) Without discounting for lack of marketability or minority status.

SECTION 118. Section 79-29-923, Mississippi Code of 1972, is amended as follows:

79-29-923. The Attorney General may commence a proceeding under Section 79-29-803 to dissolve a professional limited liability company if:

(a) The Secretary of State or a licensing authority with jurisdiction over a professional service described in the limited liability company's certificate of formation serves written notice on the limited liability company under Section 79-35-13 that it has violated or is violating a provision of this article;

(b) The limited liability company does not correct each alleged violation, or demonstrate to the reasonable satisfaction of the Secretary of State or licensing authority that it did not occur, within sixty (60) days after service of the notice is perfected under Section 79-35-13; and

(c) The Secretary of State or licensing authority certifies to the Attorney General a description of the violation, that it notified the limited liability company of the violation, and that the limited liability company did not correct it, or demonstrate that it did not occur, within sixty (60) days after perfection of service of the notice.

SECTION 119. Section 79-29-1003, Mississippi Code of 1972, is amended as follows:

79-29-1003. (1) Before transacting business in this state, a foreign limited liability company, including a foreign limited liability company formed to render professional services, shall register with the Secretary of State. In order to register, a foreign limited liability company shall deliver the application for registration of the foreign limited liability company to the Office of the Secretary of State for filing, signed by a person with authority to do so under the laws of the state, country or other jurisdiction of its formation who is either a member, manager or officer of the foreign limited liability company and setting forth:

(a) The name of the foreign limited liability company which must meet the requirements of Section 79-29-1007 and, if different, the name under which it proposes to transact business in this state which must meet the requirements of Section 79-29-1007;

(b) The state or other jurisdiction and date of its formation and a statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;

(c) The information required by Section 79-35-13;

(d) [Reserved]

(e) The date on which the foreign limited liability company first did, or intends to do, business in the State of Mississippi;

(f) The address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or other jurisdiction or, if not so required, the address of the principal office of the foreign limited liability company;

(g) If the foreign limited liability company is to have a specific date of dissolution, the latest date upon which the foreign limited liability company is to dissolve; and

(h) Any other matters the manager or members determine to include therein.

The person signing the application shall state the person's name, the capacity in which the person signs and the street and mailing address of the person beneath or opposite the person's signature. A document required or permitted to be delivered to the Office of the Secretary of State for filing under this chapter which contains a copy of a signature, however made, is acceptable for filing by the Secretary of State.

(2) The foreign limited liability company shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other public official having custody of corporate records in the state or country under whose law it is formed.

SECTION 120. Section 79-29-1023, Mississippi Code of 1972, is amended as follows:

79-29-1023. (1) If the Secretary of State determines that one or more grounds exist under Section 79-29-1021 for administrative revocation of registration, the Secretary of State shall serve the foreign limited liability company with written notice of the determination under Section 79-35-13, except that such determination may be served by first-class mail.

(2) If the foreign limited liability company does not correct each ground for administrative revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the service of the notice, the Secretary of State may administratively revoke the foreign limited liability company's registration by signing a certificate of administrative revocation that recites the ground or grounds for administrative revocation and its effective date. The Secretary of State shall file the original of the certificate of administrative revocation and serve the foreign limited liability company with a copy of the certificate of administrative revocation under Section 79-35-13, except that such certificate of administrative revocation may be served by first-class mail.

(3) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the certificate of administrative revocation.

(4) The Secretary of State's administrative revocation of a foreign limited liability company's registration appoints the Secretary of State the foreign limited liability company's agent

for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this state. Service of process on the Secretary of State under this subsection is service on the foreign limited liability company. Upon receipt of process and the payment of the fee specified in Section 79-35-13, the Secretary of State shall mail a copy of the process to the foreign limited liability company at the office of its registered agent, or if the agent has resigned or cannot be located, at its principal office shown in its most recent communication received from the foreign limited liability company stating the current mailing address of its principal office, or, if none are on file, in its application for registration of foreign limited liability company.

(5) Administrative revocation of a foreign limited liability company's registration does not terminate the authority of the registered agent of the foreign limited liability company.

