

By: Representative Bounds

To: Business and Commerce

HOUSE BILL NO. 1554

1 AN ACT TO BRING FORWARD SECTIONS 79-11-101 THROUGH 79-11-159,  
2 79-11-171 THROUGH 79-11-373 AND 79-11-381 THROUGH 79-11-407,  
3 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI NONPROFIT  
4 CORPORATION ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR  
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 79-11-101, Mississippi Code of 1972, is  
8 brought forward as follows:

9 79-11-101. Section 79-11-101 et seq. shall be known and may  
10 be cited as the "Mississippi Nonprofit Corporation Act."

11 **SECTION 2.** Section 79-11-103, Mississippi Code of 1972, is  
12 brought forward as follows:

13 79-11-103. The Mississippi Legislature has power to amend or  
14 repeal all or part of Section 79-11-101 et seq. at any time and  
15 all domestic and foreign corporations subject to Section 79-11-101  
16 et seq. are governed by the amendment or repeal.

17 **SECTION 3.** Section 79-11-105, Mississippi Code of 1972, is  
18 brought forward as follows:



19           79-11-105. (1) A document must satisfy the requirements of  
20 this section, and of any other section that adds to or varies  
21 these requirements, to be entitled to filing by the Secretary of  
22 State.

23           (2) Section 79-11-101 et seq. must require or permit filing  
24 the document in the office of the Secretary of State.

25           (3) The document must contain the information required by  
26 Section 79-11-101 et seq. It may contain other information as  
27 well.

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

32           (5) The document must be in the English language. However,  
33 a corporate name need not be in English if written in English  
34 letters or Arabic or Roman numerals, and the certificate of  
35 existence required of a foreign corporation need not be in English  
36 if accompanied by a reasonably authenticated English translation.

37           (6) The document must be signed:

38                   (a) By the presiding officer of its board of directors,  
39 its president or by another of its officers;

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

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



44           (7) The person executing a document shall sign it and state  
45 beneath or opposite the signature his or her name and the capacity  
46 in which he or she signs. The document may, but need not,  
47 contain:

48                   (a) A corporate seal;

49                   (b) An attestation;

50                   (c) An acknowledgement or verification. A document  
51 required or permitted to be filed under this chapter which  
52 contains a copy of a signature, however made, is acceptable for  
53 filing.

54           (8) If the Secretary of State has prescribed a mandatory  
55 form for a document under Section 79-11-107, the document must be  
56 in or on the prescribed form.

57           (9) The document must be delivered to the office of the  
58 Secretary of State for filing. Delivery may be made by electronic  
59 transmission if, to the extent, and in the manner permitted by the  
60 Secretary of State. If the document is filed in typewritten or  
61 printed form and not transmitted electronically, the Secretary of  
62 State may require one (1) exact or conformed copy to be delivered  
63 with the document except as otherwise provided in Sections  
64 79-11-167 and 79-11-379.

65           (10) When the document is delivered to the office of the  
66 Secretary of State for filing, the correct filing fee and any  
67 franchise tax, license fee or penalty required by Section



68 79-11-101 et seq. or other law must be paid or provision for  
69 payment made in a manner permitted by the Secretary of State.

70 **SECTION 4.** Section 79-11-107, Mississippi Code of 1972, is  
71 brought forward as follows:

72 79-11-107. (1) The Secretary of State may prescribe and  
73 furnish, on request, forms for: (a) an application for a  
74 certificate of existence; (b) a foreign corporation's application  
75 for a certificate of authority to transact business in this state;  
76 (c) a foreign corporation's application for a certificate of  
77 withdrawal; and (d) the annual report. If the Secretary of State  
78 so requires, use of these forms is mandatory.

79 (2) The Secretary of State may prescribe and furnish on  
80 request forms for other documents required or permitted to be  
81 filed by Section 79-11-101 et seq., but their use is not  
82 mandatory.

83 **SECTION 5.** Section 79-11-109, Mississippi Code of 1972, is  
84 brought forward as follows:

85 79-11-109. (1) Except as otherwise provided in subsection  
86 (4) of this section, the Secretary of State shall collect the  
87 following fees when the documents described in this subsection are  
88 delivered for filing:

89	<b>Document</b>	<b>Fee</b>
90	(a) Articles of incorporation	\$50.00
91	(b) [Reserved]	
92	(c) Application for reserved name	25.00



93	(d) Notice of transfer or cancellation	
94	of reserved name	25.00
95	(e) [Reserved]	
96	(f) [Reserved]	
97	(g) [Reserved]	
98	(h) [Reserved]	
99	(i) [Reserved]	
100	(j) Amendment of articles of incorporation	50.00
101	(k) Restatement of articles of incorporation	
102	with amendments	50.00
103	(l) Articles of merger	50.00
104	(m) Articles of dissolution	25.00
105	(n) Articles of revocation of dissolution	25.00
106	(o) Certificate of administrative	
107	dissolution	No Fee
108	(p) Application for reinstatement following	
109	administrative dissolution	50.00
110	(q) Certificate of reinstatement	No Fee
111	(r) Certificate of judicial dissolution	No Fee
112	(s) Application for certificate of authority	100.00
113	(t) Application for amended certificate of	
114	authority	50.00
115	(u) Application for certificate of withdrawal	25.00
116	(v) Certificate of revocation of authority	
117	to transact business	No Fee



118	(w) Annual report	No Fee
119	(x) Articles of correction	50.00
120	(y) Application for certificate of existence	
121	or authorization	25.00
122	(z) Any other document required or permitted	
123	to be filed by Section 79-11-101 et seq.	25.00

124 (2) Except as otherwise provided in subsection (4) of this  
125 section, the Secretary of State shall collect a fee of Twenty-five  
126 Dollars (\$25.00) upon being served with process under Section  
127 79-11-101 et seq. The party to a proceeding causing service of  
128 process is entitled to recover the fee paid the Secretary of State  
129 as costs if the party prevails in the proceeding.

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

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

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

141 **SECTION 6.** Section 79-11-111, Mississippi Code of 1972, is  
142 brought forward as follows:



143           79-11-111. (1) Except as provided in subsection (2) of this  
144 section, a document is effective:

145                   (a) At the date and time of filing, as evidenced by  
146 such means as the Secretary of State may use for the purpose of  
147 recording the date and time of filing; or

148                   (b) At the time specified in the document as its  
149 effective time on the date it is filed.

150           (2) A document may specify a delayed effective time and  
151 date, and if it does so, the document becomes effective at the  
152 time and date specified. If a delayed effective date but no time  
153 is specified, the document is effective at the close of business  
154 on that date. A delayed effective date for a document may not be  
155 later than the ninetieth day after the date filed.

156           (3) Notwithstanding subsections (1) and (2) of this section,  
157 any document that has a delayed effective time and date shall not  
158 become effective if, prior to the effective time and date, the  
159 parties to the document file a certification of cancellation with  
160 the Secretary of State.

161           **SECTION 7.** Section 79-11-113, Mississippi Code of 1972, is  
162 brought forward as follows:

163           79-11-113. (1) A domestic or foreign corporation may  
164 correct a document filed by the Secretary of State if (a) the  
165 document contains an inaccuracy, or (b) the document was  
166 defectively signed, attested, sealed, verified or acknowledged, or  
167 (c) the electronic transmission was defective.



168 (2) A document is corrected:

169 (a) By preparing articles of correction that: (i)  
170 describe the document (including its filing date) or attach a copy  
171 of it to the articles, (ii) specify the inaccuracy or defect to be  
172 corrected, and (iii) correct the inaccuracy or defect; and

173 (b) By delivering the articles of correction to the  
174 office of the Secretary of State for filing.

175 (3) Articles of correction are effective on the effective  
176 date of the document they correct except as to persons relying on  
177 the uncorrected document and adversely affected by the correction.  
178 As to those persons, articles of correction are effective when  
179 filed.

180 **SECTION 8.** Section 79-11-115, Mississippi Code of 1972, is  
181 brought forward as follows:

182 79-11-115. (1) If a document delivered to the Office of the  
183 Secretary of State for filing satisfies the requirements of  
184 Section 79-11-105, the Secretary of State shall file it.

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

191 (3) Upon refusing to file a document, the Secretary of State  
192 shall return it to the domestic or foreign corporation or its





193 representative within five (5) days after the document was  
194 delivered, together with a brief, written explanation of the  
195 reason or reasons for the refusal.

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

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

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

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

206 **SECTION 9.** Section 79-11-117, Mississippi Code of 1972, is  
207 brought forward as follows:

208 79-11-117. (1) If the Secretary of State refuses to file a  
209 document delivered for filing to the Secretary of State's office,  
210 the domestic or foreign corporation may appeal the refusal to the  
211 chancery court in the county where the corporation's principal  
212 office is or will be located, or the Chancery Court of the First  
213 Judicial District of Hinds County, Mississippi, if the corporation  
214 does not have a principal office in this state. The appeal is  
215 commenced by petitioning the court to compel filing the document  
216 and by attaching to the petition the document and the Secretary of  
217 State's explanation of the refusal to file.



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

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

223 **SECTION 10.** Section 79-11-119, Mississippi Code of 1972, is  
224 brought forward as follows:

225 79-11-119. A certificate from the Secretary of State  
226 delivered with a copy of a document filed by the Secretary of  
227 State is conclusive evidence that the original document is on file  
228 with the Secretary of State.

229 **SECTION 11.** Section 79-11-121, Mississippi Code of 1972, is  
230 brought forward as follows:

231 79-11-121. (1) Any person may apply to the Secretary of  
232 State to furnish a certificate of existence for a domestic or  
233 foreign corporation.

234 (2) The certificate of existence sets forth:

235 (a) The domestic corporation's corporate name or the  
236 foreign corporation's corporate name used in this state;

237 (b) That (i) the domestic corporation is duly  
238 incorporated under the law of this state, the date of its  
239 incorporation and the period of its duration if less than  
240 perpetual; or (ii) that the foreign corporation is authorized to  
241 transact business in this state;



242 (c) That all fees, taxes, and penalties owed to this  
243 state have been paid, if (i) payment is reflected in the records  
244 of the Secretary of State and (ii) nonpayment affects the good  
245 standing of the domestic or foreign corporation;

246 (d) That its most recent annual report has been  
247 delivered to the Secretary of State;

248 (e) That articles of dissolution have not been filed;  
249 and

250 (f) Other facts of record in the Office of the  
251 Secretary of State that may be requested by the application.

252 (3) Subject to any qualification stated in the certificate,  
253 a certificate of existence issued by the Secretary of State may be  
254 relied upon as conclusive evidence that the domestic or foreign  
255 corporation is in existence or is authorized to conduct activities  
256 in this state.

257 **SECTION 12.** Section 79-11-123, Mississippi Code of 1972, is  
258 brought forward as follows:

259 79-11-123. (1) A person commits an offense by signing a  
260 document such person knows is false in any material respect with  
261 intent that the document be delivered to the Secretary of State  
262 for filing.

263 (2) An offense under this section is a misdemeanor  
264 punishable by a fine of not more than Five Hundred Dollars  
265 (\$500.00).



266           **SECTION 13.** Section 79-11-125, Mississippi Code of 1972, is  
267 brought forward as follows:

268           79-11-125. The Secretary of State has the power reasonably  
269 necessary to perform the duties required of the Secretary of  
270 State's office by Section 79-11-101 et seq.

271           **SECTION 14.** Section 79-11-127, Mississippi Code of 1972, is  
272 brought forward as follows:

273           79-11-127. Unless the context otherwise requires in Section  
274 79-11-101 et seq., the following terms shall have the meaning  
275 ascribed herein:

276           (a) "Approved by (or approval by) the members" means  
277 approved or ratified by the affirmative vote of a majority of the  
278 votes represented and voting at a duly held meeting at which a  
279 quorum is present (which affirmative votes also constitute a  
280 majority of the required quorum) or by a written ballot or written  
281 consent in conformity with Section 79-11-101 et seq. or by the  
282 affirmative vote, written ballot or written consent of such  
283 greater proportion, including the votes of all the members of any  
284 class, unit or grouping as may be provided in the articles, bylaws  
285 or Section 79-11-101 et seq. for any specified member action.

286           (b) "Articles of incorporation" or "articles" include  
287 amended and restated articles of incorporation and articles of  
288 merger.

289           (c) "Board" or "board of directors" means the board of  
290 directors except that no person or group of persons are the board



291 of directors because of powers delegated to that person or group  
292 pursuant to Section 79-11-231.

293 (d) "Bylaws" means the code or codes of rules (other  
294 than the articles) adopted pursuant to Section 79-11-101 et seq.  
295 for the regulation or management of the affairs of the corporation  
296 irrespective of the name or names by which such rules are  
297 designated.

298 (e) "Class" means a group of memberships which have the  
299 same rights with respect to voting, dissolution, redemption and  
300 transfer. For the purposes of this section, rights shall be  
301 considered the same if they are determined by a formula applied  
302 uniformly.

303 (f) "Conspicuous" means so written, displayed, or  
304 presented that a reasonable person against whom the record is to  
305 operate should have noticed it. For example, text in italics,  
306 boldface, contrasting color or capitals, or that is underlined, is  
307 conspicuous.

308 (g) "Corporation" means a nonprofit corporation subject  
309 to the provisions of Section 79-11-101 et seq., except a foreign  
310 corporation.

311 (h) "Delegates" means those persons elected or  
312 appointed to vote in a representative assembly for the election of  
313 a director or directors or on other matters.

314 (i) "Deliver" or "delivery" means any method of  
315 delivery used in conventional commercial practice, including



316 delivery by hand, mail, commercial delivery and electronic  
317 transmission, except that delivery to the Secretary of State means  
318 actual receipt by the Secretary of State.

319 (j) "Directors" means individuals, designated in the  
320 articles or bylaws or elected by the incorporators, and their  
321 successors and individuals elected or appointed by any other name  
322 or title to act as members of the board.

323 (k) "Distribution" means the payment of a dividend or  
324 any part of the income or profit of a corporation to its members,  
325 directors or officers. Payment of reasonable compensation, fees,  
326 or expenses incurred in the performance of duties on behalf of the  
327 corporation is not a distribution.

328 (l) "Domestic corporation" means a corporation.

329 (m) "Effective date of notice" is defined in Section  
330 79-11-129.

331 (n) "Electronic" means relating to technology having  
332 electrical, digital, magnetic, wireless, optical, electromagnetic,  
333 or similar capabilities.

334 (o) "Electronic transmission" or "electronically  
335 transmitted" means any process of communication not directly  
336 involving the physical transfer of paper that is suitable for the  
337 retention, retrieval and reproduction of information by the  
338 recipient.

339 (p) "Employee" includes an officer but not a director.

340 A director may accept duties that make the director an employee.



341 (q) "Entity" includes corporation and foreign  
342 corporation; business corporation and foreign business  
343 corporation; profit and nonprofit unincorporated association;  
344 corporation sole; business trust, estate, partnership, trust and  
345 two (2) or more persons having a joint or common economic  
346 interest; and state, United States and foreign government.

347 (r) "File," "filed" or "filing" means filed in the  
348 Office of the Secretary of State.

349 (s) "Foreign corporation" means a corporation organized  
350 under a law other than the law of this state which would be a  
351 nonprofit corporation if formed under the laws of this state.

352 (t) "Governmental subdivision" includes authority,  
353 county, district and municipality.

354 (u) "Includes" denotes a partial definition.

355 (v) "Individual" includes the estate of an incompetent  
356 individual.

357 (w) "Means" denotes a complete definition.

358 (x) "Member" means (without regard to what a person is  
359 called in the articles or bylaws) any person or persons who on  
360 more than one (1) occasion, pursuant to a provision of a  
361 corporation's articles or bylaws, have the right to vote for the  
362 election of a director or directors.

363 A person is not a member by virtue of any of the  
364 following:

365 (i) Any rights such person has as a delegate;



366 (ii) Any rights such person has to designate a  
367 director or directors; or

368 (iii) Any rights such person has as a director.

369 (y) "Membership" refers to the rights and obligations a  
370 member or members have pursuant to a corporation's articles,  
371 bylaws and Section 79-11-101 et seq.

372 (z) "Nonprofit corporation" means a corporation, no  
373 part of the assets, income or profit of which is distributed to or  
374 enures to the benefit of its members, directors or officers,  
375 except as otherwise provided under this chapter. In a corporation  
376 all of whose members are nonprofit corporations, distribution to  
377 members does not deprive it of the status of a nonprofit  
378 corporation.

