

SENATE BILL NO. 446—COMMITTEE ON JUDICIARY

MARCH 23, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to businesses.  
(BDR 7-1088)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to business entities; establishing procedures for the ratification or validation of certain noncompliant corporate acts; providing that a trust company may be formed as a corporation; revising provisions governing the stock ledger maintained by the registered agent of a corporation; revising provisions setting forth the required officers of a corporation; revising provisions governing transactions involving interested directors or officers; revising provisions governing the stock of corporations; revising provisions governing meetings of stockholders of corporations; revising provisions governing certain transactions between corporations and interested stockholders; revising provisions relating to articles and certificates of incorporation; revising provisions establishing the time of organization of certain business entities; revising provisions governing the allocation of certain liabilities after a merger of business entities; revising provisions governing notarial acts; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 **Section 1** of this bill establishes procedures by which a corporate act that is not  
2 in compliance with applicable law or the articles of incorporation or bylaws of the  
3 corporation may be ratified or validated by the directors and shareholders of the  
4 corporation.

5 Under existing law, a trust company organized for the purpose of conducting a  
6 banking business may not be organized as a corporation. (NRS 78.020) **Section 2**  
7 of this bill provides that a trust company may be formed as a corporation under



8 chapter 78 of NRS but that the trust company may not transact business in this State  
9 as a trust company until it complies with existing law governing trust companies.

10 Existing law requires a corporation to keep, among other documents, a stock  
11 ledger or duplicate thereof, revised annually, at its registered office. (NRS 78.105)  
12 **Section 3** of this bill specifies a timeline for revising the stock ledger by requiring  
13 the stock ledger to be revised not later than 60 days after the date by which the  
14 incorporation is required to file its annual list.

15 **Section 4** of this bill revises provisions relating to the officers of a corporation  
16 to clarify that vice presidents, assistant secretaries and assistant treasurers are not  
17 officers of a corporation unless those persons are designated as officers.

18 Existing law authorizes a corporation to have more than one class or series of  
19 stock if the articles of incorporation prescribe the classes and series, the number of  
20 shares of each class or series and the voting powers, designations, preferences,  
21 limitations, restrictions and relative rights of each class or series, or if the articles of  
22 incorporation authorize the board of directors to prescribe those matters. (NRS  
23 78.195) **Section 6** of this bill specifically states that all shares of the same class or  
24 series must have the same voting powers, designations, preferences, limitations,  
25 restrictions and relative rights. **Section 6** also specifically states that the voting  
26 powers, designations, preferences, limitations, restrictions and relative rights for the  
27 shares of a class or series of stock may be made dependent upon certain facts or  
28 events.

29 Existing law provides that if more than one class or series of stock is  
30 authorized, the articles of incorporation or the resolution of the board of directors  
31 authorizing the class or series must describe the voting powers, designations,  
32 preferences, limitations, restrictions, relative rights and distinguishing designation  
33 of the class or series. **Section 6** provides that the certificate of designation filed  
34 with the Secretary of State rather than the resolution of the board of directors must  
35 describe these matters, and **sections 7, 8 and 12** of this bill make conforming  
36 changes to refer to the certificate of designation rather than the resolution of the  
37 board of directors. **Section 7** further specifies that when a filed certificate of  
38 designation, or amendment thereto, becomes effective, the certificate or amendment  
39 has the effect of amending articles of incorporation.

40 Existing law provides that in certain circumstances, a corporation may change  
41 the numbers of shares of a class or series of stock by a resolution adopted by the  
42 board of directors, without obtaining the approval of the stockholders. Such a  
43 change is not effective until a certificate is filed in the Office of the Secretary of  
44 State setting forth certain information concerning the shares of stock of the  
45 corporation. (NRS 78.207, 78.209) **Section 9** of this bill specifies that when a filed  
46 certificate changing the number of shares of a class or series of stock becomes  
47 effective, the certificate has the effect of amending articles of incorporation.  
48 (NRS 78.209)

49 Existing law authorizes a board of directors of a corporation to authorize shares  
50 of stock to be issued for consideration of various forms. (NRS 78.211) **Section 10**  
51 of this bill provides that the nature and amount of that consideration may be made  
52 dependent upon a formula approved by the board or upon certain other facts or  
53 events. **Section 10** also provides that issued shares of stock are outstanding shares  
54 unless the shares are treasury shares.

55 Existing law provides that stockholders may participate in a meeting of  
56 stockholders through electronic communications, videoconferencing,  
57 teleconferencing or other technology under certain circumstances. (NRS 78.320)  
58 **Section 11** of this bill revises this provision to provide that if authorized by the  
59 articles of incorporation or bylaws, a meeting of stockholders may be held solely  
60 through the use of such technology.

61 Existing law sets forth certain restrictions on combinations and other  
62 transactions between certain corporations and interested stockholders.



63 (NRS 78.411-78.444) **Section 14** of this bill provides that those provisions do not  
64 apply to a combination of a resident domestic corporation with an interested  
65 stockholder of that corporation after the expiration of 4 years after the person first  
66 became an interested stockholder. **Section 15** of this bill authorizes a resident  
67 domestic corporation to engage in a combination with any interested stockholder  
68 less than 2 years after the person first became an interested stockholder if the  
69 combination meets the requirements of the articles of incorporation of the resident  
70 domestic corporation as well as certain requirements set forth in existing law.  
71 **Sections 16-19** of this bill clarify the language of certain provisions governing  
72 combinations and other transactions between certain corporations and interested  
73 stockholders.

74 **Sections 20-31** of this bill change references to a certificate of incorporation to  
75 refer to articles of incorporation.

76 Existing law provides that a limited liability company or a limited partnership  
77 is considered legally organized at the time of the filing of organizational documents  
78 with the Secretary of State or upon some later date and time as specified in those  
79 documents. (NRS 86.201, 87A.235, 88.350) **Sections 32, 34 and 35** of this bill  
80 revise these provisions to provide that those business entities are considered legally  
81 organized at the time of the filing with the Secretary of State.

82 Under existing law, the surviving entity in certain mergers between a parent  
83 entity and a subsidiary entity may be either the parent or the subsidiary. (NRS  
84 92A.180) **Section 36** of this bill requires the surviving entity in the merger, rather  
85 than the parent entity, to mail a copy or summary of the plan of merger to each  
86 owner of the subsidiary who does not waive the mailing requirement in writing.

87 Existing law establishes the effect of a merger between business entities,  
88 including, without limitation, the effect of the merger on the liabilities of the  
89 surviving entity and the constituent entities. (NRS 92A.250) **Section 37** of this bill  
90 revises this provision to provide that an owner of a constituent entity remains liable  
91 for the obligations of the constituent entity that existed at the time of the merger to  
92 the extent the owner was liable before the merger.

93 **Section 38** of this bill provides that the certificate evidencing a notarial act  
94 must be signed in the same manner as the signature that is on file with the Secretary  
95 of State only if the notarial officer is a notary public with such a signature on file  
96 with the Secretary of State.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 78 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. Except to the extent expressly prohibited in the articles of*  
4 *incorporation or an amendment thereto, in each case filed and*  
5 *effective on or after October 1, 2015, any corporate act not in*  
6 *compliance, or purportedly not in compliance, with this title or the*  
7 *articles of incorporation or bylaws in effect at the time of such*  
8 *corporate act may be ratified or validated in accordance with this*  
9 *section. This section does not apply to circumvent or contravene*  
10 *the provisions of NRS 78.378 to 78.3793, inclusive, or NRS 78.411*  
11 *to 78.444, inclusive. Except as otherwise determined by the district*  
12 *court pursuant to its authority under subsection 5, a ratification or*



1 validation of a corporate act in accordance with this section is  
2 conclusive in the absence of actual fraud in the transaction.  
3 Ratification or validation under this section must not be the  
4 exclusive means by which a corporate act may be ratified or  
5 validated. This section shall not be construed to limit the authority  
6 of the board of directors, the stockholders or the corporation to  
7 effect any lawful means of ratification or validation of a corporate  
8 act or correction of a record, including, without limitation, the  
9 authority of:

10 (a) The board of directors to act, or to consent to an action  
11 before or after the action, pursuant to NRS 78.315;

12 (b) The stockholders to act, or to consent to an action before or  
13 after the action, pursuant to NRS 78.320; or

14 (c) The corporation to correct a record filed in the Office of  
15 the Secretary of State pursuant to NRS 78.0295.

16 2. Any ratification or validation of a corporate act pursuant  
17 to this section must be approved by the board of directors and, as  
18 applicable, the stockholders in accordance with this title and the  
19 articles of incorporation and bylaws in effect at the time of such  
20 ratification or validation, unless a higher approval standard was  
21 or would have been applicable to the original taking or purported  
22 taking of the corporate act, in which case such ratification or  
23 validation must be approved in accordance with such higher  
24 approval standard. The voting power of any shares issued or  
25 purportedly issued pursuant to the corporate act being ratified or  
26 validated must be disregarded for all purposes of the stockholder  
27 approval of such corporate act as required by this subsection,  
28 including for purposes of determining a quorum at a meeting of  
29 stockholders.

30 3. Notice of any ratification or validation of a corporate act  
31 pursuant to this section must be given not later than 10 days after  
32 the approval of such ratification or validation pursuant to  
33 subsection 2, to each stockholder of record at the time of such  
34 ratification or validation, whether or not action by the  
35 stockholders is required for such ratification or validation.

36 4. If a corporate act ratified or validated pursuant to this  
37 section would have required any filing with the Secretary of State  
38 pursuant to the provisions of this title, or if such ratification or  
39 validation would cause any such filing to be inaccurate or  
40 incomplete in any material respect, the corporation shall make,  
41 amend or correct each such filing in accordance with this title,  
42 including this subsection. Any such filing, amendment or  
43 correction:

44 (a) Must be accompanied by a certificate of validation  
45 indicating that the filing, amendment or correction is being made



1 *in connection with a ratification or validation of a corporate act in*  
2 *accordance with this section and specifying the effective date and*  
3 *time of the filing, amendment or correction, which may be before*  
4 *the date and time of filing; and*

5 (b) *Must otherwise be filed with the Secretary of State in*  
6 *accordance with the requirements of this title.*

7 5. *The district court has plenary and exclusive jurisdiction in*  
8 *equity, upon application of any person adversely affected, to*  
9 *administer and provide equitable relief under this section,*  
10 *including, without limitation, the authority to confirm, nullify,*  
11 *modify or compel any ratification or validation taken or proposed*  
12 *to be taken pursuant to this section, including any filing,*  
13 *amendment or correction pursuant to subsection 4. The provisions*  
14 *of this section shall not be construed to prescribe or circumscribe*  
15 *which facts and circumstances the court may consider or which*  
16 *remedies the court may grant in exercising its jurisdiction under*  
17 *this section. Any action, application or petition relating to a*  
18 *ratification or validation taken or proposed to be taken pursuant to*  
19 *this section must be filed in the district court:*

20 (a) *Not later than 180 days after the notice required by*  
21 *subsection 3 is given; and*

22 (b) *In the county where the principal office of the corporation*  
23 *is located or, if the principal office is not located in this State, in*  
24 *the county in which the corporation's registered office is located.*

25 6. *Unless otherwise determined by the district court pursuant*  
26 *to its authority under subsection 5, a ratification or validation of a*  
27 *corporate act in accordance with this section relates back to the*  
28 *date of the corporate act.*

29 7. *As used in this section:*

30 (a) *"Corporate act" means:*

31 (1) *Any act or purported act of the board of directors;*

32 (2) *Any act or purported act of the stockholders; or*

33 (3) *Any other act or transaction taken or purportedly taken*  
34 *by or on behalf of the corporation, including, without limitation,*  
35 *any issuance or purported issuance of stock or other securities of*  
36 *the corporation.*