(6) The administrative revocation of the registration of a foreign limited liability company shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such foreign limited liability company or prevent the foreign limited liability company from defending any action, suit or proceeding with any court of this state.

(7) A member, manager or officer of a foreign limited liability company is not liable for the debts, obligations or liabilities of such foreign limited liability company solely by reason of the administrative revocation of the registration of a foreign limited liability company.

(8) A foreign limited liability company whose registration has been administratively revoked may not maintain any action, suit or proceeding in any court of this state until such foreign limited liability company's registration has been reinstated. An action, suit or proceeding may not be maintained in any court of

this state by any successor or assignee of such foreign limited liability company on any right, claim or demand arising out of the transaction of business by a foreign limited liability company after the administrative revocation.

SECTION 121. Section 79-29-1025, Mississippi Code of 1972, is amended as follows:

79-29-1025. (1) A foreign limited liability company whose registration is administratively revoked under Section 79-29-1021 may apply to the Secretary of State for reinstatement at any time after the effective date of such administrative revocation. The application must:

(a) Recite the name of the foreign limited liability company and the effective date of the administrative revocation;

(b) State that the ground or grounds for administrative revocation either did not exist or have been eliminated; and

(c) State that the foreign limited liability company's name satisfies the requirements of Section 79-29-1007.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, the Secretary of State shall reinstate the registration of a foreign limited liability company, prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate of reinstatement, and serve the foreign limited liability company with a copy of the certificate of reinstatement under Section 79-35-13, except that such certificate may be served by first-class mail.

(3) When the reinstatement is effective:

(a) The reinstatement relates back to and takes effect as of the effective date of the administrative revocation;

(b) Any liability incurred by the foreign limited liability company or a member after the administrative revocation

and before the reinstatement shall be determined as if the administrative revocation had never occurred; and

(c) The foreign limited liability company may resume carrying on its business as if the administrative revocation had never occurred.

SECTION 122. Section 79-29-1203, Mississippi Code of 1972, is amended as follows:

79-29-1203. (1) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Mississippi:

(a) Filing of Reservation of Limited Liability Company Name or Transfer of Reservation, Twenty-five Dollars (\$25.00).

(b) [Reserved]

(c) [Reserved]

(d) Filing of Certificate of Formation, Fifty Dollars (\$50.00).

(e) Filing of Amendment to Certificate of Formation, Fifty Dollars (\$50.00).

(f) Filing of Certificate of Dissolution, Fifty Dollars (\$50.00).

(g) Filing of Application for Registration of Foreign Limited Liability Company, Two Hundred Fifty Dollars (\$250.00) and Ten Dollars (\$10.00) for each day, but not to exceed a total of One Thousand Dollars (\$1,000.00) for each year the foreign limited liability company transacts business in this state without a registration as a foreign limited liability company.

(h) Filing of Certificate of Correction, Fifty Dollars (\$50.00).

(i) Filing of Certificate of Cancellation of Registration of Foreign Limited Liability Company, Fifty Dollars (\$50.00).

(j) Filing of an Annual Report of Domestic Limited Liability Company, (no fee).

(k) Filing of an Annual Report of Foreign Limited Liability Company, to be deposited in the Elections Support Fund created in Section 23-15-5, Two Hundred Fifty Dollars (\$250.00).

(l) Certificate of Administrative Dissolution, (no fee).

(m) Filing of Application for Reinstatement Following Administrative Dissolution, Fifty Dollars (\$50.00).

(n) Certificate of Administrative Revocation of Authority to Transact Business, (no fee).

(o) Filing of Application for Reinstatement Following Administrative Revocation, One Hundred Dollars (\$100.00).

(p) Certificate of Reinstatement Following Administrative Dissolution, (no fee).

(q) Certificate of Reinstatement Following Administrative Revocation of Authority to Transact Business, (no fee).

(r) Filing of Certificate of Revocation of Dissolution, Twenty-five Dollars (\$25.00).

(s) Application for Certificate of Existence or Authorization, Twenty-five Dollars (\$25.00).

(t) Any other document required or permitted to be filed under this chapter, Twenty-five Dollars (\$25.00).