379 (aa) "Notice" is defined in Section 79-11-129.

380 (bb) "Person" includes any individual or entity.

381 (cc) "Principal office" means the office (in or out of  
382 this state) where the principal executive offices of a domestic or  
383 foreign corporation are located.

384 (dd) "Proceeding" includes civil suit and criminal,  
385 administrative and investigatory action.

386 (ee) "Record" means information that is inscribed on a  
387 tangible medium or that is stored in an electronic or other medium  
388 and is retrievable in perceivable form.





389 (ff) "Record date" means the date established under  
390 Section 79-11-209 on which a corporation determines the identity  
391 of its members for the purposes of Section 79-11-101 et seq.

392 (gg) "Religious corporation" means a corporation  
393 organized and operating primarily or exclusively for religious  
394 purposes.

395 (hh) "Secretary" means the corporate officer to whom  
396 the board of directors has delegated responsibility under Section  
397 79-11-273 for custody of the minutes of the directors' and  
398 members' meetings and for authenticating the records of the  
399 corporation.

400 (ii) "Sign" means with present intent to authenticate  
401 or adopt a record:

402 (i) To execute or adopt a tangible symbol; or

403 (ii) To attach to or logically associate with the  
404 record an electronic sound, symbol, or process as defined under  
405 Mississippi law.

406 (jj) "State," when referring to a part of the United  
407 States, includes a state and commonwealth (and their agencies and  
408 governmental subdivisions) and a territory, and insular possession  
409 (and their agencies and governmental subdivisions) of the United  
410 States.

411 (kk) "United States" includes any district, authority,  
412 bureau, commission, department and any other agency of the United  
413 States.



414 (ll) "Vote" includes authorization by written ballot  
415 and written consent.

416 (mm) "Voting power" means the total number of votes  
417 entitled to be cast for the election of directors at the time the  
418 determination of voting power is made, excluding a vote which is  
419 contingent upon the happening of a condition or event that has not  
420 occurred at the time. Where a class is entitled to vote as a  
421 class for directors, the determination of voting power of the  
422 class shall be based on the percentage of the number of directors  
423 the class is entitled to elect out of the total number of  
424 authorized directors.

425 **SECTION 15.** Section 79-11-129, Mississippi Code of 1972, is  
426 brought forward as follows:

427 79-11-129. (1) Notice under this chapter must be in the  
428 form of a record unless oral notice is authorized by this chapter  
429 or is reasonable under the circumstances.

430 (2) Notice may be communicated in person or by delivery. If  
431 these forms of communication are impracticable, notice may be  
432 communicated by a newspaper of general circulation in the area  
433 where published; or by radio, television or other form of public  
434 broadcast communication.

435 (3) Oral notice is effective when communicated if  
436 communicated in a comprehensible manner.

437 (4) Written notice by a domestic or foreign corporation to a  
438 member, if in a comprehensible form, is effective:



439           (a) Upon deposit in the United States mail, if the  
440 postage or delivery charge is paid and the notice is correctly  
441 addressed to the member's address shown in the corporation's  
442 current record of members, or

443           (b) When given if the notice is delivered in any other  
444 manner that the member has authorized.

445           (5) Except as provided in subsection (4) of this section,  
446 written notice, if in a comprehensible form, is effective at the  
447 earliest of the following:

448           (a) When received;

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

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

454           (6) Written notice is correctly addressed to a member of a  
455 domestic or foreign corporation if addressed to the member's  
456 address shown in the corporation's current list of members.

457           (7) A written notice or report delivered as part of a  
458 newsletter, magazine or other publication regularly sent to  
459 members shall constitute a written notice or report if addressed  
460 or delivered to the member's address shown in the corporation's  
461 current list of members, or in the case of members who are  
462 residents of the same household and who have the same address in  
463 the corporation's current list of members, if addressed or



464 delivered to one (1) of such members, at the address appearing on  
465 the current list of members.

466 (8) Written notice is correctly addressed to a domestic or  
467 foreign corporation (authorized to transact business in this  
468 state), other than in its capacity as a member, if addressed to  
469 its registered agent or to its secretary at its principal office  
470 shown in its most recent annual report or, in the case of a  
471 foreign corporation that has not yet delivered an annual report,  
472 in its application for a certificate of authority.

473 (9) If Section 79-11-205 or any other provision of Section  
474 79-11-101 et seq. prescribes notice requirements for particular  
475 circumstances, those requirements govern. If articles or bylaws  
476 prescribe notice requirements, not inconsistent with this section  
477 or other provisions of Section 79-11-101 et seq., those  
478 requirements govern.

479 (10) With respect to electronic communications:

480 (a) Unless otherwise provided in the articles of  
481 incorporation or bylaws, or otherwise agreed between the sender  
482 and the recipient, an electronic communication is received when:

483 (i) It enters an information processing system  
484 that the recipient has designated or uses for the purpose of  
485 receiving electronic records or information of the type sent and  
486 from which the recipient is able to retrieve the electronic  
487 record; and



488                   (ii) It is in a form capable of being processed by  
489 that system.

490                   (b) An electronic communication is received under  
491 subsection (10) (a) even if no individual is aware of its receipt.

492                   (c) Receipt of an electronic acknowledgement from an  
493 information processing system described in subsection (10) (a)  
494 establishes that a record was received but, by itself, does not  
495 establish that the content sent corresponds to the content  
496 received.

497                   (11) An authorization by a member of delivery of notices or  
498 communications by e-mail or similar electronic means may be  
499 revoked by the member by notice to the nonprofit corporation in  
500 the form of a record. Such an authorization is deemed revoked if  
501 (a) the corporation is unable to deliver two (2) consecutive  
502 notices or other communications to the member in the manner  
503 authorized; and (b) the inability becomes known to the secretary  
504 or other person responsible for giving the notice or other  
505 communication; but the failure to treat the inability as a  
506 revocation does not invalidate any meeting or other action.

507                   **SECTION 16.** Section 79-11-131, Mississippi Code of 1972, is  
508 brought forward as follows:

509                   79-11-131. (1) If for any reason it is impractical or  
510 impossible for any corporation to call or conduct a meeting of its  
511 members, delegates or directors, or otherwise obtain their  
512 consent, in the manner prescribed by its articles, bylaws or



513 Section 79-11-101 et seq., then upon petition of a director,  
514 officer, delegate, member or the Attorney General, the chancery  
515 court of the county where the corporation's principal office is  
516 located, or the Chancery Court of the First Judicial District of  
517 Hinds County, Mississippi, if the corporation does not have a  
518 principal office in this state, may order that such a meeting be  
519 called or that a written ballot or other form of obtaining the  
520 vote of members, delegates or directors be authorized in such a  
521 manner as the court finds fair and equitable under the  
522 circumstances.

523 (2) The court shall, in an order issued pursuant to this  
524 section, provide for a method of notice reasonably designed to  
525 give actual notice to all persons who would be entitled to notice  
526 of a meeting held pursuant to the articles, bylaws and Section  
527 79-11-101 et seq., whether or not the method results in actual  
528 notice to all such persons or conforms to the notice requirements  
529 that would otherwise apply. In a proceeding under this section  
530 the court may determine who the members or directors are.

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



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

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

553 **SECTION 17.** Section 79-11-133, Mississippi Code of 1972, is  
554 brought forward as follows:

555 79-11-133. (1) The Attorney General shall be given notice  
556 of the commencement of any proceeding which Section 79-11-101 et  
557 seq. authorizes the Attorney General to bring but which has been  
558 commenced by another person.

559 (2) Whenever any provision of Section 79-11-101 et seq.  
560 requires that notice be given to the Attorney General or permits  
561 the Attorney General to commence a proceeding:



562 (a) If no proceeding has been commenced, the Attorney  
563 General may take appropriate action including, but not limited to,  
564 seeking injunctive relief.

565 (b) If a proceeding has been commenced by a person  
566 other than the Attorney General, the Attorney General, as of  
567 right, may intervene in such proceeding.

568 **SECTION 18.** Section 79-11-135, Mississippi Code of 1972, is  
569 brought forward as follows:

570 79-11-135. One or more persons may act as the incorporator  
571 or incorporators of a corporation by delivering articles of  
572 incorporation to the Secretary of State for filing.

573 **SECTION 19.** Section 79-11-137, Mississippi Code of 1972, is  
574 brought forward as follows:

575 79-11-137. (1) The articles of incorporation must set  
576 forth:

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

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

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

581 (d) The name and address of each incorporator;

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

585 (f) Any other information the Secretary of State may  
586 reasonably require by rule, including, without limitation, the





587 contact name, electronic mail address, telephone number or  
588 business or mailing address of the corporation or that can be used  
589 to contact the corporation.

590 (2) The articles of incorporation may set forth:

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

593 (b) Provisions not inconsistent with law regarding:

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

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

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

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

602 (d) A provision permitting or making obligatory  
603 indemnification of a director for liability (as defined in Section  
604 79-11-281(1)(c)) to any person for any action taken, or any

605 failure to take any action as a director, except liability for:

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

608 (ii) An intentional infliction of harm;

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

610 (iv) An intentional violation of criminal law.



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

613 (4) The liability of a director of a corporation that is not  
614 a charitable organization as defined in Section 79-11-501 may be  
615 eliminated or limited by a provision of the articles of  
616 incorporation that a director shall not be liable to the  
617 corporation or its members for money damages for any action taken  
618 or any failure to take any action as a director, except liability  
619 for:

620 (a) The amount of a financial benefit received by the  
621 director to which the director is not entitled;

622 (b) An intentional infliction of harm;

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

624 (d) An intentional violation of criminal law.

625 **SECTION 20.** Section 79-11-139, Mississippi Code of 1972, is  
626 brought forward as follows:

627 79-11-139. (1) Unless a delayed effective date is  
628 specified, the corporate existence begins when the articles of  
629 incorporation are filed.

630 (2) The Secretary of State's filing of the articles of  
631 incorporation is conclusive proof that the incorporators satisfied  
632 all conditions precedent to incorporation except in a proceeding  
633 by the state to cancel or revoke the incorporation or  
634 involuntarily dissolve the corporation.



635           **SECTION 21.** Section 79-11-141, Mississippi Code of 1972, is  
636 brought forward as follows:

637           79-11-141. All persons purporting to act as or on behalf of  
638 a corporation, knowing there was no incorporation under Section  
639 79-11-101 et seq., are jointly and severally liable for all  
640 liabilities created while so acting.

641           **SECTION 22.** Section 79-11-143, Mississippi Code of 1972, is  
642 brought forward as follows:

643           79-11-143. (1) After incorporation:

644                   (a) If initial directors are named in the articles of  
645 incorporation, the initial directors shall hold an organizational  
646 meeting, at the call of a majority of the directors, to complete  
647 the organization of the corporation by appointing officers,  
648 adopting bylaws and carrying on any other business brought before  
649 the meeting;

650                   (b) If initial directors are not named in the articles,  
651 the incorporator or incorporators shall hold an organizational  
652 meeting at the call of a majority of the incorporators:

653                           (i) To elect directors and complete the  
654 organization of the corporation; or

655                           (ii) To elect a board of directors who shall  
656 complete the organization of the corporation.

657           (2) Action required or permitted by Section 79-11-101 et  
658 seq. to be taken by incorporators at an organizational meeting may  
659 be taken without a meeting if the action taken is evidenced by one



660 or more written consents describing the action taken and signed by  
661 each incorporator.

662 (3) An organizational meeting may be held in or out of this  
663 state.

664 **SECTION 23.** Section 79-11-145, Mississippi Code of 1972, is  
665 brought forward as follows:

666 79-11-145. (1) The incorporators or board of directors of a  
667 corporation shall adopt bylaws for the corporation.

668 (2) The bylaws may contain any provision for regulating and  
669 managing the affairs of the corporation that is not inconsistent  
670 with law or the articles of incorporation.

671 **SECTION 24.** Section 79-11-147, Mississippi Code of 1972, is  
672 brought forward as follows:

673 79-11-147. (1) Unless the articles provide otherwise, the  
674 directors of a corporation may adopt bylaws to be effective only  
675 in an emergency defined in subsection (4) of this section. The  
676 emergency bylaws, which are subject to amendment or repeal by the  
677 members, may provide special procedures necessary for managing the  
678 corporation during the emergency, including:

- 679 (a) How to call a meeting of the board;  
680 (b) Quorum requirements for the meeting; and  
681 (c) Designation of additional or substitute directors.

682 (2) All provisions of the regular bylaws consistent with the  
683 emergency bylaws remain effective during the emergency. The  
684 emergency bylaws are not effective after the emergency ends.



685 (3) Corporate action taken in good faith in accordance with  
686 the emergency bylaws:

687 (a) Binds the corporation; and

688 (b) May not be used to impose liability on a corporate  
689 director, officer, employee or agent.

690 (4) An emergency exists for purposes of this section if a  
691 quorum of the corporation's directors cannot readily be assembled  
692 because of some catastrophic event.

693 **SECTION 25.** Section 79-11-149, Mississippi Code of 1972, is  
694 brought forward as follows:

695 79-11-149. Corporations may be organized under Section  
696 79-11-101 et seq. for any lawful activity. A corporation engaging  
697 in an activity that is subject to regulation under another statute  
698 of this state may incorporate under Section 79-11-101 et seq. only  
699 if permitted by, and subject to all limitations of, the other  
700 statute.

701 **SECTION 26.** Section 79-11-151, Mississippi Code of 1972, is  
702 brought forward as follows:

703 79-11-151. Each corporation shall have and exercise all  
704 powers necessary or convenient to effect any or all of the  
705 purposes for which the corporation is organized including, without  
706 limitation, power:

707 (a) To have perpetual succession by its corporate name  
708 unless a limited period of duration is stated in its articles of  
709 incorporation.



710 (b) To sue and be sued, complain and defend, in its  
711 corporate name.

712 (c) To have a corporate seal which may be altered at  
713 will, and to use the same by causing it, or a facsimile thereof,  
714 to be impressed or affixed or in any other manner reproduced.

715 (d) To purchase, take, receive, lease, take by gift,  
716 devise or bequest, or otherwise acquire, own, hold, improve, use  
717 and otherwise deal in and with real or personal property, or any  
718 interest therein, wherever situated.

719 (e) To sell, convey, mortgage, pledge, lease, exchange,  
720 transfer and otherwise dispose of all or any part of its property  
721 and assets.

722 (f) To lend money to its employees other than its  
723 officers and directors and otherwise assist its employees,  
724 officers and directors.

725 (g) To purchase, take, receive, subscribe for or  
726 otherwise acquire, own, hold, vote, use, employ, sell, mortgage,  
727 lend, pledge or otherwise dispose of, and otherwise use and deal  
728 in and with, shares or other interests in, or obligations of,  
729 other domestic or foreign corporations, whether business or  
730 nonprofit, associations, partnerships or individuals, or direct or  
731 indirect obligations of the United States, or of any other  
732 government, state, territory, governmental district or  
733 municipality or of any instrumentality thereof.



734           (h) To make contracts and guarantees, incur  
735 liabilities, borrow money at such rates of interest as the  
736 corporation may determine, issue its notes, bonds and other  
737 obligations and secure any of its obligations by mortgage or  
738 pledge of all or any of its property, franchises and income, and  
739 make contracts of guaranty and suretyship.

740           (i) To lend money for its corporate purposes, invest  
741 and reinvest its funds and take and hold real and personal  
742 property as security for the payment of funds so lent or invested.

743           (j) To conduct its affairs, carry on its operations and  
744 have offices and exercise the powers granted by Section 79-11-101  
745 et seq. in any state, territory, district or possession of the  
746 United States or in any foreign country.

747           (k) To elect or appoint officers and agents of the  
748 corporation, who may be directors or members, and define their  
749 duties and fix their compensation.

750           (l) To make and alter bylaws, not inconsistent with its  
751 articles of incorporation or with the laws of this state, for the  
752 administration and regulation of the affairs of the corporation.

753           (m) Unless otherwise provided in the articles of  
754 incorporation, to make donations for the public welfare or for  
755 charitable, scientific or educational purposes.

756           (n) To pay pensions and establish pension plans or  
757 pension trusts for any or all of its directors, officers and  
758 employees.



759 (o) To cease its corporate activities and surrender its  
760 corporate franchise.

761 (p) To impose dues, assessments, admission and transfer  
762 fees upon its members.

763 (q) To establish conditions for admission to  
764 membership, admit members and issue memberships.

765 (r) To carry on a business.