37 (b) *"Higher approval standard" means any provision set forth*  
38 *in the articles of incorporation or bylaws in effect at the time of*  
39 *the original taking or purported taking of a corporate act:*

40 (1) *Requiring action of the directors or stockholders, at a*  
41 *meeting or by written consent, to be taken by a proportion greater*  
42 *than otherwise would have been required pursuant to this chapter*  
43 *if the articles of incorporation and bylaws were silent as to the*  
44 *required proportion;*



1           (2) *Requiring a greater proportion of the directors or*  
2 *stockholders to constitute a quorum for the transaction of business*  
3 *at a meeting than otherwise would have been required pursuant to*  
4 *this chapter if the articles of incorporation and bylaws were silent*  
5 *as to the required proportion;*

6           (3) *Requiring, prohibiting or prescribing conditions on*  
7 *action of the directors or stockholders at a meeting or by written*  
8 *consent;*

9           (4) *Requiring separate action of the holders of shares of*  
10 *any class or series of the corporation's stock, unless no shares of*  
11 *such class or series are outstanding at the time of the ratification*  
12 *or validation of the corporate act pursuant to this section;*

13           (5) *Requiring separate action of the holders of securities of*  
14 *the corporation other than stock, unless such securities are not*  
15 *outstanding at the time of the ratification or validation of the*  
16 *corporate act pursuant to this section; or*

17           (6) *Requiring separate action of any specified person or*  
18 *persons.*

19       **Sec. 2.** NRS 78.020 is hereby amended to read as follows:

20       78.020 1. ~~Insurance~~ *Trust companies, insurance*  
21 *companies, mutual fire insurance companies, surety companies,*  
22 *express companies and railroad companies may be formed under*  
23 *this chapter, but such a corporation may not:*

24       (a) Transact any such business within this State until it has first  
25 complied with all laws concerning or affecting the right to engage in  
26 such business.

27       (b) Infringe the laws of any other state or country in which it  
28 may intend to engage in business, by so incorporating under this  
29 chapter.

30       2. No ~~trust company,~~ savings and loan association, thrift  
31 company or corporation organized for the purpose of conducting a  
32 banking business may be organized under this chapter.

33       **Sec. 3.** NRS 78.105 is hereby amended to read as follows:

34       78.105 1. A corporation shall keep a copy of the following  
35 records at its registered office:

36       (a) A copy certified by the Secretary of State of its articles of  
37 incorporation, and all amendments thereto;

38       (b) A copy certified by an officer of the corporation of its  
39 bylaws and all amendments thereto; and

40       (c) A stock ledger or a duplicate stock ledger, revised annually  
41 ~~H~~ *not later than 60 days after the date by which an annual list is*  
42 *required to be filed pursuant to NRS 78.150, containing the names,*  
43 *alphabetically arranged, of all persons who are stockholders of*  
44 *record* of the corporation, showing their places of residence, if  
45 known, and the number of shares held by them respectively. In lieu



1 of the stock ledger or duplicate stock ledger, the corporation may  
2 keep a statement setting out the name of the custodian of the stock  
3 ledger or duplicate stock ledger, and the present and complete  
4 mailing or street address where the stock ledger or duplicate stock  
5 ledger specified in this section is kept.

6 2. A stock ledger, duplicate stock ledger or statement setting  
7 out the name of the custodian of the stock ledger or duplicate stock  
8 ledger described in paragraph (c) of subsection 1 must be  
9 maintained by the registered agent of the corporation for 3 years  
10 following the resignation or termination of the registered agent or  
11 the dissolution of the corporation by the Secretary of State.

12 3. Any person who has been a stockholder of record of a  
13 corporation for at least 6 months immediately preceding the  
14 demand, or any person holding, or thereunto authorized in writing  
15 by the holders of, at least 5 percent of all of its outstanding shares,  
16 upon at least 5 days' written demand is entitled to inspect in person  
17 or by agent or attorney, during usual business hours, the records  
18 required by subsection 1 and make copies therefrom. Holders of  
19 voting trust certificates representing shares of the corporation must  
20 be regarded as stockholders for the purpose of this subsection. Every  
21 corporation that neglects or refuses to keep the records required by  
22 subsection 1 open for inspection, as required in this subsection, shall  
23 forfeit to the State the sum of \$25 for every day of such neglect or  
24 refusal.

25 4. If any corporation willfully neglects or refuses to make any  
26 proper entry in the stock ledger or duplicate copy thereof, or  
27 neglects or refuses to permit an inspection of the records required by  
28 subsection 1 upon demand by a person entitled to inspect them, or  
29 refuses to permit copies to be made therefrom, as provided in  
30 subsection 3, the corporation is liable to the person injured for all  
31 damages resulting to the person therefrom.

32 5. When the corporation keeps a statement in the manner  
33 provided for in paragraph (c) of subsection 1, the information  
34 contained thereon must be given to any stockholder of the  
35 corporation demanding the information, when the demand is made  
36 during business hours. Every corporation that neglects or refuses to  
37 keep a statement available, as in this subsection required, shall  
38 forfeit to the State the sum of \$25 for every day of such neglect or  
39 refusal.

40 6. In every instance where an attorney or other agent of the  
41 stockholder seeks the right of inspection, the demand must be  
42 accompanied by a power of attorney signed by the stockholder  
43 authorizing the attorney or other agent to inspect on behalf of the  
44 stockholder.



1 7. The right to copy records under subsection 3 includes, if  
2 reasonable, the right to make copies by photographic, xerographic or  
3 other means.

4 8. The corporation may impose a reasonable charge to recover  
5 the costs of labor and materials and the cost of copies of any records  
6 provided to the stockholder.

7 **Sec. 4.** NRS 78.130 is hereby amended to read as follows:

8 78.130 1. Every corporation must have a president, a  
9 secretary and a treasurer, or the equivalent thereof.

10 2. Every corporation may also have ~~{one or more vice~~  
11 ~~presidents, assistant secretaries and assistant treasurers, and}~~ such  
12 other officers and agents as may be deemed necessary.

13 3. All officers must be natural persons and must be chosen in  
14 such manner, hold their offices for such terms and have such powers  
15 and duties as may be prescribed by the bylaws or determined by the  
16 board of directors. Any natural person may hold two or more  
17 offices.

18 4. An officer holds office after the expiration of his or her term  
19 until a successor is chosen or until the officer's resignation or  
20 removal before the expiration of his or her term. A failure to elect  
21 officers does not require the corporation to be dissolved. Any  
22 vacancy occurring in an office of the corporation by death,  
23 resignation, removal or otherwise, must be filled as the bylaws  
24 provide, or in the absence of such a provision, by the board of  
25 directors.

26 **Sec. 5.** NRS 78.140 is hereby amended to read as follows:

27 78.140 1. A contract or other transaction is not void or  
28 voidable solely because:

29 (a) The contract or transaction is between a corporation and:

30 (1) One or more of its directors or officers; or

31 (2) Another corporation, firm or association in which one or  
32 more of its directors or officers are directors or officers or are  
33 financially interested;

34 (b) A common or interested director or officer:

35 (1) Is present at the meeting of the board of directors or a  
36 committee thereof which authorizes or approves the contract or  
37 transaction; or

38 (2) Joins in the signing of a written consent which authorizes  
39 or approves the contract or transaction pursuant to subsection 2 of  
40 NRS 78.315; or

41 (c) The vote or votes of a common or interested director are  
42 counted for the purpose of authorizing or approving the contract or  
43 transaction,

44 ➔ if one of the circumstances specified in subsection 2 exists.



1 2. The circumstances in which a contract or other transaction is  
2 not void or voidable pursuant to subsection 1 are:

3 (a) The fact of the common directorship, office or financial  
4 interest is known to the board of directors or committee, and the  
5 ~~{board}~~ *directors* or *members of the* committee ~~{authorizes,~~  
6 ~~approves or ratifies}~~ , *other than any common or interested*  
7 *directors or members of the committee, approve or ratify* the  
8 contract or transaction in good faith . ~~{by a vote sufficient for the~~  
9 ~~purpose without counting the vote or votes of the common or~~  
10 ~~interested director or directors.}~~

11 (b) The fact of the common directorship, office or financial  
12 interest is known to the stockholders, and ~~{they}~~ *stockholders*  
13 *holding a majority of the voting power* approve or ratify the  
14 contract or transaction in good faith . ~~{by a majority vote of~~  
15 ~~stockholders holding a majority of the voting power.}~~ The votes of  
16 the common or interested directors or officers must be counted in  
17 any such vote of stockholders.

18 (c) The fact of the common directorship, office or financial  
19 interest is not known to the director or officer at the time the  
20 transaction is brought before the board of directors of the  
21 corporation for action.

22 (d) The contract or transaction is fair as to the corporation at the  
23 time it is authorized or approved.

24 3. Common or interested directors *or common or interested*  
25 *members of the committee* may be counted in determining the  
26 presence of a quorum at a meeting of the board of directors or a  
27 committee thereof which authorizes, approves or ratifies a contract  
28 or transaction, and if the votes of the common or interested directors  
29 *or common or interested members of the committee* are not  
30 counted at the meeting, then a majority of the disinterested directors  
31 *or disinterested members of the committee* may authorize, approve  
32 or ratify a contract or transaction.

33 4. The fact that the vote or votes of the common or interested  
34 director or directors , *or common or interested member or members*  
35 *of the committee,* are not counted for purposes of subsection 2 does  
36 not prohibit any authorization, approval or ratification of a contract  
37 or transaction to be given by written consent pursuant to subsection  
38 2 of NRS 78.315, regardless of whether the common or interested  
39 director signs such written consent or abstains in writing from  
40 providing consent.

41 5. Unless otherwise provided in the articles of incorporation or  
42 the bylaws, the board of directors, without regard to personal  
43 interest, may establish the compensation of directors for services in  
44 any capacity. If the board of directors establishes the compensation  
45 of directors pursuant to this subsection, such compensation is



1 presumed to be fair to the corporation unless proven unfair by a  
2 preponderance of the evidence.

3 **Sec. 6.** NRS 78.195 is hereby amended to read as follows:

4 78.195 1. If a corporation desires to have more than one class  
5 or series of stock, the articles of incorporation must prescribe, or  
6 vest authority in the board of directors to prescribe, the classes,  
7 series and the number of each class or series of stock and the voting  
8 powers, designations, preferences, limitations, restrictions and  
9 relative rights of each class or series of stock. If more than one class  
10 or series of stock is authorized, the articles of incorporation or the  
11 resolution of the board of directors ~~passed~~ *adopted* pursuant to a  
12 provision of the articles must prescribe a distinguishing designation  
13 for each class and series. The voting powers, designations,  
14 preferences, limitations, restrictions, relative rights and  
15 distinguishing designation of each class or series of stock must be  
16 described in the articles of incorporation or the resolution of the  
17 board of directors *and the certificate of designation filed pursuant*  
18 *to subsection 1 of NRS 78.1955* before the issuance of shares of that  
19 class or series.

20 2. All shares of a *class or* series must have voting powers,  
21 designations, preferences, limitations, restrictions and relative rights  
22 identical with those of other shares of the same *class or* series and,  
23 except to the extent otherwise provided in the description of the  
24 series, with those of other series of the same class.

25 3. Unless otherwise provided in the articles of incorporation,  
26 no stock issued as fully paid up may ever be assessed and the  
27 articles of incorporation must not be amended in this particular.