(2) The Secretary of State shall collect a fee of Twenty-five Dollars (\$25.00) each time process is served on the Secretary of State under Section 79-29-101 et seq.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited liability company:

(a) One Dollar (\$1.00) a page for copying; and

(b) Ten Dollars (\$10.00) for the certificate.

(4) The Secretary of State may promulgate rules to:

(a) Reduce the filing fees set forth in this section or provide for discounts of fees as set forth in this section to encourage online filing of documents or for other reasons as determined by the Secretary of State; and

(b) Provide for documents to be filed and accepted on an expedited basis upon the request of the applicant. The Secretary of State may promulgate rules to provide for an additional reasonable filing fee to be paid by the applicant and collected by the Secretary of State for the expedited filing services.

(5) This section shall stand repealed on July 1, 2015.

SECTION 123. Section 79-4-5.01, Mississippi Code of 1972, which provides for a registered agent maintaining a registered office, is repealed.

SECTION 124. Section 79-4-5.02, Mississippi Code of 1972, which provides for the change of the registered office of a registered agent, is repealed.

SECTION 125. Section 79-4-5.03, Mississippi Code of 1972, which provides for the resignation of a registered agent, is repealed.

SECTION 126. Section 79-4-5.04, Mississippi Code of 1972, which provides for service of process on a corporation, is repealed.

SECTION 127. Section 79-4-15.07, Mississippi Code of 1972, which provides for the registered office of a registered agent of a foreign corporation, is repealed.

SECTION 128. Section 79-4-15.08, Mississippi Code of 1972, which provides for the change of an officer or registered agent of a foreign corporation, is repealed.

SECTION 129. Section 79-4-15.09, Mississippi Code of 1972, which provides for the resignation of a registered agent of a foreign corporation, is repealed.

SECTION 130. Section 79-11-163, Mississippi Code of 1972, which requires that a nonprofit corporation maintain a registered office and registered agent within the state, is repealed.

SECTION 131. Section 79-11-165, Mississippi Code of 1972, which provides for a change of registered office or registered agent by a nonprofit corporation, is repealed.

SECTION 132. Section 79-11-167, Mississippi Code of 1972, which provides for the resignation of a nonprofit corporation's registered agent, is repealed.

SECTION 133. Section 79-11-169, Mississippi Code of 1972, which provides for service of process upon a nonprofit corporation, is repealed.

SECTION 134. Section 79-11-375, Mississippi Code of 1972, which requires that a foreign nonprofit corporation maintain a registered office and registered agent within the state, is repealed.

SECTION 135. Section 79-11-377, Mississippi Code of 1972, which provides for a change of registered office or registered agent by a foreign nonprofit corporation, is repealed.

SECTION 136. Section 79-11-379, Mississippi Code of 1972, which provides for the resignation of a foreign nonprofit corporation's registered agent, is repealed.

SECTION 137. Section 79-15-115, Mississippi Code of 1972, which requires that a foreign investment trust maintain a registered office and registered agent within the state, is repealed.

SECTION 138. Section 79-15-117, Mississippi Code of 1972, which provides for a change or resignation of registered office or registered agent by a foreign investment trust, is repealed.

SECTION 139. Section 79-15-119, Mississippi Code of 1972, which provides for service of process upon a foreign investment trust, is repealed.

SECTION 140. Section 79-16-17, Mississippi Code of 1972, which requires that a foreign business trust maintain a registered office and registered agent within the state, is repealed.

SECTION 141. Section 79-16-19, Mississippi Code of 1972, which provides for a change or resignation of registered office or registered agent by a foreign business trust, is repealed.

SECTION 142. Section 79-16-21, Mississippi Code of 1972, which provides for service of process upon a foreign business trust, is repealed.

SECTION 143. Section 79-29-113, Mississippi Code of 1972, which requires that a limited liability company maintain a registered office and registered agent within the state, is repealed.

SECTION 144. Section 79-29-125, Mississippi Code of 1972, which provides for service of process upon a limited liability company, is repealed.

SECTION 145. This act shall take effect and be in force from and after January 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 7, 2012


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 28, 2012


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

4:50pm