766 (s) To do all things necessary or convenient, not  
767 inconsistent with law, to further the activities and affairs of  
768 the corporation.

769 **SECTION 27.** Section 79-11-153, Mississippi Code of 1972, is  
770 brought forward as follows:

771 79-11-153. (1) In anticipation of or during an emergency  
772 defined in subsection (4) of this section, the board of directors  
773 of a corporation may:

774 (a) Modify lines of succession to accommodate the  
775 incapacity of any director, officer, employee or agent; and

776 (b) Relocate the principal office, designate  
777 alternative principal offices or regional offices, or authorize  
778 the officer to do so.

779 (2) During an emergency defined in subsection (4) of this  
780 section, unless emergency bylaws provide otherwise:

781 (a) Notice of a meeting of the board of directors need  
782 be given only to those directors whom it is practicable to reach





783 and may be given in any practicable manner, including by  
784 publication and radio; and

785 (b) One or more officers of the corporation present at  
786 a meeting of the board of directors may be deemed to be directors  
787 for the meeting, in order of rank and within the same rank in  
788 order of seniority, as necessary to achieve a quorum.

789 (3) Corporate action taken in good faith during an emergency  
790 under this section to further the ordinary affairs of the  
791 corporation:

792 (a) Binds the corporation; and

793 (b) May not be used to impose liability on a corporate  
794 director, officer, employee or agent.

795 (4) An emergency exists for purposes of this section if a  
796 quorum of the corporation's directors cannot readily be assembled  
797 because of some catastrophic event.

798 **SECTION 28.** Section 79-11-155, Mississippi Code of 1972, is  
799 brought forward as follows:

800 79-11-155. (1) Except as provided in subsection (2) of this  
801 section, the validity of corporate action may not be challenged on  
802 the ground that the corporation lacks or lacked power to act.

803 (2) A corporation's power to act may be challenged in a  
804 proceeding against the corporation to enjoin an act where a third  
805 party has not acquired rights. The proceeding may be brought by  
806 the Attorney General, a director or by a member or members in a  
807 derivative proceeding.



808 (3) A corporation's power to act may be challenged in a  
809 proceeding against an incumbent or former director, officer,  
810 employee or agent of the corporation. The proceeding may be  
811 brought by a director, the corporation, directly, derivatively, or  
812 through a receiver or by a trustee or other legal representative.

813 **SECTION 29.** Section 79-11-157, Mississippi Code of 1972, is  
814 brought forward as follows:

815 79-11-157. (1) A corporate name may not contain language  
816 stating or implying that the corporation is organized for a  
817 purpose other than that permitted by Section 79-11-149 and its  
818 articles of incorporation.

819 (2) Except as authorized by subsections (3) and (4), a  
820 corporate name must be distinguishable upon the records of the  
821 Secretary of State from:

822 (a) The corporate name of a nonprofit or business  
823 corporation incorporated or authorized to do business in this  
824 state;

825 (b) A corporate name reserved or registered under  
826 Sections 79-11-159, 79-11-161, 79-4-4.02 or 79-4-4.03; or

827 (c) The fictitious name of a foreign business or  
828 nonprofit corporation authorized to transact business in this  
829 state because its real name is unavailable.

830 (3) A corporation may apply to the Secretary of State for  
831 authorization to use a name that is not distinguishable upon the  
832 Secretary of State's records from one or more of the names



833 described in subsection (2). The Secretary of State shall  
834 authorize use of the name applied for if:

835 (a) The other corporation consents to the use in  
836 writing and submits an undertaking in form satisfactory to the  
837 Secretary of State to change its name to a name that is  
838 distinguishable upon the records of the Secretary of State from  
839 the name of the applying corporation; or

840 (b) The applicant delivers to the Secretary of State a  
841 certified copy of a final judgment of a court of competent  
842 jurisdiction establishing the applicant's right to use the name  
843 applied for in this state.

844 (4) A corporation may use the name, including the fictitious  
845 name, of another domestic or foreign business or nonprofit  
846 corporation that is used in this state if the other corporation is  
847 incorporated or authorized to do business in this state and the  
848 proposed user corporation:

849 (a) Has merged with the other corporation;

850 (b) Has been formed by reorganization of the other  
851 corporation; or

852 (c) Has acquired all or substantially all of the  
853 assets, including the corporate name, of the other corporation.

854 (5) Section 79-11-101 et seq. do not control the use of  
855 fictitious names.

856 **SECTION 30.** Section 79-11-159, Mississippi Code of 1972, is  
857 brought forward as follows:



858           79-11-159. (1) A person may reserve the exclusive use of a  
859 legal corporate name that complies with Section 79-11-157,  
860 including a fictitious name for a foreign corporation whose  
861 corporate name is not available, by delivering an application to  
862 the Secretary of State for filing. Upon finding that the  
863 corporate name applied for is available, the Secretary of State  
864 shall reserve the name for the applicant's exclusive use for a  
865 period of one hundred eighty (180) days. The  
866 one-hundred-eighty-day period may be renewed once by the applicant  
867 by filing a renewal application within thirty (30) days before the  
868 expiration of the initial one-hundred-eighty-day period.

869           (2) The owner of a reserved corporate name may transfer the  
870 reservation to another person by delivering to the Secretary of  
871 State a signed notice of the transfer that states the name and  
872 address of the transferee.

873           **SECTION 31.** Section 79-11-171, Mississippi Code of 1972, is  
874 brought forward as follows:

875           79-11-171. (1) A corporation may admit any person as a  
876 member. The articles or bylaws may establish criteria or  
877 procedures for admission.

878           (2) No person shall be admitted as a member without his or  
879 her consent.

880           **SECTION 32.** Section 79-11-173, Mississippi Code of 1972, is  
881 brought forward as follows:



882           79-11-173. Except as provided in its articles or bylaws, a  
883 corporation may admit members for no consideration or for such  
884 consideration as is determined by the board.

885           **SECTION 33.** Section 79-11-175, Mississippi Code of 1972, is  
886 brought forward as follows:

887           79-11-175. A corporation is not required to have members.

888           **SECTION 34.** Section 79-11-177, Mississippi Code of 1972, is  
889 brought forward as follows:

890           79-11-177. All members shall have the same rights and  
891 obligations with respect to voting, dissolution, redemption and  
892 transfer, unless the articles or bylaws establish classes of  
893 membership with different rights or obligations. All members  
894 shall have the same rights and obligations with respect to any  
895 other matters, except as set forth in or authorized by the  
896 articles or bylaws.

897           **SECTION 35.** Section 79-11-179, Mississippi Code of 1972, is  
898 brought forward as follows:

899           79-11-179. (1) Except as set forth or authorized by the  
900 articles or bylaws, no member of a corporation may transfer a  
901 membership or any right arising therefrom.

902           (2) Where transfer rights have been provided, no restriction  
903 on them shall be binding with respect to a member holding a  
904 membership issued prior to the adoption of the restriction unless  
905 the restriction is approved by the members and the affected  
906 member.



907           **SECTION 36.** Section 79-11-181, Mississippi Code of 1972, is  
908 brought forward as follows:

909           79-11-181. A member of a corporation is not, as such,  
910 personally liable for the acts, debts, liabilities, or obligations  
911 of the corporation.

912           **SECTION 37.** Section 79-11-183, Mississippi Code of 1972, is  
913 brought forward as follows:

914           79-11-183. A member may become liable to the corporation for  
915 dues, assessments or fees; provided, however, that an article or  
916 bylaw provision or a resolution adopted by the board authorizing  
917 or imposing dues, assessments or fees does not, of itself, create  
918 liability.

919           **SECTION 38.** Section 79-11-185, Mississippi Code of 1972, is  
920 brought forward as follows:

921           79-11-185. (1) No proceeding may be brought by a creditor  
922 to reach the liability, if any, of a member to the corporation  
923 unless final judgment has been rendered in favor of the creditor  
924 against the corporation and execution has been returned  
925 unsatisfied in whole or in part or unless such proceeding would be  
926 useless.

927           (2) All creditors of the corporation, with or without  
928 reducing their claims to judgment, may intervene in any creditor's  
929 proceeding brought under subsection (1) of this section to reach  
930 and apply unpaid amounts due the corporation. Any or all members



931 who owe amounts to the corporation may be joined in such  
932 proceeding.

933         **SECTION 39.** Section 79-11-187, Mississippi Code of 1972, is  
934 brought forward as follows:

935             79-11-187. (1) A member may resign at any time.

936             (2) The resignation of a member does not relieve the member  
937 from any obligations the member may have to the corporation.

938         **SECTION 40.** Section 79-11-189, Mississippi Code of 1972, is  
939 brought forward as follows:

940             79-11-189. (1) No member may be expelled or suspended, and  
941 no membership or memberships may be terminated or suspended except  
942 pursuant to a procedure which is fair and reasonable and is  
943 carried out in good faith.

944             (2) A procedure is fair and reasonable when either:

945                 (a) The articles or bylaws set forth a procedure which  
946 provides:

947                     (i) Not less than fifteen (15) days prior written  
948 notice of the expulsion, suspension or termination and the reasons  
949 therefore; and

950                     (ii) An opportunity for the member to be heard,  
951 orally or in writing, not less than five (5) days before the  
952 effective date of the expulsion, suspension or termination by a  
953 person or persons authorized to decide that the proposed  
954 expulsion, termination or suspension not take place; or



955 (b) It is fair and reasonable taking into consideration  
956 all of the relevant facts and circumstances.

957 (3) Any written notice given by mail must be given by  
958 first-class or certified mail sent to the last address of the  
959 member shown on the corporation's records.

960 (4) Any proceeding challenging an expulsion, suspension or  
961 termination, including a proceeding in which defective notice is  
962 alleged, must be commenced within one (1) year after the effective  
963 date of the expulsion, suspension or termination.

964 (5) A member who has been expelled or suspended may be  
965 liable to the corporation for dues, assessments or fees.

966 **SECTION 41.** Section 79-11-191, Mississippi Code of 1972, is  
967 brought forward as follows:

968 79-11-191. A corporation may purchase the membership of a  
969 member who resigns or whose membership is terminated for the  
970 amount and pursuant to the conditions set forth in or authorized  
971 by its articles or bylaws. No payment shall be made in violation  
972 of Section 79-11-293.

973 **SECTION 42.** Section 79-11-193, Mississippi Code of 1972, is  
974 brought forward as follows:

975 79-11-193. (1) A proceeding may be brought in the right of  
976 a domestic or foreign corporation to procure a judgment in its  
977 favor by:





978           (a) Any member or members having five percent (5%) or  
979 more of the voting power or by fifty (50) members, whichever is  
980 less; or

981           (b) Any director.

982           (2) In any such proceeding, each complainant shall be a  
983 member or director at the time of bringing the proceeding.

984           (3) A complaint in a proceeding brought in the right of a  
985 corporation must be verified and allege with particularity the  
986 demand made, if any, to obtain action by the directors and either  
987 why the complainants could not obtain the action or why they did  
988 not make the demand. If a demand for action was made and the  
989 corporation's investigation of the demand is in progress when the  
990 proceeding is filed, the court may stay the suit until the  
991 investigation is completed.

992           (4) On termination of the proceeding the court may require  
993 the complainants to pay any defendant's reasonable expenses  
994 (including counsel fees) incurred in defending the suit if it  
995 finds that the proceeding was commenced frivolously or in bad  
996 faith.

997           (5) If the proceeding on behalf of the corporation results  
998 in the corporation taking some action requested by the  
999 complainants or otherwise was successful, in whole or in part, or  
1000 if anything was received by the complainants as the result of a  
1001 judgment, compromise or settlement of an action or claim, the



1002 court may award the complainants reasonable expenses (including  
1003 counsel fees).

1004 **SECTION 43.** Section 79-11-195, Mississippi Code of 1972, is  
1005 brought forward as follows:

1006 79-11-195. (1) A corporation may provide in its articles or  
1007 bylaws for delegates having some or all of the authority of  
1008 members.

1009 (2) The articles or bylaws may set forth provisions relating  
1010 to:

1011 (a) The characteristics, qualifications, rights,  
1012 limitations and obligations of delegates including their selection  
1013 and removal;

1014 (b) Calling, noticing, holding and conducting meetings  
1015 of delegates; and

1016 (c) Carrying on corporate activities during and between  
1017 meetings of delegates.

1018 **SECTION 44.** Section 79-11-197, Mississippi Code of 1972, is  
1019 brought forward as follows:

1020 79-11-197. (1) A corporation with members shall hold a  
1021 membership meeting annually at a time stated in or fixed in  
1022 accordance with the bylaws.

1023 (2) Annual membership meetings may be held in or out of this  
1024 state at the place stated in or fixed in accordance with the  
1025 bylaws. If no place is stated in or fixed in accordance with the



1026 bylaws, annual meetings shall be held at the corporation's  
1027 principal office.

1028 (3) At the annual meeting:

1029 (a) The president and chief financial officer shall  
1030 report on the activities and financial condition of the  
1031 corporation; and

1032 (b) The members shall consider and act upon such other  
1033 matters as may be raised consistent with the requirements of  
1034 Sections 79-11-205 and 79-11-219.

1035 (4) The failure to hold an annual meeting at a time stated  
1036 in or fixed in accordance with a corporation's bylaws does not  
1037 affect the validity of any corporate action.

1038 (5) The articles of incorporation or bylaws may provide that  
1039 an annual or regular meeting of members does not need to be held  
1040 at a geographic location if the meeting is held by means of the  
1041 Internet or other electronic communications technology in a  
1042 fashion pursuant to which the members have the opportunity to read  
1043 or hear the proceedings substantially concurrently with their  
1044 occurrence, vote on matters submitted to the members, pose  
1045 questions, and make comments.

1046 **SECTION 45.** Section 79-11-199, Mississippi Code of 1972, is  
1047 brought forward as follows:

1048 79-11-199. (1) A corporation with members shall hold a  
1049 special meeting of members:



1050 (a) On call of its board or the person or persons  
1051 authorized to do so by the articles or bylaws; or

1052 (b) If the holders of at least five percent (5%) of the  
1053 voting power sign, date and deliver to any corporate officer one  
1054 or more written demands for the meeting describing the purpose or  
1055 purposes for which it is to be held.

1056 (2) The close of business on the thirtieth day before  
1057 delivery of the demand for a special meeting to any corporate  
1058 officer is the record date for the purpose of determining whether  
1059 the five percent (5%) requirement of subsection (1) of this  
1060 section has been met.

1061 (3) If a notice for a special meeting demanded under  
1062 subsection (1)(b) of this section is not given pursuant to Section  
1063 79-11-205 within thirty (30) days after the date the written  
1064 demand or demands are delivered to a corporate officer, regardless  
1065 of the requirements of subsection (4) of this section, a person  
1066 signing the demand or demands may set the time and place of the  
1067 meeting and give notice pursuant to Section 79-11-205.

1068 (4) Special meetings of members may be held in or out of  
1069 this state at the place stated in or fixed in accordance with the  
1070 bylaws. If no place is stated or fixed in accordance with the  
1071 bylaws, special meetings shall be held at the corporation's  
1072 principal office.



1073 (5) Only those matters that are within the purpose or  
1074 purposes described in the meeting notice required by Section  
1075 79-11-205 may be conducted at a special meeting of members.

1076 (6) The articles of incorporation or bylaws may provide that  
1077 a special meeting of members does not need to be held at a  
1078 geographic location if the meeting is held by means of the  
1079 Internet or other electronic communications technology in a  
1080 fashion pursuant to which the members have the opportunity to read  
1081 or hear the proceedings substantially concurrently with their  
1082 occurrence, vote on matters submitted to the members, pose  
1083 questions, and make comments.

1084 **SECTION 46.** Section 79-11-201, Mississippi Code of 1972, is  
1085 brought forward as follows:

1086 79-11-201. (1) The chancery court of the county where a  
1087 corporation's principal office is or will be located, or the  
1088 Chancery Court of the First Judicial District of Hinds County,  
1089 Mississippi, if the corporation does not have a principal office  
1090 in this state, may summarily order a meeting to be held:

1091 (a) On application of any member or other person  
1092 entitled to participate in the annual meeting, if an annual  
1093 meeting was not held within the earlier of six (6) months after  
1094 the end of the corporation's fiscal year or fifteen (15) months  
1095 after its last annual meeting; or



1096 (b) On application of a member who signed a demand for  
1097 a special meeting valid under Section 79-11-199, or a person or  
1098 persons entitled to call a special meeting, if:

1099 (i) Notice of the special meeting was not given  
1100 within thirty (30) days after the date the demand was delivered to  
1101 a corporate officer; or

1102 (ii) The special meeting was not held in  
1103 accordance with the notice.