28 4. ~~Any rate, condition or time for payment of distributions on~~  
29 ~~any~~ *The voting powers, designations, preferences, limitations,*  
30 *restrictions and relative rights for the shares of a* class or series of  
31 stock may be made dependent upon any fact or event which may be  
32 ascertained outside the articles of incorporation ~~for the resolution~~  
33 ~~providing for the distributions adopted by the board of directors~~ if  
34 the manner in which a fact or event may operate upon the ~~rate,~~  
35 ~~condition or time of payment for the distributions~~ *voting powers,*  
36 *designations, preferences, limitations, restrictions and relative*  
37 *rights* is stated in the articles of incorporation. ~~for the resolution.~~  
38 As used in this subsection, "fact or event" includes, without  
39 limitation, the existence of a fact or occurrence of an event,  
40 including, without limitation, a determination or action by a person,  
41 the corporation itself or any government, governmental agency or  
42 political subdivision of a government.

43 5. The provisions of this section do not restrict the directors of  
44 a corporation from taking action to protect the interests of the  
45 corporation and its stockholders, including, but not limited to,



1 adopting or signing plans, arrangements or instruments that grant or  
2 deny rights, privileges, power or authority to a holder or holders of a  
3 specified number of shares or percentage of share ownership or  
4 voting power.

5 **Sec. 7.** NRS 78.1955 is hereby amended to read as follows:

6 78.1955 1. If the voting powers, designations, preferences,  
7 limitations, restrictions and relative rights of any class or series of  
8 stock have been established by a resolution of the board of directors  
9 pursuant to a provision in the articles of incorporation, a certificate  
10 of designation setting forth the resolution and stating the number of  
11 shares for each designation must be signed by an officer of the  
12 corporation and filed with the Secretary of State. A certificate of  
13 designation signed and filed pursuant to this section must become  
14 effective before the issuance of any shares of the class or series.

15 2. Unless otherwise provided in the articles of incorporation or  
16 the certificate of designation being amended, if no shares of a class  
17 or series of stock established by ~~fa resolution of the board of~~  
18 ~~directors} a certificate of designation filed pursuant to subsection 1~~  
19 have been issued, the designation of the class or series, the number  
20 of the class or series and the voting powers, designations,  
21 preferences, limitations, restrictions and relative rights of the class  
22 or series may be amended by a resolution of the board of directors  
23 pursuant to a certificate of amendment filed in the manner provided  
24 in subsection 4.

25 3. Unless otherwise provided in the articles of incorporation or  
26 the certificate of designation, if shares of a class or series of stock  
27 established by ~~fa resolution of the board of directors} a certificate of~~  
28 ~~designation filed pursuant to subsection 1~~ have been issued, the  
29 designation of the class or series, the number of the class or series  
30 and the voting powers, designations, preferences, limitations,  
31 restrictions and relative rights of the class or series may be amended  
32 by a resolution of the board of directors only if the amendment is  
33 approved as provided in this subsection. Unless otherwise provided  
34 in the articles of incorporation or the certificate of designation, the  
35 proposed amendment adopted by the board of directors must be  
36 approved by the vote of stockholders holding shares in the  
37 corporation entitling them to exercise a majority of the voting  
38 power, or such greater proportion of the voting power as may be  
39 required by the articles of incorporation or the certificate of  
40 designation, of:

41 (a) The class or series of stock being amended; and

42 (b) Each class and each series of stock which, before  
43 amendment, is senior to the class or series being amended as to the  
44 payment of distributions upon dissolution of the corporation,



1 regardless of any limitations or restrictions on the voting power of  
2 that class or series.

3 4. A certificate of amendment to a certificate of designation  
4 must be signed by an officer of the corporation and filed with the  
5 Secretary of State and must:

6 (a) Set forth the original designation and the new designation, if  
7 the designation of the class or series is being amended;

8 (b) State that no shares of the class or series have been issued or  
9 state that the approval of the stockholders required pursuant to  
10 subsection 3 has been obtained; and

11 (c) Set forth the amendment to the class or series or set forth the  
12 designation of the class or series, the number of the class or series  
13 and the voting powers, designations, preferences, limitations,  
14 restrictions and relative rights of the class or series, as amended.

15 5. A certificate filed pursuant to subsection 1 or 4 is effective at  
16 the time of the filing of the certificate with the Secretary of State or  
17 upon a later date and time as specified in the certificate, which date  
18 must not be more than 90 days after the date on which the certificate  
19 is filed. If a certificate filed pursuant to subsection 1 or 4 specifies a  
20 later effective date but does not specify an effective time, the  
21 certificate is effective at 12:01 a.m. in the Pacific time zone on the  
22 specified later date.

23 6. If shares of a class or series of stock established by a  
24 certificate of designation are not outstanding, the corporation may  
25 file a certificate which states that no shares of the class or series are  
26 outstanding and which contains the resolution of the board of  
27 directors authorizing the withdrawal of the certificate of designation  
28 establishing the class or series of stock. The certificate must identify  
29 the date and certificate of designation being withdrawn and must be  
30 signed by an officer of the corporation and filed with the Secretary  
31 of State. Upon filing the certificate and payment of the fee required  
32 pursuant to NRS 78.765, all matters contained in the certificate of  
33 designation regarding the class or series of stock are eliminated  
34 from the articles of incorporation.

35 7. *When any certificate of designation, or any amendment*  
36 *thereto, filed pursuant to this section becomes effective, it shall*  
37 *have the effect of amending the articles of incorporation, but* NRS  
38 78.380, 78.385 and 78.390 do not apply to ~~certificates~~ *a certificate*  
39 *of designation, or any amendment thereto, filed pursuant to this*  
40 *section.*

41 **Sec. 8.** NRS 78.196 is hereby amended to read as follows:

42 78.196 1. Each corporation must have:

43 (a) One or more classes or series of shares that together have  
44 unlimited voting rights; and



1 (b) One or more classes or series of shares that together are  
2 entitled to receive the net assets of the corporation upon dissolution.  
3 ➔ If the articles of incorporation provide for only one class of stock,  
4 that class of stock has unlimited voting rights and is entitled to  
5 receive the net assets of the corporation upon dissolution.

6 2. The articles of incorporation, or a *certificate of designation*  
7 *approved pursuant to a* resolution of the board of directors  
8 ~~filed pursuant thereto,~~ *and filed in accordance with this chapter,* may  
9 authorize one or more classes or series of stock that:

10 (a) Have special, conditional or limited voting powers, or no  
11 right to vote, except to the extent otherwise provided by this title;

12 (b) Are redeemable or convertible:

13 (1) At the option of the corporation, the stockholders or  
14 another person, or upon the occurrence of a designated event;

15 (2) For cash, indebtedness, securities or other property; or

16 (3) In a designated amount or in an amount determined in  
17 accordance with a designated formula or by reference to extrinsic  
18 data or events;

19 (c) Entitle the stockholders to distributions calculated in any  
20 manner, including dividends that may be cumulative, noncumulative  
21 or partially cumulative;

22 (d) Have preference over any other class or series of shares with  
23 respect to distributions, including dividends and distributions upon  
24 the dissolution of the corporation;

25 (e) Have par value; or

26 (f) Have powers, designations, preferences, limitations,  
27 restrictions and relative rights dependent upon any fact or event  
28 which may be ascertained outside of the articles of incorporation or  
29 the ~~resolution~~ *certificate of designation* if the manner in which the  
30 fact or event may operate on such class or series of stock is stated in  
31 the articles of incorporation or the ~~resolution~~ *certificate of*  
32 *designation*. As used in this paragraph, "fact or event" includes,  
33 without limitation, the existence of a fact or occurrence of an event,  
34 including, without limitation, a determination or action by a person,  
35 the corporation itself or any government, governmental agency or  
36 political subdivision of a government.

37 3. Unless otherwise provided in the articles of incorporation ,  
38 or in a ~~resolution of the board of directors~~ *certificate of*  
39 *designation filed pursuant to subsection 1 of NRS 78.1955,*  
40 establishing a class or series of stock, shares which are subject to  
41 redemption and which have been called for redemption are not  
42 deemed to be outstanding shares for purposes of voting or  
43 determining the total number of shares entitled to vote on a matter  
44 on and after the date on which:



1 (a) Written notice of redemption has been sent to the holders of  
2 such shares; and

3 (b) A sum sufficient to redeem the shares has been irrevocably  
4 deposited or set aside to pay the redemption price to the holders of  
5 the shares upon surrender of any certificates.

6 4. The description of voting powers, designations, preferences,  
7 limitations, restrictions and relative rights of the classes or series of  
8 shares contained in this section is not exclusive.

9 **Sec. 9.** NRS 78.209 is hereby amended to read as follows:

10 78.209 1. A change pursuant to NRS 78.207 is not effective  
11 until after the filing in the Office of the Secretary of State of a  
12 certificate, signed by an officer of the corporation, setting forth:

13 (a) The number of authorized shares and the par value, if any, of  
14 each affected class or, if applicable, each affected series of shares  
15 before the change;

16 (b) The number of authorized shares and the par value, if any, of  
17 each affected class or, if applicable, each affected series of shares  
18 after the change;

19 (c) The number of shares of each affected class or, if applicable,  
20 each affected series to be issued after the change in exchange for  
21 each issued share of the same class or series;

22 (d) The provisions, if any, for the issuance of fractional shares,  
23 or for the payment of money or the issuance of scrip to stockholders  
24 otherwise entitled to a fraction of a share and the percentage of  
25 outstanding shares affected thereby; and

26 (e) That any required approval of the stockholders has been  
27 obtained.

28 ➔ The provisions in the articles of incorporation of the corporation  
29 regarding the authorized number and par value, if any, of the  
30 changed class or, if applicable, the changed series of shares shall be  
31 deemed amended as provided in the certificate at the effective date  
32 and time of the change.

33 2. Unless an increase or decrease of the number of authorized  
34 shares pursuant to NRS 78.207 is accomplished by an action that  
35 otherwise requires an amendment to the articles of incorporation of  
36 the corporation, such an amendment is not required by that section.

37 3. A certificate filed pursuant to subsection 1 is effective at the  
38 time of the filing of the certificate with the Secretary of State or  
39 upon a later date and time as specified in the certificate, which date  
40 must not be more than 90 days after the date on which the certificate  
41 is filed. If a certificate filed pursuant to subsection 1 specifies a later  
42 effective date but does not specify an effective time, the certificate  
43 is effective at 12:01 a.m. in the Pacific time zone on the specified  
44 later date.



1 4. If a certificate filed pursuant to subsection 1 specifies a later  
2 effective date, the board of directors may terminate the effectiveness  
3 of the certificate by resolution ~~[-A]~~ **and a** certificate of termination  
4 must:

5 (a) Be filed with the Secretary of State before the effective date  
6 specified in the certificate filed pursuant to subsection 1;

7 (b) Identify the certificate being terminated;

8 (c) State that the effectiveness of the certificate has been  
9 terminated;

10 (d) Be signed by an officer of the corporation; and

11 (e) Be accompanied by the fee required pursuant to NRS 78.765.

12 ***5. When any certificate filed pursuant to subsection 1***  
13 ***becomes effective, it shall have the effect of amending the articles***  
14 ***of incorporation, but NRS 78.380, 78.385 and 78.390 do not apply***  
15 ***to a certificate of change filed pursuant to this section.***

16 **Sec. 10.** NRS 78.211 is hereby amended to read as follows:

17 78.211 1. The board of directors may authorize shares to be  
18 issued for consideration consisting of any tangible or intangible  
19 property or benefit to the corporation, including, but not limited to,  
20 cash, promissory notes, services performed, contracts for services to  
21 be performed or other securities of the corporation. ***The nature and***  
22 ***amount of such consideration may be made dependent upon a***  
23 ***formula approved by the board of directors or upon any fact or***  
24 ***event which may be ascertained outside the articles of***  
25 ***incorporation or the resolution providing for the issuance of the***  
26 ***shares adopted by the board of directors if the manner in which a***  
27 ***fact or event may operate upon the nature and amount of the***  
28 ***consideration is stated in the articles of incorporation or***  
29 ***the resolution.*** The judgment of the board of directors as to the  
30 consideration received for the shares issued is conclusive in the  
31 absence of actual fraud in the transaction.

32 2. When the corporation receives the consideration for which  
33 the board of directors authorized the issuance of shares, the shares  
34 issued therefor are fully paid. ***Shares that are issued are***  
35 ***outstanding shares unless such shares are treasury shares.***

36 3. The corporation may place in escrow shares issued for a  
37 contract for future services or benefits or a promissory note, or make  
38 any other arrangements to restrict the transfer of the shares. The  
39 corporation may credit distributions made for the shares against  
40 their purchase price, until the services are performed, the benefits  
41 are received or the promissory note is paid. If the services are not  
42 performed, the benefits are not received or the promissory note is  
43 not paid, the shares escrowed or restricted and the distributions  
44 credited may be cancelled in whole or in part.



1 4. For the purposes of this section, “benefit to the corporation”  
2 includes, without limitation, the authorization of the issuance of  
3 shares to up to 100 persons without consideration for the sole  
4 purpose of qualifying the corporation as a real estate investment  
5 trust pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any  
6 successor provision, and any regulations adopted pursuant thereto.

7 **Sec. 11.** NRS 78.320 is hereby amended to read as follows:

8 78.320 1. Unless this chapter, the articles of incorporation or  
9 the bylaws provide for different proportions:

10 (a) A majority of the voting power, which includes the voting  
11 power that is present in person or by proxy, regardless of whether  
12 the proxy has authority to vote on all matters, constitutes a quorum  
13 for the transaction of business; and

14 (b) Action by the stockholders on a matter other than the  
15 election of directors is approved if the number of votes cast in favor  
16 of the action exceeds the number of votes cast in opposition to the  
17 action.

18 2. Unless otherwise provided in the articles of incorporation or  
19 the bylaws, any action required or permitted to be taken at a meeting  
20 of the stockholders may be taken without a meeting if, before or  
21 after the action, a written consent thereto is signed by stockholders  
22 holding at least a majority of the voting power, except that if a  
23 different proportion of voting power is required for such an action at  
24 a meeting, then that proportion of written consents is required.

25 3. In no instance where action is authorized by written consent  
26 need a meeting of stockholders be called or notice given.

27 4. Unless otherwise restricted by the articles of incorporation  
28 or bylaws, stockholders may participate in a meeting of stockholders  
29 through electronic communications, videoconferencing,  
30 teleconferencing or other available technology if the corporation has  
31 implemented reasonable measures to:

32 (a) Verify the identity of each person participating through such  
33 means as a stockholder; and

34 (b) Provide the stockholders a reasonable opportunity to  
35 participate in the meeting and to vote on matters submitted to the  
36 stockholders, including an opportunity to communicate, and to read  
37 or hear the proceedings of the meetings in a substantially concurrent  
38 manner with such proceedings.

39 5. *If authorized in the articles of incorporation or bylaws, a*  
40 *meeting of stockholders may be held solely by remote*  
41 *communication pursuant to subsection 4.*

42 6. Participation in a meeting pursuant to subsection 4  
43 constitutes presence in person at the meeting.



1 ~~16.1~~ 7. Unless this chapter, the articles of incorporation or the  
2 bylaws provide for different proportions, if voting by a class or  
3 series of stockholders is permitted or required:

4 (a) A majority of the voting power of the class or series that is  
5 present in person or by proxy, regardless of whether the proxy has  
6 authority to vote on all matters, constitutes a quorum for the  
7 transaction of business; and

8 (b) An act by the stockholders of each class or series is approved  
9 if a majority of the voting power of a quorum of the class or series  
10 votes for the action.

11 **Sec. 12.** NRS 78.350 is hereby amended to read as follows:

12 78.350 1. Unless otherwise provided in the articles of  
13 incorporation, or in the ~~resolution providing for the issuance of~~  
14 *certificate of designation establishing the class or series of* stock ,  
15 ~~adopted by the board of directors pursuant to authority expressly~~  
16 ~~vested in it by the provisions of the articles of incorporation,]~~ every  
17 stockholder of record of a corporation is entitled at each meeting of  
18 stockholders thereof to one vote for each share of stock standing in  
19 his or her name on the records of the corporation. If the articles of  
20 incorporation, or the ~~resolution providing for the issuance of~~  
21 *certificate of designation establishing the class or series of* stock  
22 ~~adopted by the board of directors pursuant to authority expressly~~  
23 ~~vested in it by the articles of incorporation,]~~ provides for more or  
24 less than one vote per share for any class or series of shares on any  
25 matter, every reference in this chapter to a majority or other  
26 proportion of stock shall be deemed to refer to a majority or other  
27 proportion of the voting power of all of the shares or those classes or  
28 series of shares, as may be required by the articles of incorporation,  
29 or in the ~~resolution providing for the issuance of~~ *certificate of*  
30 *designation establishing the class or series of* stock ~~adopted by the~~  
31 ~~board of directors pursuant to authority expressly vested in it by the~~  
32 ~~provisions of the articles of incorporation,]~~ or the provisions of this  
33 chapter.

34 2. Unless a period of more than 60 days or a period of less than  
35 10 days is prescribed or fixed in the articles of incorporation, the  
36 directors may prescribe a period not exceeding 60 days before any  
37 meeting of the stockholders during which no transfer of stock on the  
38 books of the corporation may be made, or may fix, in advance, a  
39 record date not more than 60 or less than 10 days before the date of  
40 any such meeting as the date as of which stockholders entitled to  
41 notice of and to vote at such meetings must be determined. Only  
42 stockholders of record on that date are entitled to notice or to vote at  
43 such a meeting. If a record date is not fixed, the record date is at the  
44 close of business on the day before the day on which the first notice  
45 is given or, if notice is waived, at the close of business on the day



1 before the meeting is held. A determination of stockholders of  
2 record entitled to notice of or to vote at a meeting of stockholders  
3 applies to an adjournment *or postponement* of the meeting unless  
4 the board of directors fixes a new record date for the adjourned *or*  
5 *postponed* meeting. The board of directors must fix a new record  
6 date if the meeting is adjourned *or postponed* to a date more than 60  
7 days later than the *meeting* date set for the original meeting.

8 3. The board of directors may adopt a resolution prescribing a  
9 date upon which the stockholders of record entitled to give written  
10 consent pursuant to NRS 78.320 must be determined. The date  
11 prescribed by the board of directors may not precede or be more  
12 than 10 days after the date the resolution is adopted by the board of  
13 directors. If the board of directors does not adopt a resolution  
14 prescribing a date upon which the stockholders of record entitled to  
15 give written consent pursuant to NRS 78.320 must be determined  
16 and:

17 (a) No prior action by the board of directors is required by this  
18 chapter or chapter 92A of NRS before the matter is submitted for  
19 consideration by the stockholders, the date is the first date on which  
20 any stockholder delivers to the corporation such consent signed by  
21 the stockholder.

22 (b) Prior action by the board of directors is required by this  
23 chapter or chapter 92A of NRS before the matter is submitted for  
24 consideration by the stockholders, the date is at the close of business  
25 on the day the board of directors adopts the resolution.

26 4. The provisions of this section do not restrict the directors  
27 from taking action to protect the interests of the corporation and its  
28 stockholders, including, but not limited to, adopting or signing  
29 plans, arrangements or instruments that grant or deny rights,  
30 privileges, power or authority to a holder or holders of a specified  
31 number of shares or percentage of share ownership or voting power.

32 **Sec. 13.** NRS 78.370 is hereby amended to read as follows:

33 78.370 1. If under the provisions of this chapter stockholders  
34 are required or authorized to take any action at a meeting, the notice  
35 of the meeting must be in writing.

36 2. Except in the case of the annual meeting, the notice must  
37 state the purpose or purposes for which the meeting is called. In all  
38 instances, the notice must state the time when, and the place, which  
39 may be within or without this State, where the meeting is to be held,  
40 and the means of electronic communications, if any, by which  
41 stockholders and proxies shall be deemed to be present in person  
42 and vote.

43 3. A copy of the notice must be delivered personally, mailed  
44 postage prepaid or delivered as provided in NRS 75.150 to each  
45 stockholder of record entitled to vote at the meeting not less than 10



1 nor more than 60 days before the meeting. If mailed, it must be  
2 directed to the stockholder at his or her address as it appears upon  
3 the records of the corporation. Personal delivery of any such notice  
4 to any officer of a corporation or association, to any member of a  
5 limited-liability company managed by its members, to any manager  
6 of a limited-liability company managed by managers, to any general  
7 partner of a partnership or to any trustee of a trust constitutes  
8 delivery of the notice to the corporation, association, limited-  
9 liability company, partnership or trust.

10 4. The articles of incorporation or the bylaws may require that  
11 the notice be also published in one or more newspapers.

12 5. Notice delivered or mailed to a stockholder in accordance  
13 with the provisions of this section and NRS 75.150 and the  
14 provisions, if any, of the articles of incorporation or the bylaws is  
15 sufficient, and in the event of the transfer of the stockholder's stock  
16 after such delivery or mailing and before the holding of the meeting  
17 it is not necessary to deliver or mail notice of the meeting to the  
18 transferee.

19 6. Unless otherwise provided in the articles of incorporation or  
20 the bylaws, if notice is required to be delivered, under any provision  
21 of this chapter or the articles of incorporation or bylaws of any  
22 corporation, to any stockholder to whom:

23 (a) Notice of two consecutive annual meetings, and all notices of  
24 meetings or of the taking of action by written consent without a  
25 meeting to the stockholder during the period between those two  
26 consecutive annual meetings; or

27 (b) All, and at least two, payments sent by first-class mail of  
28 dividends or interest on securities during a 12-month period,  
29 ➤ have been mailed addressed to the stockholder at his or her  
30 address as shown on the records of the corporation and have been  
31 returned undeliverable, the delivery of further notices to the  
32 stockholder is not required. Any action or meeting taken or held  
33 without notice to such a stockholder has the same effect as if the  
34 notice had been delivered. If any such stockholder delivers to the  
35 corporation a written notice setting forth his or her current address,  
36 the requirement that notice be delivered to the stockholder is  
37 reinstated. If the action taken by the corporation is such as to require  
38 the filing of a certificate under any of the other sections of this  
39 chapter, the certificate need not state that notice was not delivered to  
40 persons to whom notice was not required to be delivered pursuant to  
41 this subsection. The delivery of further notices to a stockholder is  
42 still required for any notice returned as undeliverable if the notice  
43 was delivered by electronic transmission.

44 7. Unless the articles of incorporation or bylaws otherwise  
45 require, and except as otherwise provided in this subsection, if a



1 stockholders' meeting is adjourned to another date, time or place,  
2 notice need not be delivered of the date, time or place of the  
3 adjourned meeting if they are announced at the meeting at which  
4 the adjournment is taken. If a new record date is fixed for ~~the~~ *an*  
5 adjourned *or postponed* meeting, notice of the adjourned *or*  
6 *postponed* meeting must be delivered to each stockholder of record  
7 as of the new record date.

8 **Sec. 14.** NRS 78.433 is hereby amended to read as follows:

9 78.433 1. NRS 78.411 to 78.444, inclusive, do not apply to  
10 any combination of a resident domestic corporation:

11 (a) Which was not, as of the date that the person first becomes  
12 an interested stockholder, a publicly traded corporation, unless the  
13 corporation's articles of incorporation provide otherwise.

14 (b) Whose articles of incorporation have been amended to  
15 provide that the resident domestic corporation is subject to NRS  
16 78.411 to 78.444, inclusive, and which was not a publicly traded  
17 corporation on the effective date of the amendment, if the  
18 combination is with a person who first became an interested  
19 stockholder before the effective date of the amendment.

20 *(c) With an interested stockholder of the resident domestic*  
21 *corporation after the expiration of 4 years after the person first*  
22 *became an interested stockholder.*

23 2. The articles of incorporation of a resident domestic  
24 corporation may impose on combinations of the resident domestic  
25 corporation stricter requirements than the requirements of NRS  
26 78.411 to 78.444, inclusive.