1104 (2) The court may fix the time and place of the meeting,  
1105 specify a record date for determining members entitled to notice  
1106 of and to vote at the meeting, prescribe the form and content of  
1107 the meeting notice, fix the quorum required for specific matters  
1108 to be considered at the meeting (or direct that the votes  
1109 represented at the meeting constitute a quorum for action on those  
1110 matters), and enter other orders necessary to accomplish the  
1111 purpose or purposes of the meeting.

1112 (3) If the court orders a meeting, it may also order the  
1113 corporation to pay the member's cost (including reasonable counsel  
1114 fees) incurred to obtain the order.

1115 **SECTION 47.** Section 79-11-203, Mississippi Code of 1972, is  
1116 brought forward as follows:

1117 79-11-203. (1) Unless limited or prohibited by the articles  
1118 or bylaws, action required or permitted by Section 79-11-101 et  
1119 seq. to be approved by the members may be approved without a  
1120 meeting of members if the action is approved by members holding at



1121 least eighty percent (80%) of the voting power. The action must  
1122 be evidenced by one or more consents in the form of a record  
1123 bearing the date of signature and describing the action taken,  
1124 signed by those members representing at least eighty percent (80%)  
1125 of the voting power, and delivered to the corporation for  
1126 inclusion in the minutes or filing with the corporate records.

1127 (2) If not otherwise determined under Section 79-11-201 or  
1128 79-11-209, the record date for determining members entitled to  
1129 take action without a meeting is the date the first member signed  
1130 the consent under subsection (1) of this section.

1131 (3) A consent signed under this section has the effect of a  
1132 meeting vote and may be described as such in any document filed  
1133 with the Secretary of State.

1134 (4) Written notice of member approval pursuant to this  
1135 section shall be given to all members who have not signed the  
1136 written consent. If written notice is required, member approval  
1137 pursuant to this section shall be effective ten (10) days after  
1138 such written notice is given.

1139 **SECTION 48.** Section 79-11-205, Mississippi Code of 1972, is  
1140 brought forward as follows:

1141 79-11-205. (1) A corporation shall give notice consistent  
1142 with its bylaws of meetings of members in a fair and reasonable  
1143 manner.

1144 (2) Any notice which conforms to the requirements of  
1145 subsection (3) of this section is fair and reasonable, but other



1146 means of giving notice may also be fair and reasonable when all  
1147 the circumstances are considered.

1148 (3) Notice is fair and reasonable if:

1149 (a) The corporation notifies its members of the place,  
1150 date and time of each annual and special meeting of members no  
1151 fewer than ten (10) (or if notice is mailed by other than  
1152 first-class or registered mail, thirty (30)) nor more than sixty  
1153 (60) days before the meeting date;

1154 (b) Notice of an annual meeting includes a description  
1155 of any matter or matters which must be approved by the members  
1156 under Sections 79-11-269, 79-11-281, 79-11-301, 79-11-315,  
1157 79-11-323, 79-11-331, 79-11-333 or 79-11-335; and

1158 (c) Notice of a special meeting includes a description  
1159 of the matter or matters for which the meeting is called.

1160 (4) Unless the bylaws require otherwise, if an annual or  
1161 special meeting of members is adjourned to a different date, time  
1162 or place, notice need not be given of the new date, time or place,  
1163 if the new date, time or place is announced at the meeting before  
1164 adjournment. If a new record date for the adjourned meeting is or  
1165 must be fixed under Section 79-11-209, however, notice of the  
1166 adjourned meeting must be given under this section to the members  
1167 of record as of the new record date.

1168 (5) When giving notice of an annual or special meeting of  
1169 members, a corporation shall give notice of a matter a member  
1170 intends to raise at the meeting if:





1171 (a) requested in writing to do so by a person entitled  
1172 to call a special meeting; and

1173 (b) the request is received by the secretary or  
1174 president of the corporation at least ten (10) days before the  
1175 corporation gives notice of the meeting.

1176 **SECTION 49.** Section 79-11-207, Mississippi Code of 1972, is  
1177 brought forward as follows:

1178 79-11-207. (1) A member may waive any notice required by  
1179 Section 79-11-101 et seq., the articles or bylaws before or after  
1180 the date and time stated in the notice. The waiver must be in  
1181 writing, be signed by the member entitled to the notice, and be  
1182 delivered to the corporation for inclusion in the minutes or  
1183 filing with the corporate records.

1184 (2) A member's attendance at a meeting:

1185 (a) Waives objection to lack of notice or defective  
1186 notice of the meeting, unless the member at the beginning of the  
1187 meeting objects to holding the meeting or transacting business at  
1188 the meeting;

1189 (b) Waives objection to consideration of a particular  
1190 matter at the meeting that is not within the purpose or purposes  
1191 described in the meeting notice, unless the member objects to  
1192 considering the matter when it is presented.

1193 **SECTION 50.** Section 79-11-209, Mississippi Code of 1972, is  
1194 brought forward as follows:



1195           79-11-209. (1) The bylaws of a corporation may fix or  
1196 provide the manner of fixing a date as the record date for  
1197 determining the members entitled to notice of a members' meeting.  
1198 If the bylaws do not fix or provide for fixing such a record date,  
1199 the board may fix a future date as such a record date. If no such  
1200 record date is fixed, members at the close of business on the  
1201 business day preceding the day on which notice is given or, if  
1202 notice is waived, at the close of business on the business day  
1203 preceding the day on which the meeting is held are entitled to  
1204 notice of the meeting.

1205           (2) The bylaws of a corporation may fix or provide the  
1206 manner of fixing a date as the record date for determining the  
1207 members entitled to vote at a members' meeting. If the bylaws do  
1208 not fix or provide for fixing such a record date, the board may  
1209 fix a future date as such a record date. If no such record date  
1210 is fixed, members on the date of the meeting who are otherwise  
1211 eligible to vote are entitled to vote at the meeting.

1212           (3) The bylaws may fix or provide the manner for determining  
1213 a date as the record date for the purpose of determining the  
1214 members entitled to exercise any rights in respect of any other  
1215 lawful action. If the bylaws do not fix or provide for fixing  
1216 such a record date, the board may fix in advance such a record  
1217 date. If no such record date is fixed, members at the close of  
1218 business on the day on which the board adopts the resolution  
1219 relating thereto, or the sixtieth day prior to the date of such



1220 other action, whichever is later, are entitled to exercise such  
1221 rights.

1222 (4) A record date fixed under this section may not be more  
1223 than seventy (70) days before the meeting or action requiring a  
1224 determination of members occurs.

1225 (5) A determination of members entitled to notice of or to  
1226 vote at a membership meeting is effective for any adjournment of  
1227 the meeting unless the board fixes a new date for determining the  
1228 right to notice or the right to vote, which it must do if the  
1229 meeting is adjourned to a date more than seventy (70) days after  
1230 the record date for determining members entitled to notice of the  
1231 original meeting.

1232 (6) If a court orders a meeting adjourned to a date more  
1233 than one hundred twenty (120) days after the date fixed for the  
1234 original meeting, it may provide that the original record date for  
1235 notice or voting continues in effect or it may fix a new record  
1236 date for notice of voting.

1237 **SECTION 51.** Section 79-11-211, Mississippi Code of 1972, is  
1238 brought forward as follows:

1239 79-11-211. (1) Except as provided in subsection (5) of this  
1240 section and unless prohibited or limited by the articles or  
1241 bylaws, any action which may be taken at any annual or special  
1242 meeting of members may be taken without a meeting if the  
1243 corporation delivers a written ballot to every member entitled to  
1244 vote on the matter.



1245 (2) A ballot shall:  
1246 (a) Be in the form of a record;  
1247 (b) Set forth each proposed action; and  
1248 (c) Provide an opportunity to vote for or against each  
1249 proposed action.

1250 (3) Approval by written ballot pursuant to this section  
1251 shall be valid only when the number of votes cast by ballot equals  
1252 or exceeds the quorum required to be present at a meeting  
1253 authorizing the action, and the number of approvals equals or  
1254 exceeds the number of votes that would be required to approve the  
1255 matter at a meeting at which the total number of votes cast was  
1256 the same as the number of votes cast by ballot.

1257 (4) All solicitations for votes by written ballot shall:  
1258 (a) Indicate the number of responses needed to meet the  
1259 quorum requirements;  
1260 (b) State the percentage of approvals necessary to  
1261 approve each matter other than election of directors; and  
1262 (c) Specify the time by which a ballot must be received  
1263 by the corporation in order to be counted.

1264 (5) Except as otherwise provided in the articles or bylaws,  
1265 a written ballot may not be revoked.

1266 **SECTION 52.** Section 79-11-213, Mississippi Code of 1972, is  
1267 brought forward as follows:

1268 79-11-213. (1) After fixing a record date for a notice of a  
1269 meeting, a corporation shall prepare an alphabetical list of the



1270 names of all its members who are entitled to notice of the  
1271 meeting. The list must show the address and number of votes each  
1272 member is entitled to vote at the meeting. The corporation shall  
1273 prepare on a current basis through the time of the membership  
1274 meeting a list of members, if any, who are entitled to vote at the  
1275 meeting, but not entitled to notice of the meeting. This list  
1276 shall be prepared on the same basis and be part of the list of  
1277 members.

1278 (2) The list of members must be available for inspection by  
1279 any member for the purpose of communication with other members  
1280 concerning the meeting, beginning two (2) business days after  
1281 notice is given of the meeting for which the list was prepared and  
1282 continuing through the meeting, at the corporation's principal  
1283 office or at a reasonable place identified in the meeting notice  
1284 in the city where the meeting will be held. A member, a member's  
1285 agent, or attorney is entitled on written demand to inspect and,  
1286 subject to the limitations of Sections 79-11-285(c) and 79-11-291,  
1287 to copy the list, at a reasonable time and at the member's  
1288 expense, during the period it is available for inspection.

1289 (3) The corporation shall make the list of members available  
1290 at the meeting, and any member, a member's agent, or attorney is  
1291 entitled to inspect the list at any time during the meeting or any  
1292 adjournment.

1293 (4) If the corporation refuses to allow a member, a member's  
1294 agent, or attorney to inspect the list of members before or at the



1295 meeting (or copy the list as permitted by subsection (2) of this  
1296 section); the chancery court of the county where a corporation's  
1297 principal office is located, or the Chancery Court of the First  
1298 Judicial District of Hinds County, Mississippi, if the corporation  
1299 does not have a principal office in this state, on application of  
1300 the member, may summarily order the inspection or copying at the  
1301 corporation's expense and may postpone the meeting for which the  
1302 list was prepared until the inspection or copying is complete and  
1303 may order the corporation to pay the member's costs (including  
1304 reasonable counsel fees) incurred to obtain the order.

1305 (5) Unless a written demand to inspect and copy a membership  
1306 list has been made under subsection (2) of this section prior to  
1307 the membership meeting and a corporation improperly refuses to  
1308 comply with the demand, refusal or failure to comply with this  
1309 section does not affect the validity of action taken at the  
1310 meeting.

1311 **SECTION 53.** Section 79-11-215, Mississippi Code of 1972, is  
1312 brought forward as follows:

1313 79-11-215. (1) Unless the articles or bylaws provide  
1314 otherwise, each member is entitled to one (1) vote on each matter  
1315 voted on by the members.

1316 (2) Unless the articles or bylaws provide otherwise, if a  
1317 membership stands of record in the names of two (2) or more  
1318 persons, their acts with respect to voting shall have the  
1319 following effect:



1320 (a) If only one (1) votes, such act binds all; and

1321 (b) If more than one (1) votes, the vote shall be  
1322 divided on a pro rata basis.

1323 **SECTION 54.** Section 79-11-217, Mississippi Code of 1972, is  
1324 brought forward as follows:

1325 79-11-217. (1) Unless Section 79-11-101 et seq., the  
1326 articles, or the bylaws provide for a higher or lower quorum, ten  
1327 percent (10%) of the votes entitled to be cast on a matter must be  
1328 represented at a meeting of members to constitute a quorum on that  
1329 matter.

1330 (2) A bylaw amendment to decrease the quorum for any member  
1331 action may be approved by the members, or, unless prohibited by  
1332 the bylaws, by the board.

1333 (3) A bylaw amendment to increase the quorum required for  
1334 any member action must be approved by the members.

1335 (4) Unless one-third (1/3) or more of the voting power is  
1336 present in person or by proxy, the only matters that may be voted  
1337 upon at an annual meeting of members are those matters that are  
1338 described in the meeting notice.

1339 **SECTION 55.** Section 79-11-219, Mississippi Code of 1972, is  
1340 brought forward as follows:

1341 79-11-219. (1) Unless Section 79-11-101 et seq., the  
1342 articles, or the bylaws require a greater vote or voting by class,  
1343 if a quorum is present, the affirmative vote of the votes



1344 represented and voting (which affirmative votes also constitute a  
1345 majority of the required quorum) is the act of the members.

1346 (2) A bylaw amendment to increase or decrease the vote  
1347 required for any member action must be approved by the members.

1348 **SECTION 56.** Section 79-11-221, Mississippi Code of 1972, is  
1349 brought forward as follows:

1350 79-11-221. (1) Unless the articles or bylaws prohibit or  
1351 limit proxy voting, a member may appoint a proxy to vote or  
1352 otherwise act for the member by signing an appointment form either  
1353 personally or by an attorney-in-fact in the form of a record.

1354 (2) An appointment of a proxy is effective when received by  
1355 the secretary or other officer or agent authorized to tabulate  
1356 votes. An appointment is valid for eleven (11) months unless a  
1357 different period is expressly provided in the appointment form;  
1358 provided, however, that no proxy shall be valid for more than  
1359 three (3) years from its date of execution.

1360 (3) An appointment of a proxy is revocable by the member.

1361 (4) The death or incapacity of the member appointing a proxy  
1362 does not affect the right of the corporation to accept the proxy's  
1363 authority unless notice of the death or incapacity is received by  
1364 the secretary or other officer or agent authorized to tabulate  
1365 votes before the proxy exercises authority under the appointment.

1366 (5) Appointment of a proxy is revoked by the person  
1367 appointing the proxy:

1368 (a) Attending any meeting and voting in person; or





1369 (b) Signing and delivering to the secretary or other  
1370 officer or agent authorized to tabulate proxy votes either a  
1371 writing in the form of a record stating that the appointment of  
1372 the proxy is revoked or a subsequent appointment form.

1373 (6) Subject to Section 79-11-227 and any express limitation  
1374 on the proxy's authority appearing on the face of the appointment  
1375 form, a corporation is entitled to accept the proxy's vote or  
1376 other action as that of the member making the appointment.

1377 **SECTION 57.** Section 79-11-223, Mississippi Code of 1972, is  
1378 brought forward as follows:

1379 79-11-223. (1) If the articles or bylaws provide for  
1380 cumulative voting by members, members may so vote, by multiplying  
1381 the number of votes the members are entitled to cast by the number  
1382 of directors for whom they are entitled to vote, and cast the  
1383 product for a single candidate or distribute the product among two  
1384 (2) or more candidates.

1385 (2) Cumulative voting is not authorized at a particular  
1386 meeting unless:

1387 (a) The meeting notice or statement accompanying the  
1388 notice states that cumulative voting will take place; or

1389 (b) A member gives notice during the meeting and before  
1390 the vote is taken of the member's intent to cumulate votes, and if  
1391 one (1) member gives this notice all other members participating  
1392 in the election are entitled to cumulate their votes without  
1393 giving further notice.



1394 (3) A director elected by cumulative voting may be removed  
1395 by the members without cause if the requirements of Section  
1396 79-11-245 are met and the votes cast against removal, or not  
1397 consenting in writing to such removal, would be sufficient to  
1398 elect such director if voted cumulatively at an election at which  
1399 the same total number of votes were cast (or, if such action is  
1400 taken by written ballot, all memberships entitled to vote were  
1401 voted) and the entire number of directors authorized at the time  
1402 of the director's most recent election were then being elected.

1403 (4) Members may not cumulatively vote if the directors and  
1404 members are identical.

1405 **SECTION 58.** Section 79-11-225, Mississippi Code of 1972, is  
1406 brought forward as follows:

1407 79-11-225. A corporation may provide in its articles or  
1408 bylaws for election of directors by members or delegates: (a) on  
1409 the basis of chapter or other organization unit; (b) by region or  
1410 other geographic unit; (c) by preferential voting; or (d) by any  
1411 other reasonable method.