27 3. The provisions of NRS 78.411 to 78.444, inclusive, do not  
28 restrict the directors of a resident domestic corporation from taking  
29 action to protect the interests of the corporation and its stockholders,  
30 including, without limitation, adopting or signing plans,  
31 arrangements or instruments that grant or deny rights, privileges,  
32 power or authority to a holder or holders of a specified number of  
33 shares or percentage of share ownership or voting power.

34 **Sec. 15.** NRS 78.438 is hereby amended to read as follows:

35 78.438 1. Except as otherwise provided in NRS 78.433 to  
36 78.437, inclusive, a resident domestic corporation may not engage  
37 in any combination with any interested stockholder of the resident  
38 domestic corporation for 2 years after the date that the person first  
39 became an interested stockholder unless ~~H~~ *the combination meets*  
40 *all of the requirements of the articles of incorporation of the*  
41 *resident domestic corporation and:*

42 (a) The combination or the transaction by which the person first  
43 became an interested stockholder is approved by the board of  
44 directors of the resident domestic corporation before the person first  
45 became an interested stockholder; or



1 (b) The combination is approved by the board of directors  
2 of the resident domestic corporation and, at or after that time, the  
3 combination is approved at an annual or special meeting of the  
4 stockholders of the resident domestic corporation, and not by  
5 written consent, by the affirmative vote of the holders of stock  
6 representing at least 60 percent of the outstanding voting power of  
7 the resident domestic corporation not beneficially owned by the  
8 interested stockholder or the affiliates or associates of the interested  
9 stockholder.

10 2. If a proposal in good faith regarding a combination is made  
11 in writing to the board of directors of the resident domestic  
12 corporation, the board of directors shall respond, in writing, within  
13 30 days or such shorter period, if any, as may be required by the  
14 Securities Exchange Act, setting forth its reasons for its decision  
15 regarding the proposal.

16 3. If a proposal in good faith to enter into a transaction by  
17 which the person will become an interested stockholder is made in  
18 writing to the board of directors of the resident domestic  
19 corporation, the board of directors, unless it responds affirmatively  
20 in writing within 30 days or such shorter period, if any, as may be  
21 required by the Securities Exchange Act, is considered to have  
22 disapproved the transaction.

23 **Sec. 16.** NRS 78.439 is hereby amended to read as follows:

24 78.439 A resident domestic corporation may not engage in any  
25 combination with an interested stockholder of the resident domestic  
26 corporation after the expiration of 2 years after the person first  
27 became an interested stockholder ~~{other than a}~~ *unless the*  
28 combination ~~{meeting}~~ *meets* all of the requirements of the articles  
29 of incorporation of the resident domestic corporation and : ~~{either~~  
30 ~~the requirements specified in subsection 1, 2 or 3 or all of the~~  
31 ~~requirements specified in NRS 78.441 to 78.444, inclusive;}~~

32 1. The combination ~~{was approved by the board of directors of~~  
33 ~~the resident domestic corporation before such person first became an~~  
34 ~~interested stockholder.~~

35 ~~—2.—The}~~ *or* transaction by which the person first became an  
36 interested stockholder ~~{was}~~ *is* approved by the board of directors of  
37 the resident domestic corporation before the person first became an  
38 interested stockholder ~~{~~

39 ~~—3.—} ;~~

40 2. The combination is approved ~~{at an annual or special~~  
41 ~~meeting of the stockholders of the resident domestic corporation~~  
42 ~~held no earlier than 2 years after the date that the person first~~  
43 ~~became an interested stockholder, and not by written consent.}~~ by  
44 ~~{the affirmative vote of the holders of stock representing}~~ a majority  
45 of the outstanding voting power of the resident domestic corporation



1 not beneficially owned by the interested stockholder or any affiliate  
2 or associate of the interested stockholder ~~H~~ ; or

3 **3. The combination meets the requirements specified in NRS**  
4 **78.411 to 78.444, inclusive.**

5 **Sec. 17.** NRS 78.441 is hereby amended to read as follows:

6 78.441 As an alternative to a combination satisfying the  
7 requirements of subsection 1 ~~H~~ or 2 ~~for 3~~ of NRS 78.439, a  
8 combination with an interested stockholder of the resident domestic  
9 corporation engaged in more than 2 years after the date that the  
10 person first became an interested stockholder is permissible if the  
11 requirements of NRS 78.442, 78.443 and 78.444 are satisfied and  
12 the aggregate amount of the cash and the market value, as of the  
13 date of consummation, of consideration other than cash to be  
14 received per share by all of the holders of outstanding common  
15 shares of the resident domestic corporation not beneficially owned  
16 by such interested stockholder immediately before that date is at  
17 least equal to the higher of the following:

18 1. The highest price per share paid by the interested  
19 stockholder, at a time when the interested stockholder was the  
20 beneficial owner, directly or indirectly, of 5 percent or more of the  
21 outstanding voting shares of the corporation, for any common shares  
22 of the same class or series acquired by the interested stockholder  
23 within 2 years immediately before the date of announcement with  
24 respect to the combination or within 2 years immediately before, or  
25 in, the transaction in which the person became an interested  
26 stockholder, whichever is higher, plus, in either case, interest  
27 compounded annually from the earliest date on which the highest  
28 price per share was paid through the date of consummation at the  
29 rate for one-year obligations of the United States Treasury in effect  
30 on that earliest date, less the aggregate amount of any dividends  
31 paid in cash and the market value of any dividends paid other than  
32 in cash, per common share since that earliest date.

33 2. The market value per common share on the date of  
34 announcement with respect to the combination or on the date that  
35 the person first became an interested stockholder, whichever is  
36 higher, plus interest compounded annually from that date through  
37 the date of consummation at the rate for one-year obligations of the  
38 United States Treasury in effect on that date, less the aggregate  
39 amount of any dividends paid in cash and the market value of any  
40 dividends paid other than in cash, per common share since that date.

41 **Sec. 18.** NRS 78.442 is hereby amended to read as follows:

42 78.442 As an alternative to a combination satisfying the  
43 requirements of subsection 1 ~~H~~ or 2 ~~for 3~~ of NRS 78.439, a  
44 combination with an interested stockholder of the resident domestic  
45 corporation engaged in more than 2 years after the date that the



1 person first became an interested stockholder is permissible if the  
2 requirements of NRS 78.441, 78.443 and 78.444 are satisfied and  
3 the aggregate amount of the cash and the market value, as of the  
4 date of consummation, of consideration other than cash to be  
5 received per share by all of the holders of outstanding shares of any  
6 class or series of shares, other than common shares, of the resident  
7 domestic corporation not beneficially owned by the interested  
8 stockholder immediately before that date is at least equal to the  
9 highest of the following, whether or not the interested stockholder  
10 has previously acquired any shares of the class or series of shares:

11 1. The highest price per share paid by the interested  
12 stockholder, at a time when the interested stockholder was the  
13 beneficial owner, directly or indirectly, of 5 percent or more of the  
14 outstanding voting shares of the corporation, for any shares of that  
15 class or series of shares acquired by the interested stockholder  
16 within 2 years immediately before the date of announcement with  
17 respect to the combination or within 2 years immediately before, or  
18 in, the transaction in which the person became an interested  
19 stockholder, whichever is higher, plus, in either case, interest  
20 compounded annually from the earliest date on which the highest  
21 price per share was paid through the date of consummation at the  
22 rate for one-year obligations of the United States Treasury in effect  
23 on that earliest date, less the aggregate amount of any dividends  
24 paid in cash and the market value of any dividends paid other than  
25 in cash, per share of the class or series of shares since that earliest  
26 date.

27 2. The amount specified in the articles of incorporation of the  
28 resident domestic corporation, including in any certificate of  
29 designation for the class or series, to which the holders of shares of  
30 the class or series of shares are entitled upon the consummation of a  
31 transaction of a type encompassing the combination, determined as  
32 if the transaction had been consummated on the date of  
33 consummation with respect to the combination or on the date that  
34 the interested stockholder first became an interested stockholder,  
35 whichever is higher or, if the articles of incorporation, including any  
36 certificate of designation, do not so provide, the highest preferential  
37 amount per share to which the holders of shares of the class or series  
38 of shares are entitled in the event of any voluntary liquidation,  
39 dissolution or winding up of the resident domestic corporation, plus  
40 the aggregate amount of any dividends declared or due to which the  
41 holders are entitled before payment of the dividends on some other  
42 class or series of shares, unless the aggregate amount of the  
43 dividends is included in the preferential amount.

44 3. The market value per share of the class or series of shares on  
45 the date of announcement with respect to the combination or on the



\* S B 4 4 6 \*

1 date that the person first became an interested stockholder,  
2 whichever is higher, plus interest compounded annually from that  
3 date through the date of consummation at the rate for one-year  
4 obligations of the United States Treasury in effect on that date, less  
5 the aggregate amount of any dividends paid in cash and the market  
6 value of any dividends paid other than in cash, per share of the class  
7 or series of shares since that date.

8 **Sec. 19.** NRS 78.444 is hereby amended to read as follows:

9 78.444 As an alternative to a combination satisfying the  
10 requirements of subsection 1 ~~1~~ *or* 2 ~~for 3~~ of NRS 78.439, a  
11 combination with an interested stockholder of the resident domestic  
12 corporation engaged in more than 2 years after the date that the  
13 person first became an interested stockholder is permissible if the  
14 requirements of NRS 78.441, 78.442 and 78.443 are satisfied and,  
15 after the date that such person first became an interested stockholder  
16 and before the date of consummation with respect to the  
17 combination, the interested stockholder has not become the  
18 beneficial owner of any additional voting shares of the resident  
19 domestic corporation except:

20 1. As part of the transaction that resulted in the person  
21 becoming an interested stockholder;

22 2. By virtue of any transaction or series of transactions not  
23 constituting a combination;

24 3. Through a combination meeting the requirements of NRS  
25 78.439; or

26 4. Through a purchase at any price that, if the price had been  
27 paid in an otherwise permissible combination whose date of  
28 announcement and date of consummation were the date of the  
29 purchase, would have satisfied the requirements of NRS 78.441,  
30 78.442 and 78.443.

31 **Sec. 20.** NRS 78.725 is hereby amended to read as follows:

32 78.725 1. Any corporation organized and existing under the  
33 laws of this State on April 1, 1925, may reincorporate under this  
34 chapter, either under the same or a different name, by:

35 (a) Filing with the Secretary of State a certificate signed by its  
36 president and attested by its secretary and duly authorized by a  
37 meeting of the stockholders called for that purpose, setting forth the  
38 statements required in ~~an~~ *the* original ~~certificate~~ *articles* of  
39 incorporation by NRS 78.035; and

40 (b) Surrendering the existing charter or certificate *or articles* of  
41 incorporation of the corporation, and accepting the provisions of this  
42 chapter.

43 2. Upon the filing of the certificate, the corporation shall be  
44 deemed to be incorporated under this chapter and is entitled to and  
45 possesses all the privileges, franchises and powers as if originally



1 incorporated under this chapter. All the properties, rights and  
2 privileges theretofore belonging to the corporation, which were  
3 acquired by gift, grant, conveyance, assignment or otherwise, are  
4 hereby ratified, approved and confirmed and assured to the  
5 corporation with like effect and to all intents and purposes as if the  
6 same had been originally acquired through incorporation under this  
7 chapter.

8 3. Any corporation reincorporating under this chapter is subject  
9 to all the contracts, duties and obligations theretofore resting upon  
10 the corporation whose charter or certificate *or articles* of  
11 incorporation ~~is~~ *are* thus surrendered or to which the corporation is  
12 then in any way liable.

13 **Sec. 21.** NRS 78A.030 is hereby amended to read as follows:

14 78A.030 1. Any corporation organized under chapter 78 of  
15 NRS may become a close corporation pursuant to this chapter by  
16 signing, filing and recording, in accordance with NRS 78.390, a  
17 certificate of amendment of the ~~certificate~~ *articles* of incorporation  
18 which must:

19 (a) Contain a statement that the corporation elects to become a  
20 close corporation; and

21 (b) Meet the requirements of paragraph (a) of subsection 2 of  
22 NRS 78A.020.

23 2. Except as otherwise provided in subsection 3, the  
24 amendment must be adopted in accordance with the requirements of  
25 NRS 78.380 or 78.390.

26 3. If an amendment is adopted in accordance with the  
27 requirements of NRS 78.390, it must be approved by a vote of the  
28 holders of record of at least two-thirds of the shares of each class of  
29 stock of the corporation that are outstanding and entitled to vote,  
30 unless the articles of incorporation or bylaws require approval by a  
31 greater proportion.

32 **Sec. 22.** NRS 78A.040 is hereby amended to read as follows:

33 78A.040 1. The following statement must appear  
34 conspicuously on each share certificate issued by a close  
35 corporation:  
36

37 The rights of stockholders in a close corporation may differ  
38 materially from the rights of shareholders in other  
39 corporations. Copies of the ~~certificate~~ *articles* of  
40 incorporation, bylaws, shareholders' agreements and other  
41 records, any of which may restrict transfers of stock and  
42 affect voting and other rights, may be obtained by a  
43 shareholder on written request to the corporation.



1 2. A person claiming an interest in the shares of a close  
2 corporation that has complied with the requirement of subsection 1  
3 is bound by the records referred to in the notice. A person claiming  
4 an interest in the shares of a close corporation that has not complied  
5 with the requirement of subsection 1 is bound by any record that he  
6 or she or a person through whom he or she claims has knowledge or  
7 notice.

8 3. A close corporation shall provide to any shareholder upon  
9 his or her written request and without charge, copies of the  
10 provisions that restrict transfer or affect voting or other rights of  
11 shareholders appearing in the articles of incorporation, bylaws,  
12 shareholders' agreements or voting trust agreements filed with the  
13 corporations.

14 4. Except as otherwise provided in subsection 5, the close  
15 corporation may refuse to register the transfer of stock into the name  
16 of a person to whom the stock of a close corporation has been  
17 transferred if the person has, or is presumed to have, notice that the  
18 transfer of the stock is in violation of a restriction on the transfer of  
19 stock. If the close corporation refuses to register the transfer of stock  
20 into the name of the transferee, the close corporation must notify the  
21 transferee of its refusal and state the reasons therefor.

22 5. Subsection 4 does not apply if:

23 (a) The transfer of stock, even if contrary to the restrictions on  
24 transfer of stock, has been consented to by all the stockholders of  
25 the close corporation; or

26 (b) The close corporation has amended its ~~certificate~~ *articles*  
27 of incorporation in accordance with NRS 78A.180.

28 6. The provisions of this section do not impair any rights of a  
29 transferee to:

30 (a) Rescind the transaction by which the transferee acquired the  
31 stock; or

32 (b) Recover under any applicable warranty.

33 7. As used in this section, "transfer" is not limited to a transfer  
34 for value.

35 **Sec. 23.** NRS 78A.050 is hereby amended to read as follows:

36 78A.050 1. An interest in the shares of a close corporation  
37 may not be transferred, except to the extent permitted by the  
38 ~~certificate~~ *articles* of incorporation, the bylaws, a shareholders'  
39 agreement or a voting trust agreement.

40 2. Except as otherwise provided by the ~~certificate~~ *articles* of  
41 incorporation, the provisions of this section do not apply to a  
42 transfer:

43 (a) To the corporation or to any other shareholder of the same  
44 class or series of shares.

45 (b) To heirs at law.



1 (c) That has been approved in writing by all of the holders of the  
2 shares of the corporation having voting rights.

3 (d) To an executor or administrator upon the death of a  
4 shareholder or to a trustee or receiver as a result of a bankruptcy,  
5 insolvency, dissolution or similar proceeding brought by or against a  
6 shareholder.

7 (e) By merger or share exchange or an exchange of existing  
8 shares for other shares of a different class or series in the  
9 corporation.

10 (f) By a pledge as collateral for a loan that does not grant the  
11 pledgee any voting rights possessed by the pledgor.

12 (g) Made after the termination of the status of the corporation as  
13 a close corporation.

14 **Sec. 24.** NRS 78A.080 is hereby amended to read as follows:

15 78A.080 A written agreement among stockholders of a close  
16 corporation or any provision of the ~~certificate~~ *articles* of  
17 incorporation or of the bylaws of the corporation that relates to any  
18 phase of the affairs of the corporation, including, but not limited to,  
19 the management of its business, the declaration and payment of  
20 dividends or other division of profits, the election of directors or  
21 officers, the employment of stockholders by the corporation or the  
22 arbitration of disputes is not invalid on the ground that it is an  
23 attempt by the parties to the agreement or by the stockholders of the  
24 corporation to treat the corporation as if it were a partnership or to  
25 arrange relations among the stockholders or between the  
26 stockholders and the corporation in a manner that would be  
27 appropriate only among partners.

28 **Sec. 25.** NRS 78A.090 is hereby amended to read as follows:

29 78A.090 1. A close corporation may operate without a board  
30 of directors if the ~~certificate~~ *articles* of incorporation ~~contains~~  
31 *contain* a statement to that effect.

32 2. An amendment to the ~~certificate~~ *articles* of incorporation  
33 eliminating a board of directors must be approved:

34 (a) By all the shareholders of the corporation, whether or not  
35 otherwise entitled to vote on amendments; or

36 (b) If no shares have been issued, by all subscribers for shares, if  
37 any, or if none, by the incorporators.

38 3. While a corporation is operating without a board of directors  
39 as authorized by subsection 1:

40 (a) All corporate powers must be exercised by or under the  
41 authority of, and the business and affairs of the corporation managed  
42 under the direction of, the shareholders.

43 (b) Unless the articles of incorporation provide otherwise:



1 (1) Action requiring the approval of the board of directors or  
2 of both the board of directors and the shareholders is authorized if  
3 approved by the shareholders; and

4 (2) Action requiring a majority or greater percentage vote of  
5 the board of directors is authorized if approved by the majority or  
6 greater percentage of votes of the shareholders entitled to vote on  
7 the action.

8 (c) A requirement by a state or the United States that a record  
9 delivered for filing contain a statement that specified action has  
10 been taken by the board of directors is satisfied by a statement that  
11 the corporation is a close corporation without a board of directors  
12 and that the action was approved by the shareholders.

13 (d) The shareholders by resolution may appoint one or more  
14 shareholders to sign records as designated directors.

15 4. An amendment to the articles of incorporation that deletes  
16 the provision which eliminates a board of directors must be  
17 approved by the holders of at least two-thirds of the votes of each  
18 class or series of shares of the corporation, voting as separate voting  
19 groups, whether or not otherwise entitled to vote on amendments.  
20 The amendment must specify the number, names and mailing  
21 addresses of the directors of the corporation or describe who will  
22 perform the duties of the board of directors.

23 **Sec. 26.** NRS 78A.140 is hereby amended to read as follows:

24 78A.140 1. Upon application of a stockholder, the court may  
25 appoint one or more persons to be custodians and, if the corporation  
26 is insolvent, to be receivers of any close corporation when:

27 (a) The business and affairs of the close corporation are  
28 managed by the stockholders who are so divided that the business of  
29 the corporation is suffering or is threatened with irreparable injury  
30 and any remedy with respect to such a deadlock provided in the  
31 ~~certificate~~ *articles* of incorporation or bylaws or in any written  
32 agreement of the stockholders has failed; or

33 (b) The petitioning stockholder has the right to the dissolution of  
34 the corporation under a provision of the ~~certificate~~ *articles* of  
35 incorporation permitted by NRS 78A.160.

36 2. If the court determines that it would be in the best interest of  
37 the corporation, the court may appoint a provisional director in lieu  
38 of appointing a custodian or receiver for a close corporation. Such  
39 an appointment does not preclude any subsequent order of the court  
40 appointing a custodian or receiver for the corporation.

41 **Sec. 27.** NRS 78A.150 is hereby amended to read as follows:

42 78A.150 1. Notwithstanding any contrary provision of the  
43 ~~certificate~~ *articles* of incorporation, the bylaws or an agreement of  
44 the stockholders, the court may appoint a provisional director for a  
45 close corporation if the shareholders or directors, if any, are so



1 divided concerning the management of the business and affairs of  
2 the corporation that the votes required for action by the board of  
3 directors cannot be obtained, with the consequence that the business  
4 and affairs of the corporation cannot be conducted to the advantage  
5 of the stockholders generally.

6 2. An application for relief pursuant to this section must be  
7 filed:

8 (a) By at least one-half of the number of directors then in office;

9 (b) By the holders of at least one-third of all stock then entitled  
10 to elect directors; or

11 (c) If there is more than one class of stock then entitled to elect  
12 one or more directors, by the holders of two-thirds of the stock of  
13 each class.

14 ➔ The ~~certificate~~ *articles* of incorporation of a close corporation  
15 may provide that a lesser proportion of the directors, the  
16 stockholders or a class of stockholders may apply for relief under  
17 this section.

18 3. A provisional director:

19 (a) Must be an impartial person who is not a stockholder or a  
20 creditor of the corporation or of any subsidiary or affiliate of the  
21 corporation and whose further qualifications, if any, may be  
22 determined by the court.

23 (b) Is not a custodian or receiver of the corporation and does not  
24 have the title and powers of a custodian or receiver appointed under  
25 NRS 78A.140.

26 (c) Has the rights and powers of an elected director of the  
27 corporation, including the right to notice of and to vote at meetings  
28 of directors, until such time as the provisional director may be  
29 removed by order of the court.

30 4. The compensation of a provisional director must be  
31 determined by agreement between the provisional director and the  
32 corporation subject to the approval of the court, which may fix the  
33 compensation in the absence of agreement or in the event of  
34 disagreement between the provisional director and the corporation.

35 **Sec. 28.** NRS 78A.160 is hereby amended to read as follows:

36 78A.160 1. The ~~certificate~~ *articles* of incorporation of any  
37 close corporation may include a provision granting to any  
38 stockholder or to the holder of any specified number or percentage  
39 of shares of any class of stock an option to have the corporation  
40 dissolved at will or upon the occurrence of any specified event or  
41 contingency. Whenever any option to dissolve is exercised, the  
42 stockholders who exercise the option shall give written notice  
43 thereof to all other stockholders. Thirty days after the notice is sent,  
44 the dissolution of the corporation must proceed as if the required



1 number of stockholders having voting power consented in writing to  
2 dissolution of the corporation as provided by NRS 78.320.

3 2. If the ~~{certificate}~~ *articles* of incorporation as originally filed  
4 ~~{does}~~ *do* not contain a provision authorized by subsection 1, the  
5 ~~{certificate}~~ *articles* may be amended to include such a provision if  
6 adopted by the affirmative vote of the holders of all the outstanding  
7 stock, whether or not otherwise entitled to vote, unless the  
8 ~~{certificate}~~ *articles* of incorporation specifically ~~{authorizes}~~  
9 *authorize* such an amendment by a vote which is not less than two-  
10 thirds of all the outstanding stock, whether or not otherwise entitled  
11 to vote.

12 3. Each stock certificate in any corporation whose ~~{certificate}~~  
13 *articles* of incorporation ~~{authorizes}~~ *authorize* dissolution as  
14 permitted by this section must conspicuously note on the face of the  
15 certificate the existence of the provision or the provision is  
16 ineffective.