1412 **SECTION 59.** Section 79-11-227, Mississippi Code of 1972, is  
1413 brought forward as follows:

1414 79-11-227. (1) If the name signed on a vote, consent,  
1415 waiver or proxy appointment corresponds to the name of a member,  
1416 the corporation if acting in good faith is entitled to accept the  
1417 vote, consent, waiver or proxy appointment and give it effect as  
1418 the act of the member.



1419           (2) If the name signed on a vote, consent, waiver or proxy  
1420 appointment does not correspond to the record name of a member,  
1421 the corporation if acting in good faith is nevertheless entitled  
1422 to accept the vote, consent, waiver or proxy appointment and give  
1423 it effect as the act of the member if:

1424           (a) The member is an entity and the name signed  
1425 purports to be that of an officer or agent of the entity;

1426           (b) The name signed purports to be that of an  
1427 administrator, executor, guardian or conservator representing the  
1428 member and, if the corporation requests, evidence of fiduciary  
1429 status acceptable to the corporation has been presented with  
1430 respect to the vote, consent, waiver or proxy appointment;

1431           (c) The name signed purports to be that of a receiver  
1432 or trustee in bankruptcy of the member, and, if the corporation  
1433 requests, evidence of this status acceptable to the corporation  
1434 has been presented with respect to the vote, consent, waiver or  
1435 proxy appointment;

1436           (d) The name signed purports to be that of a pledgee,  
1437 beneficial owner, or attorney-in-fact of the member and if the  
1438 corporation requests, evidence acceptable to the corporation of  
1439 the signatory's authority to sign for the member has been  
1440 presented with respect to the vote, consent, waiver or proxy  
1441 appointment; or

1442           (e) Two (2) or more persons hold the membership as  
1443 cotenants or fiduciaries and the name signed purports to be the



1444 name of at least one (1) of the co-holders and the person signing  
1445 appears to be acting on behalf of all the co-holders.

1446 (3) The corporation is entitled to reject a vote, consent,  
1447 waiver or proxy appointment if the secretary or other officer or  
1448 agent authorized to tabulate votes, acting in good faith, has  
1449 reasonable basis for doubt about the validity of the signature on  
1450 it or about the signatory's authority to sign for the member.

1451 (4) The corporation and its officer or agent who accepts or  
1452 rejects a vote, consent, waiver or proxy appointment in good faith  
1453 and in accordance with the standards of this section are not  
1454 liable in damages to the member for the consequences of the  
1455 acceptance or rejection.

1456 (5) Corporate action based on the acceptance or rejection of  
1457 a vote, consent, waiver or proxy appointment under this section is  
1458 valid unless a court of competent jurisdiction determines  
1459 otherwise.

1460 **SECTION 60.** Section 79-11-229, Mississippi Code of 1972, is  
1461 brought forward as follows:

1462 79-11-229. (1) Two (2) or more members may provide for the  
1463 manner in which they will vote by signing an agreement for that  
1464 purpose. Such agreements may be valid for a period of up to ten  
1465 (10) years.

1466 (2) A voting agreement created under this section is  
1467 specifically enforceable.



1468           **SECTION 61.** Section 79-11-231, Mississippi Code of 1972, is  
1469 brought forward as follows:

1470           79-11-231. (1) Each corporation must have a board of  
1471 directors.

1472           (2) Except as provided in Section 79-11-101 et seq. or  
1473 subsection (3) of this section, all corporate powers shall be  
1474 exercised by or under the authority of, and the affairs of the  
1475 corporation managed under the direction of, its board.

1476           (3) The articles may authorize a person or persons to  
1477 exercise some or all of the powers which would otherwise be  
1478 exercised by a board. To the extent so authorized any such person  
1479 or persons shall have the duties and responsibilities of the  
1480 directors, and the directors shall be relieved to that extent from  
1481 such duties and responsibilities.

1482           **SECTION 62.** Section 79-11-233, Mississippi Code of 1972, is  
1483 brought forward as follows:

1484           79-11-233. All directors must be individuals. The articles  
1485 or bylaws may prescribe other qualifications for directors.

1486           **SECTION 63.** Section 79-11-235, Mississippi Code of 1972, is  
1487 brought forward as follows:

1488           79-11-235. (1) (a) Except as provided in paragraph (b) of  
1489 this subsection, the number of directors shall be specified in or  
1490 fixed in accordance with the articles or bylaws.

1491           (b) If the corporation: (i) is a charitable  
1492 organization as defined in Section 79-11-501; (ii) which solicits



1493 contributions or intends to solicit contributions in the state by  
1494 any means whatsoever; and (iii) is incorporated on or after  
1495 January 1, 2012, the board must consist of not less than three (3)  
1496 directors, with the number of directors specified in or fixed in  
1497 accordance with the articles or bylaws.

1498 (2) The number of directors may be increased or decreased in  
1499 conformance with law from time to time by amendment to or in the  
1500 manner prescribed in the articles or bylaws.

1501 **SECTION 64.** Section 79-11-237, Mississippi Code of 1972, is  
1502 brought forward as follows:

1503 79-11-237. (1) If the corporation has members, all the  
1504 directors (except the initial directors) shall be elected at the  
1505 first annual meeting of members, and at each annual meeting  
1506 thereafter, unless the articles or bylaws provide some other time  
1507 or method of election or provide that some of the directors are  
1508 appointed by some other person or designated.

1509 (2) If the corporation does not have members, all the  
1510 directors (except the initial directors) shall be elected,  
1511 appointed or designated as provided in the articles or bylaws. If  
1512 no method of designation or appointment is set forth in the  
1513 articles or bylaws, the directors (other than the initial  
1514 directors) shall be elected by the board.

1515 **SECTION 65.** Section 79-11-239, Mississippi Code of 1972, is  
1516 brought forward as follows:



1517           79-11-239. (1) The articles or bylaws must specify the  
1518 terms of directors. Except for designated or appointed directors,  
1519 the terms of directors may not exceed five (5) years. In the  
1520 absence of any term specified in the articles or bylaws, the term  
1521 of each director shall be one (1) year. Directors may be elected  
1522 for successive terms.

1523           (2) A decrease in the number of directors or term of office  
1524 does not shorten an incumbent director's term.

1525           (3) Except as provided in the articles or bylaws:

1526                 (a) The term of a director filling a vacancy in the  
1527 office of a director elected by members expires at the next  
1528 election of directors by members; and

1529                 (b) The term of a director filling any other vacancy  
1530 expires at the end of the unexpired term which such director is  
1531 filling.

1532           (4) Despite the expiration of a director's term, the  
1533 director continues to serve until the director's successor is  
1534 elected, designated or appointed and qualifies, or until there is  
1535 a decrease in the number of directors.

1536           **SECTION 66.** Section 79-11-241, Mississippi Code of 1972, is  
1537 brought forward as follows:

1538           79-11-241. The articles or bylaws may provide for staggering  
1539 the terms of directors by dividing the total number of directors  
1540 into groups. The terms of office of the several groups need not  
1541 be uniform.



1542           **SECTION 67.** Section 79-11-243, Mississippi Code of 1972, is  
1543 brought forward as follows:

1544           79-11-243. (1) A director may resign at any time by  
1545 delivering written notice to the board of directors, its presiding  
1546 officer or to the president or secretary.

1547           (2) A resignation is effective when the notice is effective  
1548 unless the notice specifies a later effective date. If a  
1549 resignation is made effective at a later date, the board may fill  
1550 the pending vacancy before the effective date if the board  
1551 provides that the successor does not take office until the  
1552 effective date.

1553           **SECTION 68.** Section 79-11-245, Mississippi Code of 1972, is  
1554 brought forward as follows:

1555           79-11-245. (1) The members may remove one or more directors  
1556 elected by them without cause.

1557           (2) If a director is elected by a class, chapter or other  
1558 organization unit or by region or other geographic grouping, the  
1559 director may be removed only by the members of that class,  
1560 chapter, unit or grouping.

1561           (3) Except as provided in subsection (9) of this section, a  
1562 director may be removed under subsection (1) or (2) of this  
1563 section only if the number of votes cast to remove the director  
1564 would be sufficient to elect the director at a meeting to elect  
1565 directors.





1566 (4) If cumulative voting is authorized, a director may not  
1567 be removed if the number of votes, or if the director was elected  
1568 by a class, chapter, unit or grouping of members, the number of  
1569 votes of that class, chapter, unit or grouping, sufficient to  
1570 elect the director under cumulative voting is voted against the  
1571 director's removal.

1572 (5) A director elected by members may be removed by the  
1573 members only at a meeting called for the purpose of removing the  
1574 director and the meeting notice must state that the purpose, or  
1575 one of the purposes, of the meeting is removal of the director.

1576 (6) In computing whether a director is protected from  
1577 removal under subsections (2) through (4) of this section, it  
1578 should be assumed that the votes against removal are cast in an  
1579 election for the number of directors of the class to which the  
1580 director to be removed belonged on the date of that director's  
1581 election.

1582 (7) An entire board of directors may be removed under  
1583 subsections (1) through (5) of this section.

1584 (8) The board of directors of a corporation may remove a  
1585 director without cause who has been elected by the board by the  
1586 vote of a two-thirds (2/3) of the directors then in office or such  
1587 greater number as is set forth in the articles or bylaws.

1588 (9) If at the beginning of a director's term on the board,  
1589 the articles or bylaws provide that the director may be removed  
1590 for missing a specified number of board meetings, the board may



1591 remove the director for failing to attend the specified number of  
1592 meetings. The director may be removed only if a majority of the  
1593 directors then in office vote for the removal.

1594 **SECTION 69.** Section 79-11-247, Mississippi Code of 1972, is  
1595 brought forward as follows:

1596 79-11-247. (1) A designated director may be removed by an  
1597 amendment to the article or bylaws deleting or changing the  
1598 designation.

1599 (2) Appointed directors:

1600 (a) Except as otherwise provided in the articles or  
1601 bylaws, an appointed director may be removed without cause by the  
1602 person appointing the director;

1603 (b) The person removing the director shall do so by  
1604 giving written notice of the removal to the director and either  
1605 the presiding officer of the board or the corporation's president  
1606 or secretary;

1607 (c) A removal is effective when the notice is effective  
1608 unless the notice specifies a future effective date.

1609 **SECTION 70.** Section 79-11-249, Mississippi Code of 1972, is  
1610 brought forward as follows:

1611 79-11-249. (1) The chancery court of the county where a  
1612 corporation's principal office is located may remove any director  
1613 of the corporation from office in a proceeding commenced either by  
1614 the corporation or its members holding at least ten percent (10%)  
1615 of the voting power of any class if the court finds that:



1616 (a) The director engaged in fraudulent or dishonest  
1617 conduct, or gross abuse of authority or discretion, with respect  
1618 to the corporation, or a final judgment has been entered finding  
1619 that the director has violated a duty set forth in Sections  
1620 79-11-267 and 79-11-269, and

1621 (b) Removal is in the best interest of the corporation.

1622 (2) The court that removes a director may bar the director  
1623 from serving on the board for a period prescribed by the court.

1624 (3) If members commence a proceeding under subsection (1) of  
1625 this section, the corporation shall be made a party defendant.

1626 **SECTION 71.** Section 79-11-251, Mississippi Code of 1972, is  
1627 brought forward as follows:

1628 79-11-251. (1) Unless the articles or bylaws provide  
1629 otherwise, and except as provided in subsections (2) and (3) of  
1630 this section, if a vacancy occurs on a board of directors,  
1631 including a vacancy resulting from an increase in the number of  
1632 directors:

1633 (a) The members, if any, may fill the vacancy; provided  
1634 that if the vacant office was held by a director elected by a  
1635 class, chapter or other organizational unit or by region or other  
1636 geographic grouping, only members of the class, chapter, unit or  
1637 grouping are entitled to vote to fill the vacancy if it is filled  
1638 by the members;

1639 (b) The board of directors may fill the vacancy; or



1640 (c) If the directors remaining in office constitute  
1641 fewer than a quorum of the board, they may fill the vacancy by the  
1642 affirmative vote of a majority of all the directors remaining in  
1643 office.

1644 (2) Unless the articles or bylaws provide otherwise, if a  
1645 vacant office was held by an appointed director, only the person  
1646 who appointed the director may fill the vacancy.

1647 (3) If a vacant office was held by a designated director,  
1648 the vacancy shall be filled as provided in the articles or bylaws.  
1649 In the absence of an applicable article or bylaw provision, the  
1650 vacancy may not be filled by the board.

1651 (4) A vacancy that will occur at a specific later date (by  
1652 reason of a resignation effective at a later date under Section  
1653 79-11-243(2) or otherwise) may be filled before the vacancy occurs  
1654 but the new director may not take office until the vacancy occurs.

1655 **SECTION 72.** Section 79-11-253, Mississippi Code of 1972, is  
1656 brought forward as follows:

1657 79-11-253. Unless the articles or bylaws provide otherwise,  
1658 a board of directors may fix the compensation of directors.

1659 **SECTION 73.** Section 79-11-255, Mississippi Code of 1972, is  
1660 brought forward as follows:

1661 79-11-255. (1) The board of directors may hold regular or  
1662 special meetings in or out of this state.

1663 (2) Unless the articles of incorporation or bylaws provide  
1664 otherwise, the board of directors may permit any or all directors



1665 to participate in a regular or special meeting by, or conduct the  
1666 meeting through the use of, any means of communication by which  
1667 all directors participating may simultaneously hear each other  
1668 during the meeting. A director participating in a meeting by this  
1669 means is deemed to be present in person at the meeting.

1670 **SECTION 74.** Section 79-11-257, Mississippi Code of 1972, is  
1671 brought forward as follows:

1672 79-11-257. (1) Unless the articles of incorporation or  
1673 bylaws provide otherwise, action required or permitted by Section  
1674 79-11-101 et seq. to be taken at a board of directors' meeting may  
1675 be taken without a meeting if the action is taken by all members  
1676 of the board. The action must be evidenced by one or more written  
1677 consents describing the action taken, signed by each director, and  
1678 included in the minutes or filed with the corporate records  
1679 reflecting the action taken.

1680 (2) Action taken under this section is effective when the  
1681 last director signs the consent, unless the consent specifies a  
1682 different effective date.

1683 (3) A consent signed under this section has the effect of a  
1684 meeting vote and may be described as such in any document.

1685 **SECTION 75.** Section 79-11-259, Mississippi Code of 1972, is  
1686 brought forward as follows:

1687 79-11-259. (1) Unless the articles of incorporation or  
1688 bylaws provide otherwise, regular meetings of the board of



1689 directors may be held without notice of the date, time, place or  
1690 purpose of the meeting.

1691 (2) Unless the articles of incorporation or bylaws provide  
1692 for a longer or shorter period, special meetings of the board of  
1693 directors must be preceded by at least two (2) days' notice of the  
1694 date, time and place of the meeting. The notice need not describe  
1695 the purpose of the special meeting unless required by the articles  
1696 of incorporation or bylaws.

1697 **SECTION 76.** Section 79-11-261, Mississippi Code of 1972, is  
1698 brought forward as follows:

1699 79-11-261. (1) A director may waive any notice required by  
1700 Section 79-11-101 et seq., the articles of incorporation, or  
1701 bylaws before or after the date and time stated in the notice.  
1702 Except as provided by subsection (2) of this section, the waiver  
1703 must be in writing, signed by the director entitled to the notice,  
1704 and filed with the minutes or corporate records.

1705 (2) A director's attendance at or participation in a meeting  
1706 waives any required notice to him of the meeting unless the  
1707 director at the beginning of the meeting (or promptly upon his  
1708 arrival) objects to holding the meeting or transacting business at  
1709 the meeting and does not thereafter vote for or assent to action  
1710 taken at the meeting.

1711 **SECTION 77.** Section 79-11-263, Mississippi Code of 1972, is  
1712 brought forward as follows:



1713           79-11-263. (1) Except as otherwise provided in Section  
1714 79-11-101 et seq., the articles or bylaws, a quorum of a board of  
1715 directors consists of a majority of the directors in office  
1716 immediately before a meeting begins.

1717           (2) If a quorum is present when a vote is taken, the  
1718 affirmative vote of a majority of directors present is the act of  
1719 the board unless Section 79-11-101 et seq., the articles or  
1720 bylaws, require the vote of a greater number of directors.

1721           (3) A director who is present at a meeting of the board of  
1722 directors or a committee of the board of directors when corporate  
1723 action is taken is deemed to have assented to the action taken  
1724 unless: (a) he objects at the beginning of the meeting, or  
1725 promptly upon his arrival, to holding it or transacting business  
1726 at the meeting; (b) his dissent or abstention from the action  
1727 taken is entered in the minutes of the meeting; or (c) he delivers  
1728 written notice of his dissent or abstention to the presiding  
1729 officer of the meeting before its adjournment or to the  
1730 corporation immediately after adjournment of the meeting. The  
1731 right of dissent or abstention is not available to a director who  
1732 votes in favor of the action taken.

1733           **SECTION 78.** Section 79-11-265, Mississippi Code of 1972, is  
1734 brought forward as follows:

1735           79-11-265. (1) Unless prohibited or limited by the articles  
1736 or bylaws, a board of directors may create one or more committees  
1737 of the board and appoint members of the board to serve on them.



1738 Each committee shall have two (2) or more directors who serve at  
1739 the pleasure of the board.

1740 (2) The creation of a committee and appointment of directors  
1741 to it must be approved by the greater of:

1742 (a) A majority of all the directors in office when the  
1743 action is taken; or

1744 (b) The number of directors required by the articles or  
1745 bylaws to take action under Section 79-11-263.

1746 (3) Sections 79-11-255 through 79-11-263, which govern  
1747 meetings, action without meetings, notice and waiver of notice,  
1748 and quorum and voting requirements of the board, apply to  
1749 committees of the board and their members as well.

1750 (4) To the extent specified by the board of directors or in  
1751 the articles or bylaws, each committee of the board may exercise  
1752 the board's authority under Section 79-11-231.

1753 (5) A committee of the board may not, however:

1754 (a) Authorize distributions;

1755 (b) Approve or recommend to members dissolution, merger  
1756 or the sale, pledge or transfer of all or substantially all of the  
1757 corporation's assets;

1758 (c) Elect, appoint or remove directors or fill  
1759 vacancies on the board or on any of its committees; or

1760 (d) Adopt, amend or repeal the articles or bylaws.





1761 (6) The creation of, delegation of authority to, or action  
1762 by a committee does not alone constitute compliance by a director  
1763 with the standards of conduct described in Section 79-11-267.

1764 **SECTION 79.** Section 79-11-267, Mississippi Code of 1972, is  
1765 brought forward as follows:

1766 79-11-267. (1) A director shall discharge his duties as a  
1767 director, including his duties as a member of a committee, in  
1768 accordance with his good faith belief that he is acting in the  
1769 best interests of the corporation.

1770 (2) Unless he has knowledge or information concerning the  
1771 matter in question that makes reliance unwarranted, a director is  
1772 entitled to rely on information, opinions, reports or statements,  
1773 including financial statements and other financial data, if  
1774 prepared or presented by:

1775 (a) One or more officers or employees of the  
1776 corporation whom the director believes, in good faith, to be  
1777 reliable and competent in the matters presented;

1778 (b) Legal counsel, public accountants or other persons  
1779 as to matters the director believes, in good faith, are within the  
1780 person's professional or expert competence; or

1781 (c) A committee of the board of directors of which he  
1782 is not a member if the director believes, in good faith, that the  
1783 committee merits confidence.



1784 (3) A director is not liable for any action taken as a  
1785 director, or any failure to take any action, if he performed the  
1786 duties of his office in compliance with this section.

1787 (4) A person alleging a violation of this section has the  
1788 burden of proving the violation.

1789 (5) Notwithstanding any other provision of this section, a  
1790 director of a corporation that is a charitable organization as  
1791 defined in Section 79-11-501 shall not be liable to the  
1792 corporation or its members for money damages for any action taken,  
1793 or any failure to take any action, as a director, except liability  
1794 for:

1795 (a) The amount of a financial benefit received by the  
1796 director to which the director is not entitled;

1797 (b) An intentional infliction of harm;

1798 (c) A violation of Section 79-11-270; or

1799 (d) An intentional violation of criminal law.

1800 **SECTION 80.** Section 79-11-269, Mississippi Code of 1972, is  
1801 brought forward as follows:

1802 79-11-269. (1) A conflict of interest transaction is a  
1803 transaction with the corporation in which a director of the  
1804 corporation has a direct or indirect interest. A conflict of  
1805 interest transaction is not voidable by the corporation solely  
1806 because of the director's interest in the transaction if any one  
1807 (1) of the following is true:



1808           (a) The material facts of the transaction and the  
1809 director's interest were disclosed or known to the board of  
1810 directors or a committee of the board of directors and the board  
1811 of directors or committee authorized, approved or ratified the  
1812 transaction;

1813           (b) The material facts of the transaction and the  
1814 director's interest were disclosed or known to the members  
1815 entitled to vote and they authorized, approved or ratified the  
1816 transaction; or

1817           (c) The transaction was fair to the corporation.

1818           (2) For purposes of this section, a director of the  
1819 corporation has an indirect interest in a transaction if (a)  
1820 another entity in which he has a material financial interest or in  
1821 which he is a general partner is a party to the transaction, or  
1822 (b) another entity of which he is a director, officer or trustee  
1823 is a party to the transaction and the transaction is or should be  
1824 considered by the board of directors of the corporation.

1825           (3) For purposes of subsection (1)(a) of this section, a  
1826 conflict of interest transaction is authorized, approved or  
1827 ratified if it receives the affirmative vote of a majority of the  
1828 directors on the board of directors (or on the committee) who have  
1829 no direct or indirect interest in the transaction, but a  
1830 transaction may not be authorized, approved or ratified under this  
1831 section by a single director. If a majority of the directors who  
1832 have no direct or indirect interest in the transaction vote to



1833 authorize, approve or ratify the transaction, a quorum is present  
1834 for the purpose of taking action under this section. The presence  
1835 of, or a vote cast by, a director with a direct or indirect  
1836 interest in the transaction does not affect the validity of any  
1837 action taken under subsection (1)(a) of this section if the  
1838 transaction is otherwise authorized, approved or ratified as  
1839 provided in that subsection.

1840 (4) For purposes of subsection (1)(b) of this section, a  
1841 conflict of interest transaction is authorized, approved or  
1842 ratified if it receives the vote of a majority of the members  
1843 whose votes are entitled to be counted under this subsection. The  
1844 vote of a member who is a director who has a direct or indirect  
1845 interest in the transaction, and the vote of a member who is under  
1846 the control of an entity described in subsection (2)(a) of this  
1847 section, may not be counted in a vote of members to determine  
1848 whether to authorize, approve or ratify a conflict of interest  
1849 transaction under subsection (1)(b) of this section. The vote of  
1850 those members, however, shall be counted in determining whether  
1851 the transaction is approved under other sections of Section  
1852 79-11-101 et seq. A majority of the members, whether or not  
1853 present, whose votes are entitled to be counted in a vote on the  
1854 transaction under this subsection constitutes a quorum for the  
1855 purpose of taking action under this section.

1856 **SECTION 81.** Section 79-11-270, Mississippi Code of 1972, is  
1857 brought forward as follows:



1858           79-11-270. (1) A director who votes for or assents to a  
1859 distribution made in violation of Section 79-11-101 et seq. is  
1860 personally liable to the corporation for the amount of the  
1861 distribution that exceeds what could have been distributed without  
1862 violating Section 79-11-101 et seq., if it is established that he  
1863 did not perform his duties in compliance with Section 79-11-267.  
1864 In any proceeding commenced under this section, a director has all  
1865 of the defenses ordinarily available to a director.

1866           (2) A director held liable under subsection (1) for an  
1867 unlawful distribution is entitled to contribution:

1868                   (a) From every other director who could be held liable  
1869 under subsection (1) for the unlawful distribution; and

1870                   (b) From each person who received an unlawful  
1871 distribution for the amount of the distribution whether or not the  
1872 person receiving the distribution knew it was made in violation of  
1873 Section 79-11-101 et seq.

1874           **SECTION 82.** Section 79-11-271, Mississippi Code of 1972, is  
1875 brought forward as follows:

1876           79-11-271. (1) A corporation has the officers described in  
1877 its bylaws or appointed by the board of directors in accordance  
1878 with the bylaws.

1879           (2) A duly appointed officer may appoint one or more  
1880 officers or assistant officers if authorized by the bylaws or the  
1881 board of directors.



1882           (3) The bylaws or the board of directors shall delegate to  
1883 one (1) of the officers responsibility for preparing minutes of  
1884 the directors' and members' meetings and for authenticating  
1885 records of the corporation.

1886           (4) The same individual may simultaneously hold more than  
1887 one (1) office in a corporation.

1888           **SECTION 83.** Section 79-11-273, Mississippi Code of 1972, is  
1889 brought forward as follows:

1890           79-11-273. Each officer has the authority and shall perform  
1891 the duties set forth in the bylaws or, to the extent consistent  
1892 with the bylaws, the duties prescribed by the board of directors  
1893 or by direction of an officer authorized by the board of directors  
1894 to prescribe the duties of other officers.

1895           **SECTION 84.** Section 79-11-275, Mississippi Code of 1972, is  
1896 brought forward as follows:

1897           79-11-275. (1) An officer with discretionary authority  
1898 shall discharge his duties under that authority, in accordance  
1899 with his good faith belief that he is acting in the best interests  
1900 of the corporation.

1901           (2) Unless he has knowledge or information concerning the  
1902 matter in question that makes reliance unwarranted, an officer is  
1903 entitled to rely on information, opinions, reports or statements,  
1904 including financial statements and other financial data, if  
1905 prepared or presented by:



1906 (a) One or more officers or employees of the  
1907 corporation whom the officer believes, in good faith, to be  
1908 reliable and competent in the matters presented; or

1909 (b) Legal counsel, public accountants or other persons  
1910 as to matters the officer believes, in good faith, are within the  
1911 person's professional or expert competence.

1912 (3) An officer is not liable for any action taken as an  
1913 officer, or any failure to take any action, if he performed the  
1914 duties of his office in compliance with this section.

1915 (4) A person alleging a violation of this section has the  
1916 burden of proving the violation.

1917 **SECTION 85.** Section 79-11-277, Mississippi Code of 1972, is  
1918 brought forward as follows:

1919 79-11-277. (1) An officer may resign at any time by  
1920 delivering notice to the corporation. A resignation is effective  
1921 when the notice is delivered unless the notice specifies a later  
1922 effective date. If a resignation is made effective at a later  
1923 date and the corporation accepts the future effective date, its  
1924 board of directors may fill the pending vacancy before the  
1925 effective date if the board of directors provides that the  
1926 successor does not take office until the effective date.

1927 (2) A board of directors may remove any officer at any time  
1928 with or without cause.

1929 **SECTION 86.** Section 79-11-279, Mississippi Code of 1972, is  
1930 brought forward as follows:



1931           79-11-279. (1) The appointment of an officer does not  
1932 itself create contract rights between the officer and the  
1933 corporation.

1934           (2) An officer's removal does not affect the officer's  
1935 contract rights, if any, with the corporation. An officer's  
1936 resignation does not affect the corporation's contract rights, if  
1937 any, with the officer.

1938           **SECTION 87.** Section 79-11-281, Mississippi Code of 1972, is  
1939 brought forward as follows:

1940           79-11-281. (1) In this section:

1941           (a) "Director" means an individual who is or was a  
1942 director of a corporation or an individual who, while a director  
1943 of a corporation, is or was serving at the corporation's request  
1944 as a director, officer, partner, trustee, employee or agent of  
1945 another foreign or domestic corporation, partnership, joint  
1946 venture, trust, employee benefit plan or other enterprise. A  
1947 director is considered to be serving an employee benefit plan at  
1948 the corporation's request if his duties to the corporation also  
1949 impose duties on, or otherwise involve services by, him to the  
1950 plan or to participants in or beneficiaries of the plan.

1951 "Director" includes, unless the context requires otherwise, the  
1952 estate or personal representative of a director.

1953           (b) "Expenses" includes counsel fees.

1954           (c) "Liability" means the obligation to pay a judgment,  
1955 settlement, penalty, fine (including an excise tax assessed with





1956 respect to an employee benefit plan) or reasonable expenses  
1957 incurred with respect to a proceeding.

1958 (d) "Official capacity" means: (i) when used with  
1959 respect to a director, the office of director in a corporation; or  
1960 (ii) when used with respect to an individual other than a  
1961 director, as contemplated in subsection (8) of this section, the  
1962 office in a corporation held by the officer or the employment or  
1963 agency relationship undertaken by the employee or agent on behalf  
1964 of the corporation. "Official capacity" does not include service  
1965 for any other foreign or domestic corporation or any partnership,  
1966 joint venture, trust, employee benefit plan or other enterprise.

1967 (e) "Party" includes an individual who was, is, or is  
1968 threatened to be made a named defendant or respondent in a  
1969 proceeding.

1970 (f) "Proceeding" means any threatened, pending or  
1971 completed action, suit or proceeding, whether civil, criminal,  
1972 administrative or investigative and whether formal or informal.

1973 (2) Except as provided in subsection (3) of this section, a  
1974 corporation may indemnify an individual made a party to a  
1975 proceeding because he is or was a director against liability  
1976 incurred in the proceeding if:

1977 (a) He conducted himself in good faith; and

1978 (b) He in good faith believed:



1979 (i) In the case of conduct in his official  
1980 capacity with the corporation that his conduct was in its best  
1981 interests; and

1982 (ii) In all other cases, that his conduct was at  
1983 least not opposed to its best interests; and

1984 (c) In the case of any criminal proceeding, he had no  
1985 reasonable cause to believe his conduct was unlawful.

1986 A director's conduct with respect to an employee benefit plan for  
1987 a purpose he reasonably believed to be in the interests of the  
1988 participants in and beneficiaries of the plan is conduct that  
1989 satisfies the requirement of subsection (2)(b)(ii) of this  
1990 section.

1991 The termination of a proceeding by judgment, order, settlement or  
1992 conviction is not, of itself, determinative that the director did  
1993 not meet the standard of conduct described in this section.

1994 (3) A corporation may not indemnify a director under this  
1995 section:

1996 (a) In connection with a proceeding by or in the right  
1997 of the corporation in which the director was adjudged liable to  
1998 the corporation; or

1999 (b) In connection with any other proceeding charging  
2000 improper personal benefit to him, whether or not involving action  
2001 in his official capacity, in which he was adjudged liable on the  
2002 basis that personal benefit was improperly received by him.



2003 Indemnification permitted under this section in connection with a  
2004 proceeding by or in the right of the corporation is limited to  
2005 reasonable expenses incurred in connection with the proceeding.

2006 (4) Unless limited by its articles of incorporation, a  
2007 corporation shall indemnify a director who entirely prevails in  
2008 the defense of any proceeding to which he was a party because he  
2009 is or was a director of the corporation against reasonable  
2010 expenses incurred by him in connection with the proceeding.

2011 (5) A corporation may pay for or reimburse the reasonable  
2012 expenses incurred by a director who is a party to a proceeding in  
2013 advance of final disposition of the proceeding if:

2014 (a) The director furnishes the corporation a written  
2015 statement of his good faith belief that he has met the standard of  
2016 conduct described in subsection (2) of this section;

2017 (b) The director furnishes the corporation a written  
2018 undertaking, executed personally or on his behalf, to repay the  
2019 advance if it is ultimately determined that he did not meet the  
2020 standard of conduct; and

2021 (c) A determination is made that the facts then known  
2022 to those making the determination would not preclude  
2023 indemnification under Section 79-11-101 et seq.

2024 The undertaking required by subsection (5) (b) of this section  
2025 shall be an unlimited general obligation of the director but need  
2026 not be secured and may be accepted without reference to financial  
2027 ability to make repayment.



2028 Determinations and authorizations of payment under this section  
2029 shall be made in the manner specified in subsection (7) of this  
2030 section.

2031 (6) Unless limited by a corporation's articles of  
2032 incorporation, a director of the corporation who is a party to a  
2033 proceeding may apply for indemnification to the court conducting  
2034 the proceeding or seek indemnification in another court of  
2035 competent jurisdiction. The court may order indemnification if it  
2036 determines:

2037 (a) The director is entitled to mandatory  
2038 indemnification under subsection (4) of this section, in which  
2039 case the court shall also order the corporation to pay the  
2040 director's reasonable expenses incurred to obtain court-ordered  
2041 indemnification; or

2042 (b) With respect to a proceeding by or in the right of  
2043 the corporation, the director is fairly and reasonably entitled to  
2044 indemnification in view of all the relevant circumstances, even  
2045 though he was adjudged liable, but any indemnification shall be  
2046 limited to reasonable expenses incurred.