17 **Sec. 29.** NRS 78A.170 is hereby amended to read as follows:

18 78A.170 A close corporation is subject to the provisions of this  
19 chapter until:

20 1. The corporation files with the Secretary of State a certificate  
21 of amendment deleting from the ~~{certificate}~~ *articles* of  
22 incorporation the provisions required or permitted by NRS 78A.020,  
23 to be stated in the ~~{certificate}~~ *articles* of incorporation; or

24 2. A provision or condition required or permitted by NRS  
25 78A.020 to be stated in ~~{a certificate}~~ *the articles* of incorporation  
26 has been breached and the corporation or any stockholder has not  
27 acted pursuant to NRS 78A.190 to prevent the loss of status or  
28 remedy the breach.

29 **Sec. 30.** NRS 78A.180 is hereby amended to read as follows:

30 78A.180 1. A corporation may voluntarily terminate its status  
31 as a close corporation, and cease to be subject to the provisions of  
32 this chapter, by amending the ~~{certificate}~~ *articles* of incorporation  
33 to delete therefrom the additional provisions required or permitted  
34 by NRS 78A.020 to be stated in the ~~{certificate}~~ *articles* of  
35 incorporation of a close corporation. An amendment must be  
36 adopted and become effective in accordance with NRS 78.390,  
37 except that it must be approved by a vote of the holders of record of  
38 at least two-thirds of the voting shares of each class of stock of the  
39 corporation that are outstanding.

40 2. The ~~{certificate}~~ *articles* of incorporation of a close  
41 corporation may provide that on any amendment to terminate the  
42 status as a close corporation, a vote greater than two-thirds or a vote  
43 of all shares of any class may be required. If the ~~{certificate}~~ *articles*  
44 of incorporation ~~{contains}~~ *contain* such a provision, that provision  
45 may not be amended, repealed or modified by any vote less than that



1 required to terminate the status of the corporation as a close  
2 corporation.

3 3. ~~{A certificate}~~ *An amendment* filed pursuant to this section  
4 is effective at the time of the filing of the ~~{certificate}~~ *amendment*  
5 with the Secretary of State or upon a later date and time as specified  
6 in the ~~{certificate,}~~ *amendment*, which date must not be more than  
7 90 days after the date on which the ~~{certificate}~~ *amendment* is filed.  
8 If the ~~{certificate}~~ *amendment* specifies a later effective date but  
9 does not specify an effective time, the ~~{certificate}~~ *amendment*  
10 becomes effective at 12:01 a.m. in the Pacific time zone on the  
11 specified later date.

12 **Sec. 31.** NRS 78A.190 is hereby amended to read as follows:

13 78A.190 1. The status of a corporation as a close corporation  
14 terminates if one or more of the provisions or conditions of this  
15 chapter cease to exist or be fulfilled unless:

16 (a) Within 30 days after the occurrence of the event, or within  
17 30 days after the event has been discovered by the corporation,  
18 whichever is later, the corporation files with the Secretary of State a  
19 signed certificate stating that a specified provision or condition  
20 included in the ~~{certificate}~~ *articles* of incorporation to qualify the  
21 corporation as a close corporation has ceased to be applicable and  
22 furnishes a copy of the certificate to each stockholder; and

23 (b) The corporation, concurrently with the filing of a certificate,  
24 takes such steps as are necessary to correct the situation that  
25 threatens the status as a close corporation, including the refusal to  
26 register the transfer of stock which has been wrongfully transferred  
27 as provided by NRS 78A.050 or commencing a proceeding under  
28 subsection 2.

29 2. Upon the suit of the close corporation or any stockholder,  
30 the court has jurisdiction to:

31 (a) Issue all orders necessary to prevent the corporation from  
32 losing its status as a close corporation.

33 (b) Restore the status of the corporation as a close corporation  
34 by enjoining or setting aside any act or threatened act on the part of  
35 the corporation or a stockholder that would be inconsistent with any  
36 of the provisions or conditions required or permitted by this chapter  
37 to be stated in the ~~{certificate}~~ *articles* of incorporation of a close  
38 corporation, unless it is an act approved in accordance with  
39 NRS 78A.050.

40 (c) Enjoin or set aside any transfer or threatened transfer of  
41 stock of a close corporation that is contrary to the terms of the  
42 ~~{certificate}~~ *articles* of incorporation or of any permitted restriction  
43 on transfer.

44 (d) Enjoin any public offering or threatened public offering of  
45 stock of the close corporation.



1       **Sec. 32.** NRS 86.201 is hereby amended to read as follows:

2       86.201 1. A limited-liability company is considered legally  
3 organized pursuant to this chapter:

4       (a) At the time of the filing of the articles of organization with  
5 the Secretary of State ; ~~1, upon a later date and time as specified in~~  
6 ~~the articles, which date must not be more than 90 days after the date~~  
7 ~~on which the articles are filed or, if the articles specify a later~~  
8 ~~effective date but do not specify an effective time, at 12:01 a.m. in~~  
9 ~~the Pacific time zone on the specified later date, whichever is~~  
10 ~~applicable;~~ and

11       (b) Upon paying the required filing fees to the Secretary of  
12 State.

13       2. A limited-liability company must not transact business or  
14 incur indebtedness, except that which is incidental to its  
15 organization or to obtaining subscriptions for or payment of  
16 contributions, until the company is considered legally organized  
17 pursuant to subsection 1.

18       3. A limited-liability company is an entity distinct from its  
19 managers and members.

20       **Sec. 33.** NRS 86.286 is hereby amended to read as follows:

21       86.286 1. A limited-liability company may, but is not  
22 required to, adopt an operating agreement. An operating agreement  
23 may be adopted only by the unanimous vote or unanimous written  
24 consent of the members, which may be in any tangible or electronic  
25 format, or by the sole member. If any operating agreement provides  
26 for the manner in which it may be amended, including by requiring  
27 the approval of a person who is not a party to the operating  
28 agreement or the satisfaction of conditions, it may be amended only  
29 in that manner or as otherwise permitted by law and any attempt to  
30 otherwise amend the operating agreement shall be deemed void and  
31 of no legal force or effect unless otherwise provided in the operating  
32 agreement. Unless otherwise provided in the operating agreement,  
33 amendments to the agreement may be adopted only by the  
34 unanimous vote or unanimous written consent of the persons who  
35 are members at the time of amendment.

36       2. An operating agreement may be adopted before, after or at  
37 the time of the filing of the articles of organization and, whether  
38 entered into before, after or at the time of the filing, may become  
39 effective at the formation of the limited-liability company or at a  
40 later date specified in the operating agreement. If an operating  
41 agreement is adopted:

42       (a) Before the filing of the articles of organization or before the  
43 effective date of formation specified in the articles of organization,  
44 the operating agreement is not effective until the effective date of  
45 formation of the limited-liability company.



1 (b) After the filing of the articles of organization or after the  
2 effective date of formation specified in the articles of organization,  
3 the operating agreement binds the limited-liability company and  
4 may be enforced whether or not the limited-liability company  
5 assents to the operating agreement.

6 3. An operating agreement may provide that a certificate of  
7 limited-liability company interest issued by the limited-liability  
8 company may evidence a member's interest in a limited-liability  
9 company.

10 4. An operating agreement:

11 (a) May provide, but is not required to provide : ~~to any person,~~  
12 ~~including a person who is not a party to the operating agreement, to~~  
13 ~~the extent set forth therein.;~~

14 (1) Rights to any person, including a person who is not a  
15 party to the operating agreement, to the extent set forth therein;

16 (2) For the admission of any person as a member of the  
17 company dependent upon any fact or event that may be ascertained  
18 outside the articles of organization or the operating agreement, if the  
19 manner in which the fact or event may operate on the determination  
20 of the person or the admission of the person as a member of the  
21 company is set forth in the articles of organization or the operating  
22 agreement;

23 (3) That the personal representative of the last remaining  
24 member is obligated to agree in writing to the admission of the  
25 personal representative, or its nominee or designee, as a member of  
26 the company effective upon the occurrence of the event that  
27 terminated the last remaining member's status as a member of the  
28 company;

29 (4) For the admission of any person as a member of the  
30 company upon or after the death, retirement, resignation, expulsion,  
31 bankruptcy, dissolution or dissociation of, or any other event  
32 affecting, a member or the last remaining member, or after there is  
33 no longer a member of the company; or

34 (5) Any other provision, not inconsistent with law or the  
35 articles of organization, which the members elect to set out in  
36 the operating agreement for the regulation of the internal affairs of  
37 the company.

38 (b) Must be interpreted and construed to give the maximum  
39 effect to the principle of freedom of contract and enforceability.

40 5. If, and to the extent that, a member or manager or other  
41 person has duties to a limited-liability company, to another member  
42 or manager, or to another person that is a party to or is otherwise  
43 bound by the operating agreement, such duties may be expanded,  
44 restricted or eliminated by provisions in the operating agreement,



1 except that an operating agreement may not eliminate the implied  
2 contractual covenant of good faith and fair dealing.

3 6. Unless otherwise provided in an operating agreement, a  
4 member, manager or other person is not liable for breach of duties,  
5 if any, to a limited-liability company, to any of the members or  
6 managers or to another person that is a party to or otherwise bound  
7 by the operating agreement for conduct undertaken in the member's,  
8 manager's or other person's good faith reliance on the provisions of  
9 the operating agreement.

10 7. An operating agreement may provide for the limitation or  
11 elimination of any and all liabilities for breach of contract and  
12 breach of duties, if any, of a member, manager or other person to a  
13 limited-liability company, to any of the members or managers, or to  
14 another person that is a party to or is otherwise bound by the  
15 operating agreement. An operating agreement may not limit or  
16 eliminate liability for any conduct that constitutes a bad faith  
17 violation of the implied contractual covenant of good faith and fair  
18 dealing.

19 8. The Secretary of State may make available a model  
20 operating agreement for use by and at the discretion of a limited-  
21 liability company according to such terms and limitations as  
22 established by the Secretary of State. The use of such an operating  
23 agreement does not create a presumption that the contents of the  
24 operating agreement are accurate or that the operating agreement is  
25 valid.

26 **Sec. 34.** NRS 87A.235 is hereby amended to read as follows:

27 87A.235 1. In order for a limited partnership to be formed, a  
28 certificate of limited partnership must be delivered to the Secretary  
29 of State for filing. The certificate must state:

30 (a) The name of the limited partnership;

31 (b) The information required pursuant to NRS 77.310;

32 (c) The name and the street and mailing address of each general  
33 partner;

34 (d) Any additional information required by chapter 92A of NRS;  
35 and

36 (e) If the limited partnership is to be a restricted limited  
37 partnership, a statement to that effect.

38 2. A certificate of limited partnership may also contain any  
39 other matters but may not vary or otherwise affect the provisions  
40 specified in subsection 2 of NRS 87A.190 in a manner inconsistent  
41 with that section.

42 3. If there has been substantial compliance with subsection 1, a  
43 limited partnership is formed on ~~the later of~~ the filing of the  
44 certificate of limited partnership . ~~for a date specified in the~~  
45 ~~certificate of limited partnership.~~



1 4. Subject to subsection 2, if any provision of a partnership  
2 agreement is inconsistent with the filed certificate of limited  
3 partnership or with a filed certificate of withdrawal, certificate of  
4 cancellation or statement of change or filed articles of conversion or  
5 merger:

6 (a) The partnership agreement prevails as to partners and  
7 transferees; and

8 (b) The filed certificate of limited partnership, certificate of  
9 withdrawal, certificate of cancellation or statement of change or  
10 articles of conversion or merger prevail as to persons, other than  
11 partners and transferees, that reasonably rely on the filed record to  
12 their detriment.