2047 (7) A corporation may not indemnify a director under  
2048 subsection (2) of this section unless authorized in the specific  
2049 case after a determination has been made that indemnification of  
2050 the director is permissible in the circumstances because he has  
2051 met the standard of conduct set forth in subsection (2) of this  
2052 section.



2053                   (a) The determination shall be made:

2054                    (i) By the board of directors by majority vote of

2055 a quorum consisting of directors not at the time parties to the

2056 proceeding;

2057                    (ii) If a quorum cannot be obtained under

2058 subparagraph (i) of this paragraph, by a majority vote of a

2059 committee duly designated by the board of directors (in which

2060 designation directors who are parties may participate), consisting

2061 solely of two (2) or more directors not at the time parties to the

2062 proceeding;

2063                    (iii) By special legal counsel:

2064                        1. Selected by the board of directors or its

2065 committee in the manner prescribed in subparagraph (i) or (ii) of

2066 this paragraph; or

2067                        2. If a quorum of the board of directors

2068 cannot be obtained under subparagraph (i) of this paragraph and a

2069 committee cannot be designated under subparagraph (ii) of this

2070 paragraph selected by majority vote of the full board of directors

2071 (in which selection directors who are parties may participate); or

2072                    (iv) By the members but with the parties to the

2073 proceeding not being permitted to vote on the determination.

2074                    (b) Authorization of indemnification and evaluation as

2075 to reasonableness of expenses shall be made in the same manner as

2076 the determination that indemnification is permissible, except that

2077 if the determination is made by special legal counsel,



2078 authorization of indemnification and evaluation as to  
2079 reasonableness of expenses shall be made by those entitled under  
2080 subsection (7) (a) (iii) of this section to select counsel.

2081 (8) Unless limited by a corporation's articles of  
2082 incorporation:

2083 (a) An officer of the corporation is entitled to  
2084 mandatory indemnification under subsection (2) of this section and  
2085 is entitled to apply for court-ordered indemnification under  
2086 subsection (6) of this section, in each case to the same extent as  
2087 a director;

2088 (b) The corporation may indemnify and advance expenses  
2089 under Section 79-11-101 et seq. to an officer, employee or agent  
2090 of the corporation to the same extent as to a director.

2091 (9) A corporation may purchase and maintain insurance on  
2092 behalf of an individual who is or was a director, officer,  
2093 employee or agent of the corporation, or who, while a director,  
2094 officer, employee or agent of the corporation, is or was serving  
2095 at the request of the corporation as a director, officer, partner,  
2096 trustee, employee or agent of another foreign or domestic  
2097 corporation, partnership, joint venture, trust, employee benefit  
2098 plan or other enterprise, against liability asserted against or  
2099 incurred by him in that capacity or arising from his status as a  
2100 director, officer, employee or agent, whether or not the  
2101 corporation would have power to indemnify him against the same  
2102 liability under subsection (1) or (2) of this section.



2103           (10) Unless the articles of incorporation or bylaws provide  
2104 otherwise, any authorization of indemnification in the articles of  
2105 incorporation or bylaws shall not be deemed to prevent the  
2106 corporation from providing the indemnity permitted or mandated by  
2107 this section.

2108           (11) Any corporation shall have power to make any further  
2109 indemnity, including advance of expenses, to and to enter into  
2110 contracts of indemnity with any director, officer, employee or  
2111 agent that may be authorized by the articles of incorporation or  
2112 any bylaw made by the members (or if there are no members, by the  
2113 board of directors) or any resolution adopted, before or after the  
2114 event, by the members (or if there are no members, by the board of  
2115 directors), except an indemnity against his failure to act in  
2116 accordance with the standard of conduct provided in Section  
2117 79-11-267 or 79-11-275, as applicable. Unless the articles of  
2118 incorporation, or any such bylaw or resolution provide otherwise,  
2119 any determination as to any further indemnity shall be made in  
2120 accordance with subsection (7) (a) of this section. Each such  
2121 indemnity may continue as to a person who has ceased to have the  
2122 capacity referred to above and may inure to the benefit of the  
2123 heirs, executors and administrators of such a person.

2124           **SECTION 88.** Section 79-11-282, Mississippi Code of 1972, is  
2125 brought forward as follows:



2126           79-11-282. (1) A corporation may not lend money to or  
2127 guarantee the obligation of a director or officer of the  
2128 corporation.

2129           (2) The fact that a loan or guarantee is made in violation  
2130 of this section does not affect the borrower's liability on the  
2131 loan.

2132           **SECTION 89.** Section 79-11-283, Mississippi Code of 1972, is  
2133 brought forward as follows:

2134           79-11-283. (1) A corporation shall keep as permanent  
2135 records minutes of all meetings of its members and board of  
2136 directors, a record of all actions taken by the members or  
2137 directors without a meeting, and a record of all actions taken by  
2138 committees of the board of directors as authorized by Section  
2139 79-11-265.

2140           (2) A corporation shall maintain appropriate accounting  
2141 records.

2142           (3) A corporation or its agent shall maintain a record of  
2143 its members in a form that permits preparation of a list of the  
2144 names and addresses of all members, in alphabetical order by class  
2145 showing the number of votes each member is entitled to vote.

2146           (4) A corporation shall maintain its records in written form  
2147 or in any other form of a record.

2148           (5) A corporation shall keep a copy of the following records  
2149 at its principal office:





2150 (a) Its articles or restated articles of incorporation  
2151 and all amendments to them currently in effect;

2152 (b) Its bylaws or restated bylaws and all amendments to  
2153 them currently in effect;

2154 (c) Resolutions adopted by its board of directors  
2155 relating to the characteristics, qualifications, rights,  
2156 limitations and obligations of members or any class or category of  
2157 members;

2158 (d) The minutes of all meetings of members and records  
2159 of all actions approved by the members for the past three (3)  
2160 years;

2161 (e) All written communications to members generally  
2162 within the past three (3) years;

2163 (f) A list of the names and business or home addresses  
2164 of its current directors and officers; and

2165 (g) Its most recent annual report delivered to the  
2166 Secretary of State.

2167 **SECTION 90.** Section 79-11-285, Mississippi Code of 1972, is  
2168 brought forward as follows:

2169 79-11-285. (1) Subject to Section 79-11-287(3), a member is  
2170 entitled to inspect and copy, at a reasonable time and location  
2171 specified by the corporation, any of the records of the  
2172 corporation described in Section 79-11-283(5) if the member gives  
2173 the corporation written notice of his demand at least five (5)



2174 business days before the date on which the member wishes to  
2175 inspect and copy.

2176 (2) A member is entitled to inspect and copy, at a  
2177 reasonable time and reasonable location specified by the  
2178 corporation, any of the following records of the corporation if  
2179 the member meets the requirements of subsection (3) of this  
2180 section and gives the corporation written notice at least five (5)  
2181 business days before the date on which the member wishes to  
2182 inspect and copy:

2183 (a) Excerpts from any records required to be maintained  
2184 under Section 79-11-283(1), to the extent not subject to  
2185 inspection under subsection (1) of this section;

2186 (b) Accounting records of the corporation; and

2187 (c) Subject to Section 79-11-291, the membership list.

2188 (3) A member may inspect and copy the records identified in  
2189 subsection (2) of this section only if:

2190 (a) The member's demand is made in good faith and for a  
2191 proper purpose;

2192 (b) The member describes with reasonable particularity  
2193 the purpose and the records the member desires to inspect; and

2194 (c) The records are directly connected with this  
2195 purpose.

2196 (4) This section does not affect:



2197 (a) The right of a member to inspect records if the  
2198 member is in litigation with the corporation, to the same extent  
2199 as any other litigant; or

2200 (b) The power of a court, independently of Section  
2201 79-11-101 et seq., to compel the production of corporate records  
2202 for examination.

2203 **SECTION 91.** Section 79-11-287, Mississippi Code of 1972, is  
2204 brought forward as follows:

2205 79-11-287. (1) A member's agent or attorney has the same  
2206 inspection and copying rights as the member the agent or attorney  
2207 represents.

2208 (2) The right to copy records under Section 79-11-285  
2209 includes, if reasonable, the right to receive copies. Copies may  
2210 be provided through an electronic transmission if available and so  
2211 requested by the member.

2212 (3) The corporation may impose a reasonable charge, covering  
2213 the costs of labor and material, for copies of any documents  
2214 provided to the member. The charge may not exceed the estimated  
2215 cost of production or reproduction of the records.

2216 (4) The corporation may comply with a member's demand to  
2217 inspect the record of members under Section 79-11-285(2)(c) by  
2218 providing the member with a list of its members that was compiled  
2219 no earlier than the date of the member's demand.

2220 **SECTION 92.** Section 79-11-289, Mississippi Code of 1972, is  
2221 brought forward as follows:



2222           79-11-289. (1) If a corporation does not allow a member who  
2223 complies with Section 79-11-285(1) to inspect and copy any records  
2224 required by that subsection to be available for inspection, the  
2225 chancery court in the county where the corporation's principal  
2226 office is located, or the Chancery Court of the First Judicial  
2227 District of Hinds County, Mississippi, if the corporation does not  
2228 have a principal office in this state, may summarily order  
2229 inspection and copying of the records demanded at the  
2230 corporation's expense upon application of the member.

2231           (2) If a corporation does not within a reasonable time allow  
2232 a member to inspect and copy any other record, the member who  
2233 complies with Section 79-11-285(2) and (3) may apply to the  
2234 chancery court in the county where the corporation's principal  
2235 office is located, or the Chancery Court of the First Judicial  
2236 District of Hinds County, Mississippi, if the corporation does not  
2237 have a principal office in this state, for an order to permit  
2238 inspection and copying of the records demanded. The court shall  
2239 dispose of an application under this subsection on an expedited  
2240 basis.

2241           (3) If the court orders inspection and copying of the  
2242 records demanded, it shall also order the corporation to pay the  
2243 member's costs (including reasonable attorney's fees) incurred to  
2244 obtain the order unless the corporation proves that it refused  
2245 inspection in good faith because it had a reasonable basis for



2246 doubt about the right of the member to inspect the records  
2247 demanded.

2248 (4) If the court orders inspection and copying of the  
2249 records demanded, it may impose reasonable restrictions on the use  
2250 or distribution of the records by the demanding member.

2251 **SECTION 93.** Section 79-11-291, Mississippi Code of 1972, is  
2252 brought forward as follows:

2253 79-11-291. Without consent of the board, a membership list  
2254 or any part thereof may not be obtained or used by any person for  
2255 any purpose unrelated to a member's interest as a member. Without  
2256 limiting the generality of the foregoing, without the consent of  
2257 the board a membership list or any part thereof may not be:

2258 (a) Used to solicit money or property unless such money  
2259 or property will be used solely to solicit the votes of the  
2260 members in an election to be held by the corporation;

2261 (b) Used for any commercial purpose; or

2262 (c) Sold to or purchased by any person.

2263 **SECTION 94.** Section 79-11-293, Mississippi Code of 1972, is  
2264 brought forward as follows:

2265 79-11-293. (1) Except as authorized under subsections (2)  
2266 and (3) of this section, a corporation shall not make any  
2267 distributions.

2268 (2) A corporation may purchase its memberships if after the  
2269 purchase is completed:



2270 (a) The corporation would be able to pay its debts as  
2271 they become due in the usual course of its activities; and

2272 (b) The corporation's total assets would at least equal  
2273 the sum of its total liabilities.

2274 (3) A corporation may make distributions upon dissolution in  
2275 accordance with the provisions of Section 79-11-101 et seq.  
2276 relating to dissolution.

2277 **SECTION 95.** Section 79-11-295, Mississippi Code of 1972, is  
2278 brought forward as follows:

2279 79-11-295. A corporation may amend its articles of  
2280 incorporation, from time to time, in any and as many respects as  
2281 may be desired, so long as its articles of incorporation as  
2282 amended contain only such provisions as are lawful under Section  
2283 79-11-101 et seq.

2284 **SECTION 96.** Section 79-11-297, Mississippi Code of 1972, is  
2285 brought forward as follows:

2286 79-11-297. If a corporation has not yet acquired members,  
2287 its incorporators or board of directors may adopt one or more  
2288 amendments to the corporation's articles of incorporation.

2289 **SECTION 97.** Section 79-11-299, Mississippi Code of 1972, is  
2290 brought forward as follows:

2291 79-11-299. Unless the articles of incorporation provide  
2292 otherwise, a corporation's board of directors may adopt one or  
2293 more amendments to the corporation's articles of incorporation  
2294 without action by members:



2295 (a) To extend the duration of the corporation if it was  
2296 incorporated at a time when limited duration was required by law;

2297 (b) To delete the names and addresses of the initial  
2298 directors;

2299 (c) To change the information required by Section  
2300 79-35-5(a);

2301 (d) To make any other change expressly permitted by  
2302 Section 79-11-101 et seq. to be made without member action.

2303 **SECTION 98.** Section 79-11-301, Mississippi Code of 1972, is  
2304 brought forward as follows:

2305 79-11-301. Except as provided in Sections 79-11-297 and  
2306 79-11-299, amendments to the articles of incorporation shall be  
2307 made in the following manner:

2308 (a) If there are members entitled to vote thereon, the  
2309 board of directors shall adopt a resolution setting forth the  
2310 proposed amendment and directing that it be submitted to a vote at  
2311 a meeting of members entitled to vote thereon, which may be either  
2312 an annual or a special meeting. Written notice setting forth the  
2313 proposed amendment or a summary of the changes to be effected  
2314 thereby shall be given to each member entitled to vote at such  
2315 meeting within the time and in the manner provided in Section  
2316 79-11-101 et seq. for the giving of notice of meetings of members.  
2317 The proposed amendment shall be adopted upon receiving at least  
2318 two-thirds (2/3) of votes cast or a majority of the voting power,  
2319 whichever is less.



2320 (b) If there are no members, or no members entitled to  
2321 vote thereon, an amendment shall be adopted at a meeting of the  
2322 board of directors upon receiving the vote of a majority of the  
2323 directors in office.

2324 Any number of amendments may be submitted and voted upon at  
2325 any one meeting.

2326 **SECTION 99.** Section 79-11-303, Mississippi Code of 1972, is  
2327 brought forward as follows:

2328 79-11-303. (1) The members of a class are entitled to vote  
2329 as a class on a proposed amendment to the articles if the  
2330 amendment would:

2331 (a) Affect the rights, privileges, preferences,  
2332 restrictions or conditions of that class as to voting,  
2333 dissolution, redemption or transfer of memberships in a manner  
2334 different than such amendment would affect another class;

2335 (b) Change the rights, privileges, preferences,  
2336 restrictions or conditions of that class as to voting,  
2337 dissolution, redemption or transfer by changing the rights,  
2338 privileges, preferences, restrictions or conditions of another  
2339 class;

2340 (c) Increase or decrease the number of memberships  
2341 authorized for that class;

2342 (d) Increase the number of memberships authorized for  
2343 another class;





2344 (e) Effect an exchange, reclassification or termination  
2345 of the memberships of that class; or

2346 (f) Authorize a new class of memberships.

2347 (2) If a class is to be divided into two (2) or more classes  
2348 as a result of an amendment to the articles, the amendment must be  
2349 approved by the members of each class that would be created by the  
2350 amendment.

2351 (3) If a class vote is required to approve an amendment to  
2352 the articles the amendment must be approved by the members of the  
2353 class by two-thirds (2/3) of the votes cast by the class or a  
2354 majority of the voting power of the class, whichever is less.

2355 (4) A class of members is entitled to the voting rights  
2356 granted by this section although the articles and bylaws provide  
2357 that the class may not vote on the proposed amendment.

2358 **SECTION 100.** Section 79-11-305, Mississippi Code of 1972, is  
2359 brought forward as follows:

2360 79-11-305. A corporation amending its articles of  
2361 incorporation shall deliver to the Secretary of State for filing  
2362 articles of amendment setting forth:

2363 (a) The name of the corporation;

2364 (b) The text of each amendment adopted;

2365 (c) The date of each amendment's adoption;

2366 (d) If an amendment was adopted by the incorporators or  
2367 board of directors without action by members, a statement to that  
2368 effect and that action by members was not required;



2369 (e) If an amendment was approved by the members:

2370 (i) The designation, number of memberships  
2371 outstanding, number of votes entitled to be cast by each class  
2372 entitled to vote separately on the amendment, and number of votes  
2373 of each class indisputably represented at the meeting;

2374 (ii) Either the total number of votes cast for and  
2375 against the amendment by each class entitled to vote separately on  
2376 the amendment or the total number of undisputed votes cast for the  
2377 amendment by each class and a statement that the number cast for  
2378 the amendment by each class was sufficient for approval by that  
2379 voting group.