13 **Sec. 35.** NRS 88.350 is hereby amended to read as follows:

14 88.350 1. In order to form a limited partnership, a certificate  
15 of limited partnership must be signed and filed in the Office of the  
16 Secretary of State. The certificate must set forth:

17 (a) The name of the limited partnership;

18 (b) The information required pursuant to NRS 77.310;

19 (c) The name and business address of each organizer executing  
20 the certificate;

21 (d) The name and business address of each initial general  
22 partner;

23 (e) The latest date upon which the limited partnership is to  
24 dissolve;

25 (f) If the limited partnership is to be a restricted limited  
26 partnership, a statement to that effect; and

27 (g) Any other matters the organizers determine to include  
28 therein.

29 2. A limited partnership is formed at the time of the filing of  
30 the certificate of limited partnership in the Office of the Secretary of  
31 State ~~for at any later time specified in the certificate of limited~~  
32 ~~partnership~~ if there has been substantial compliance with the  
33 requirements of this section.

34 **Sec. 36.** NRS 92A.180 is hereby amended to read as follows:

35 92A.180 1. A parent domestic corporation, whether or not for  
36 profit, parent domestic limited-liability company, unless otherwise  
37 provided in the articles of organization or operating agreement, or  
38 parent domestic limited partnership owning at least 90 percent of the  
39 outstanding shares of each class of a subsidiary corporation entitled  
40 to vote on a merger, 90 percent of the percentage or other interest in  
41 the capital and profits of a subsidiary limited-liability company then  
42 owned by each class of members entitled to vote on a merger or 90  
43 percent of the percentage or other interest in the capital and profits  
44 of a subsidiary limited partnership then owned by both the general  
45 partners and each class of limited partners entitled to vote on a



1 merger may merge the subsidiary into itself without approval of the  
2 owners of the owner's interests of the parent domestic corporation,  
3 parent domestic limited-liability company or parent domestic  
4 limited partnership or the owners of the owner's interests of the  
5 subsidiary domestic corporation, subsidiary domestic limited-  
6 liability company or subsidiary domestic limited partnership.

7 2. A parent domestic corporation, whether or not for profit,  
8 parent domestic limited-liability company, unless otherwise  
9 provided in the articles of organization or operating agreement, or  
10 parent domestic limited partnership owning at least 90 percent of the  
11 outstanding shares of each class of a subsidiary corporation entitled  
12 to vote on a merger, 90 percent of the percentage or other interest in  
13 the capital and profits of a subsidiary limited-liability company then  
14 owned by each class of members entitled to vote on a merger, or 90  
15 percent of the percentage or other interest in the capital and profits  
16 of a subsidiary limited partnership then owned by both the general  
17 partners and each class of limited partners entitled to vote on a  
18 merger may merge with and into the subsidiary without approval of  
19 the owners of the owner's interests of the subsidiary domestic  
20 corporation, subsidiary domestic limited-liability company or  
21 subsidiary domestic limited partnership.

22 3. The board of directors of a parent corporation, the managers  
23 of a parent limited-liability company with managers unless  
24 otherwise provided in the operating agreement, all members of a  
25 parent limited-liability company without managers unless otherwise  
26 provided in the operating agreement, or all general partners of a  
27 parent limited partnership shall adopt a plan of merger that sets  
28 forth:

29 (a) The names of the parent and subsidiary; and

30 (b) The manner and basis of converting the owner's interests of  
31 the disappearing entity into the owner's interests, obligations or  
32 other securities of the surviving or any other entity or into cash or  
33 other property in whole or in part.

34 4. The ~~parent~~ *surviving entity* shall mail a copy or summary  
35 of the plan of merger to each owner of the subsidiary who does not  
36 waive the mailing requirement in writing.

37 5. Articles of merger under this section may not contain  
38 amendments to the constituent documents of the surviving entity  
39 except that the name of the surviving entity may be changed.

40 6. The articles of incorporation of a domestic corporation, the  
41 articles of organization of a domestic limited-liability company, the  
42 certificate of limited partnership of a domestic limited partnership or  
43 the certificate of trust of a domestic business trust may forbid that  
44 entity from entering into a merger pursuant to this section.



1     **Sec. 37.** NRS 92A.250 is hereby amended to read as follows:  
2     92A.250 1. When a merger takes effect:

3     (a) Every other entity that is a constituent entity merges into the  
4 surviving entity and the separate existence of every entity except the  
5 surviving entity ceases;

6     (b) The title to all real estate and other property owned by each  
7 merging constituent entity is vested in the surviving entity without  
8 reversion or impairment;

9     (c) *An owner of a constituent entity remains liable for all the*  
10 *obligations of such constituent entity existing at the time of the*  
11 *merger to the extent the owner was liable before the merger;*

12     (d) The surviving entity has all of the liabilities of each other  
13 constituent entity †

14 ~~—(d) incurred after the time of the merger;~~

15     (e) A proceeding pending against any constituent entity may be  
16 continued as if the merger had not occurred or the surviving entity  
17 may be substituted in the proceeding for the entity whose existence  
18 has ceased;

19 ~~†(f)~~ (f) The articles of incorporation, articles of organization,  
20 certificate of limited partnership or certificate of trust of the  
21 surviving entity are amended to the extent provided in the plan of  
22 merger; and

23 ~~†(g)~~ (g) The owner's interests of each constituent entity that are  
24 to be converted into owner's interests, obligations or other securities  
25 of the surviving or any other entity or into cash or other property are  
26 converted, and the former holders of the owner's interests are  
27 entitled only to the rights provided in the articles of merger or any  
28 created pursuant to NRS 92A.300 to 92A.500, inclusive.

29     2. When an exchange takes effect, the owner's interests of each  
30 acquired entity are exchanged as provided in the plan, and the  
31 former holders of the owner's interests are entitled only to the rights  
32 provided in the articles of exchange or any rights created pursuant to  
33 NRS 92A.300 to 92A.500, inclusive.

34     3. When a conversion takes effect:

35     (a) The constituent entity is converted into the resulting entity  
36 and is governed by and subject to the law of the jurisdiction of the  
37 resulting entity;

38     (b) The conversion is a continuation of the existence of the  
39 constituent entity;

40     (c) The title to all real estate and other property owned by the  
41 constituent entity is vested in the resulting entity without reversion  
42 or impairment;

43     (d) The resulting entity has all the liabilities of the constituent  
44 entity;



1 (e) A proceeding pending against the constituent entity may be  
2 continued as if the conversion had not occurred or the resulting  
3 entity may be substituted in the proceeding for the constituent  
4 entity;

5 (f) The owner’s interests of the constituent entity that are to be  
6 converted into the owner’s interests of the resulting entity are  
7 converted;

8 (g) An owner of the resulting entity remains liable for all the  
9 obligations of the constituent entity *existing at the time of the*  
10 *conversion* to the extent the owner was ~~personally~~ liable before  
11 the conversion; and

12 (h) The domestic constituent entity is not required to wind up its  
13 affairs, pay its liabilities, distribute its assets or dissolve, and the  
14 conversion is not deemed a dissolution of the domestic constituent  
15 entity.

16 **Sec. 38.** NRS 240.1655 is hereby amended to read as follows:

17 240.1655 1. A notarial act must be evidenced by a certificate  
18 that:

19 (a) Identifies the county, including, without limitation, Carson  
20 City, in this State in which the notarial act was performed in  
21 substantially the following form:

22  
23 State of Nevada  
24 County of .....

25  
26 (b) Except as otherwise provided in this paragraph, includes the  
27 name of the person whose signature is being notarized. If the  
28 certificate is for certifying a copy of a document, the certificate must  
29 include the name of the person presenting the document. If the  
30 certificate is for the jurat of a subscribing witness, the certificate  
31 must include the name of the subscribing witness.

32 (c) Is signed and dated in ink by the notarial officer performing  
33 the notarial act. ~~The~~ *If the notarial officer is a notary public, the*  
34 certificate must be signed in the same manner as the signature of the  
35 notarial officer that is on file with the Secretary of State.

36 (d) If the notarial officer performing the notarial act is a notary  
37 public, includes the statement imprinted with the stamp of the notary  
38 public, as described in NRS 240.040.

39 (e) If the notarial officer performing the notarial act is not a  
40 notary public, includes the title of the office of the notarial officer  
41 and may include the official stamp or seal of that office. If the  
42 officer is a commissioned officer on active duty in the military  
43 service of the United States, the certificate must also include the  
44 officer’s rank.



\* S B 4 4 6 \*

1 2. Except as otherwise provided in subsection 8, a notarial  
2 officer shall:

3 (a) In taking an acknowledgment, determine, from personal  
4 knowledge or satisfactory evidence, that the person making the  
5 acknowledgment is the person whose signature is on the document.  
6 The person who signed the document shall present the document to  
7 the notarial officer in person.

8 (b) In administering an oath or affirmation, determine, from  
9 personal knowledge or satisfactory evidence, the identity of the  
10 person taking the oath or affirmation.

11 (c) In certifying a copy of a document, photocopy the entire  
12 document and certify that the photocopy is a true and correct copy  
13 of the document that was presented to the notarial officer.

14 (d) In making or noting a protest of a negotiable instrument,  
15 verify compliance with the provisions of subsection 2 of  
16 NRS 104.3505.

17 (e) In executing a jurat, administer an oath or affirmation to the  
18 affiant and determine, from personal knowledge or satisfactory  
19 evidence, that the affiant is the person named in the document. The  
20 affiant shall sign the document in the presence of the notarial  
21 officer. The notarial officer shall administer the oath or affirmation  
22 required pursuant to this paragraph in substantially the following  
23 form:

24  
25 Do you (solemnly swear, or affirm) that the statements in  
26 this document are true, (so help you God)?  
27

28 3. A certificate of a notarial act is sufficient if it meets the  
29 requirements of subsections 1 and 2 and it:

30 (a) Is in the short form set forth in NRS 240.166 to 240.169,  
31 inclusive;

32 (b) Is in a form otherwise prescribed by the law of this State;

33 (c) Is in a form prescribed by the laws or regulations applicable  
34 in the place in which the notarial act was performed; or

35 (d) Sets forth the actions of the notarial officer and those are  
36 sufficient to meet the requirements of the designated notarial act.

37 4. For the purposes of paragraphs (a), (b) and (e) of subsection  
38 2, a notarial officer has satisfactory evidence that a person is the  
39 person whose signature is on a document if the person:

40 (a) Is personally known to the notarial officer;

41 (b) Is identified upon the oath or affirmation of a credible  
42 witness who personally appears before the notarial officer;

43 (c) Is identified on the basis of an identifying document which  
44 contains a signature and a photograph;

45 (d) Is identified on the basis of a consular identification card;



1 (e) Is identified upon an oath or affirmation of a subscribing  
2 witness who is personally known to the notarial officer; or

3 (f) In the case of a person who is 65 years of age or older and  
4 cannot satisfy the requirements of paragraphs (a) to (e), inclusive, is  
5 identified upon the basis of an identification card issued by a  
6 governmental agency or a senior citizen center.

7 5. An oath or affirmation administered pursuant to paragraph  
8 (b) of subsection 4 must be in substantially the following form:

9  
10 Do you (solemnly swear, or affirm) that you personally  
11 know .....(name of person who signed the  
12 document)....., (so help you God)?  
13

14 6. A notarial officer shall not affix his or her signature over  
15 printed material.

16 7. By executing a certificate of a notarial act, the notarial  
17 officer certifies that the notarial officer has complied with all the  
18 requirements of this section.

19 8. If a person is physically unable to sign a document that is  
20 presented to a notarial officer pursuant to this section, the person  
21 may direct a person other than the notarial officer to sign the  
22 person's name on the document. The notarial officer shall insert  
23 "Signature affixed by (insert name of other person) at the direction  
24 of (insert name of person)" or words of similar import.

25 9. As used in this section, unless the context otherwise  
26 requires, "consular identification card" means an identification card  
27 issued by a consulate of a foreign government, which consulate is  
28 located within the State of Nevada.