2380 **SECTION 101.** Section 79-11-307, Mississippi Code of 1972, is  
2381 brought forward as follows:

2382 79-11-307. (1) A corporation's board of directors may  
2383 restate its articles of incorporation at any time with or without  
2384 approval by members.

2385 (2) The restatement may include one or more amendments to  
2386 the articles. If the restatement includes an amendment requiring  
2387 approval by members, it must be adopted as provided in Section  
2388 79-11-301.

2389 (3) If the board of directors submits a restatement for  
2390 approval by members, the corporation shall notify each member of  
2391 the proposed meeting in accordance with Section 79-11-205. The  
2392 notice must also state that the purpose, or one of the purposes,  
2393 of the meeting is to consider the proposed restatement and contain



2394 or be accompanied by a copy of the restatement that identifies any  
2395 amendment or other change it would make in the articles.

2396 (4) A corporation restating its articles of incorporation  
2397 shall deliver to the Secretary of State for filing articles of  
2398 restatement setting forth the name of the corporation and the text  
2399 of the restated articles of incorporation together with a  
2400 certificate setting forth:

2401 (a) Whether the restatement contains an amendment to  
2402 the articles requiring approval by the members and, if it does  
2403 not, that the board of directors adopted the restatement; or

2404 (b) If the restatement contains an amendment to the  
2405 articles requiring approval by the members, the information  
2406 required by Section 79-11-305.

2407 (5) Duly adopted restated articles of incorporation  
2408 supersede the original articles of incorporation and all  
2409 amendments to them.

2410 (6) The Secretary of State may certify restated articles of  
2411 incorporation, as the articles of incorporation currently in  
2412 effect, without including the certificate information required by  
2413 subsection (4) of this section.

2414 **SECTION 102.** Section 79-11-309, Mississippi Code of 1972, is  
2415 brought forward as follows:

2416 79-11-309. (1) A corporation's articles of incorporation  
2417 may be amended without action by the board of directors or members  
2418 to carry out a plan of reorganization ordered or decreed by a



2419 court of competent jurisdiction under federal statute if the  
2420 articles of incorporation after amendment contain only provisions  
2421 required or permitted by Section 79-11-137.

2422 (2) The individual or individuals designated by the court  
2423 shall deliver to the Secretary of State for filing articles of  
2424 amendment setting forth:

2425 (a) The name of the corporation;

2426 (b) The text of each amendment approved by the court;

2427 (c) The date of the court's order or decree approving  
2428 the articles of amendment;

2429 (d) The title of the reorganization proceeding in which  
2430 the order or decree was entered; and

2431 (e) A statement that the court had jurisdiction of the  
2432 proceeding under federal statute.

2433 (3) Members of a corporation undergoing reorganization do  
2434 not have dissenters' rights except as and to the extent provided  
2435 in the reorganization plan.

2436 (4) This section does not apply after entry of a final  
2437 decree in the reorganization proceeding even though the court  
2438 retains jurisdiction of the proceeding for limited purposes  
2439 unrelated to consummation of the reorganization plan.

2440 **SECTION 103.** Section 79-11-311, Mississippi Code of 1972, is  
2441 brought forward as follows:

2442 79-11-311. An amendment to articles of incorporation does  
2443 not affect a cause of action existing against or in favor of the



2444 corporation, a proceeding to which the corporation is a party, any  
2445 requirement or limitation imposed upon the corporation or any  
2446 property held by it by virtue of any trust upon which such  
2447 property is held by the corporation or the existing rights of  
2448 persons other than members of the corporation. An amendment  
2449 changing a corporation's name does not abate a proceeding brought  
2450 by or against the corporation in its former name.

2451         **SECTION 104.** Section 79-11-313, Mississippi Code of 1972, is  
2452 brought forward as follows:

2453         79-11-313. If a corporation has no members, its  
2454 incorporators, until directors have been chosen, and thereafter  
2455 its board of directors may adopt one or more amendments to the  
2456 corporation's bylaws. The corporation shall provide notice of any  
2457 meeting of directors at which an amendment is to be approved. The  
2458 notice shall be in accordance with Section 79-11-259. The notice  
2459 must also state that the purpose, or one of the purposes, of the  
2460 meeting is to consider a proposed amendment to the bylaws and  
2461 contain or be accompanied by a copy or summary of the amendment or  
2462 state the general nature of the amendment. The amendment must be  
2463 approved by a majority of the directors in office at the time the  
2464 amendment is adopted.

2465         **SECTION 105.** Section 79-11-315, Mississippi Code of 1972, is  
2466 brought forward as follows:

2467         79-11-315. (1) Unless Section 79-11-101 et seq., the  
2468 articles, bylaws, the members (acting pursuant to subsection (2)



2469 of this section), or the board of directors (acting pursuant to  
2470 subsection (3) of this section) require a greater vote or voting  
2471 by class, an amendment to a corporation's bylaws to be adopted  
2472 must be approved:

2473 (a) By the board if the amendment does not relate to  
2474 the number of directors, the composition of the board, the term of  
2475 office of directors, or the method or way in which directors are  
2476 elected or selected; and

2477 (b) By the members of two-thirds (2/3) of the votes  
2478 cast or a majority of the voting power, whichever is less.

2479 (2) The members may condition the amendment's adoption on  
2480 its receipt of a higher percentage of affirmative votes or on any  
2481 other basis.

2482 (3) If the board initiates an amendment to the bylaws or  
2483 board approval is required by subsection (1) of this section to  
2484 adopt an amendment to the bylaws, the board may condition the  
2485 amendment's adoption on receipt of a higher percentage of  
2486 affirmative votes or on any other basis.

2487 (4) If the board or the members seek to have the amendment  
2488 approved by the members at a membership meeting, the corporation  
2489 shall give notice to its members of the proposed membership  
2490 meeting in writing in accordance with Section 79-11-205. The  
2491 notice must also state that the purpose, or one of the purposes,  
2492 of the meeting is to consider the proposed amendment and contain  
2493 or be accompanied by a copy or summary of the amendment.



2494 (5) If the board or the members seek to have the amendment  
2495 approved by the members by written consent or written ballot, the  
2496 material soliciting the approval shall contain or be accompanied  
2497 by a copy or summary of the amendment.

2498 **SECTION 106.** Section 79-11-317, Mississippi Code of 1972, is  
2499 brought forward as follows:

2500 79-11-317. (1) The members of a class are entitled to vote  
2501 as a class on a proposed amendment to the bylaws if the amendment  
2502 would:

2503 (a) Affect the rights, privileges, preferences,  
2504 restrictions or conditions of that class as to voting,  
2505 dissolution, redemption or transfer of memberships in a manner  
2506 different than such amendment would affect another class;

2507 (b) Change the rights, privileges, preferences,  
2508 restrictions or conditions of that class as to voting,  
2509 dissolution, redemption or transfer by changing the rights,  
2510 privileges, preferences, restrictions or conditions of another  
2511 class;

2512 (c) Increase or decrease the number of memberships  
2513 authorized for that class;

2514 (d) Increase the number of memberships authorized for  
2515 another class;

2516 (e) Effect an exchange, reclassification or termination  
2517 of all or part of the memberships of that class; or

2518 (f) Authorize a new class of memberships.



2519 (2) If a class is to be divided into two (2) or more classes  
2520 as a result of an amendment to the bylaws, the amendment must be  
2521 approved by the members of each class that would be created by the  
2522 amendment.

2523 (3) If a class vote is required to approve an amendment to  
2524 the bylaws, the amendment must be approved by the members of the  
2525 class of two-thirds (2/3) of the votes cast by the class or a  
2526 majority of the voting power of the class, whichever is less.

2527 (4) A class of members is entitled to the voting rights  
2528 granted by this section although the articles and bylaws provide  
2529 that the class may not vote on the proposed amendment.

2530 **SECTION 107.** Section 79-11-319, Mississippi Code of 1972, is  
2531 brought forward as follows:

2532 79-11-319. (1) One or more nonprofit corporations may merge  
2533 into a business or nonprofit corporation, if the plan of merger is  
2534 approved as provided in Section 79-11-321.

2535 (2) The plan of merger must set forth:

2536 (a) The name of each corporation planning to merge and  
2537 the name of the surviving corporation into which each plans to  
2538 merge; and

2539 (b) The terms and conditions of the planned merger.

2540 (3) The plan of merger may set forth:

2541 (a) Any amendments to the articles of incorporation or  
2542 bylaws of the surviving corporation to be effected by the planned  
2543 merger; and





2544 (b) Other provisions relating to the planned merger.

2545 **SECTION 108.** Section 79-11-321, Mississippi Code of 1972, is  
2546 brought forward as follows:

2547 79-11-321. (1) Unless Section 79-11-101 et seq., the  
2548 articles of incorporation, the bylaws or the board of directors or  
2549 members (acting pursuant to subsection (3) of this section)  
2550 require a greater vote or voting by class, a plan of merger to be  
2551 adopted must be approved:

2552 (a) By the board of directors; and

2553 (b) By the members, if any, by two-thirds (2/3) of the  
2554 votes cast or a majority of the voting power, whichever is less.

2555 (2) If the corporation does not have members, the merger  
2556 must be approved by a majority of the directors in office at the  
2557 time the merger is approved. In addition, the corporation shall  
2558 provide notice of any directors' meeting at which such approval is  
2559 to be obtained in accordance with Section 79-11-259. The notice  
2560 must also state that the purpose, or one of the purposes, of the  
2561 meeting is to consider the proposed merger.

2562 (3) The board may condition its submission of the proposed  
2563 merger, and the members may condition their approval of the  
2564 merger, on receipt of a higher percentage of affirmative votes or  
2565 on any other basis.

2566 (4) If the board seeks to have the plan approved by the  
2567 members at a membership meeting, the corporation shall give notice  
2568 to its members of the proposed membership meeting in accordance



2569 with Section 79-11-205. The notice must also state that the  
2570 purpose, or one of the purposes, of the meeting is to consider the  
2571 plan of merger and contain or be accompanied by a copy or summary  
2572 of the plan. The copy or summary of the plan for members of the  
2573 surviving corporation shall include any provision that, if  
2574 contained in a proposed amendment to the articles of incorporation  
2575 or bylaws, would entitle members to vote on the provision. The  
2576 copy or summary of the plan for members of the disappearing  
2577 corporation shall include a copy or summary of the articles and  
2578 bylaws which will be in effect immediately after the merger takes  
2579 effect.

2580 (5) If the board seeks to have the plan approved by the  
2581 members by written consent or written ballot, the material  
2582 soliciting the approval shall contain or be accompanied by a copy  
2583 or summary of the plan. The copy or summary of the plan for  
2584 members of the surviving corporation shall include any provision  
2585 that, if contained in a proposed amendment to the articles of  
2586 incorporation or bylaws, would entitle members to vote on the  
2587 provision. The copy or summary of the plan for members of the  
2588 disappearing corporation shall include a copy or summary of the  
2589 articles and bylaws which will be in effect immediately after the  
2590 merger takes effect.

2591 (6) Voting by a class of members is required on a plan of  
2592 merger if the plan contains a provision that, if contained in a  
2593 proposed amendment to articles of incorporation or bylaws, would



2594 entitle the class of members to vote as a class on the proposed  
2595 amendment under Section 79-11-303 or 79-11-317. The plan is  
2596 approved by a class of members by two-thirds (2/3) of the votes  
2597 cast by the class or a majority of the voting power of the class,  
2598 whichever is less.

2599 (7) After a merger is adopted, and at any time before  
2600 articles of merger are filed, the planned merger may be abandoned  
2601 (subject to any contractual rights) without further action by  
2602 members or other persons who approved the plan in accordance with  
2603 the procedure set forth in the plan of merger or, if none is set  
2604 forth, in the manner determined by the board of directors.

2605 **SECTION 109.** Section 79-11-323, Mississippi Code of 1972, is  
2606 brought forward as follows:

2607 79-11-323. After a plan of merger is approved by the board  
2608 of directors, and if required by Section 79-11-321, by the  
2609 members, the surviving or acquiring corporation shall deliver to  
2610 the Secretary of State articles of merger setting forth:

2611 (a) The plan of merger;

2612 (b) If approval of members was not required, a  
2613 statement to that effect and a statement that the plan was  
2614 approved by a sufficient vote of the board of directors;

2615 (c) If approval by members was required:

2616 (i) The designation, number of memberships  
2617 outstanding, number of votes entitled to be cast by each class



2618 entitled to vote separately on the plan, and number of votes of  
2619 each class indisputably voting on the plan; and

2620 (ii) Either the total number of votes cast for and  
2621 against the plan by each class entitled to vote separately on the  
2622 plan or the total number of undisputed votes cast for the plan by  
2623 each class and a statement that the number cast for the plan by  
2624 each class was sufficient for approval by that class.

2625 **SECTION 110.** Section 79-11-325, Mississippi Code of 1972, is  
2626 brought forward as follows:

2627 79-11-325. (1) When a merger takes effect:

2628 (a) Every other corporation party to the merger merges  
2629 into the surviving corporation and the separate existence of every  
2630 corporation except the surviving corporation ceases;

2631 (b) The title to all real estate and other property  
2632 owned by each corporation party to the merger is vested in the  
2633 surviving corporation without reversion or impairment;

2634 (c) The surviving corporation has all liabilities and  
2635 obligations of each corporation party to the merger, provided that  
2636 trust obligations upon property of a disappearing corporation  
2637 shall be limited to the property affected thereby immediately  
2638 prior to the time the merger is effective;

2639 (d) A proceeding pending against any corporation party  
2640 to the merger may be continued as if the merger did not occur or  
2641 the surviving corporation may be substituted in the proceeding for  
2642 the corporation whose existence ceased;



2643 (e) The articles of incorporation and bylaws of the  
2644 surviving corporation are amended to the extent provided in the  
2645 plan of merger.

2646 **SECTION 111.** Section 79-11-327, Mississippi Code of 1972, is  
2647 brought forward as follows:

2648 79-11-327. (1) One or more foreign business or nonprofit  
2649 corporations may merge with one or more domestic nonprofit  
2650 corporations if:

2651 (a) The merger is permitted by the law of the state or  
2652 country under whose law each foreign corporation is incorporated  
2653 and each foreign corporation complies with that law in effecting  
2654 the merger;

2655 (b) The foreign corporation complies with Section  
2656 79-11-323 if it is the surviving corporation of the merger; and

2657 (c) Each domestic nonprofit corporation complies with  
2658 the applicable provisions of Sections 79-11-319 and 79-11-321 and,  
2659 if it is the surviving corporation of the merger, with Section  
2660 79-11-323.

2661 (2) Upon the merger taking effect, the surviving foreign  
2662 business or nonprofit corporation may be served with process in  
2663 any proceeding brought against it as provided in the Mississippi  
2664 Rules of Civil Procedure.

2665 **SECTION 112.** Section 79-11-329, Mississippi Code of 1972, is  
2666 brought forward as follows:



2667           79-11-329. (1) A corporation may on the terms and  
2668 conditions and for the consideration determined by the board of  
2669 directors:

2670                 (a) Sell, lease, exchange or otherwise dispose of all,  
2671 or substantially all, of its property in the usual and regular  
2672 course of its activities; or

2673                 (b) Mortgage, pledge, dedicate to the repayment of  
2674 indebtedness (with or without recourse), or otherwise encumber any  
2675 or all of its property whether or not in the usual and regular  
2676 course of its activities.

2677           (2) Unless the articles of incorporation require it,  
2678 approval by the members of a transaction described in subsection  
2679 (1) of this section is not required.

2680           **SECTION 113.** Section 79-11-331, Mississippi Code of 1972, is  
2681 brought forward as follows:

2682           79-11-331. (1) A corporation may sell, lease, exchange or  
2683 otherwise dispose of all, or substantially all, of its property  
2684 (with or without the goodwill) other than in the usual and regular  
2685 course of its activities on the terms and conditions and for the  
2686 consideration determined by the corporation's board if the  
2687 proposed transaction is authorized by subsection (2) of this  
2688 section.

2689           (2) Unless Section 79-11-101 et seq., the articles of  
2690 incorporation, the bylaws, or the board of directors or members  
2691 (acting pursuant to subsection (4) of this section) require a



2692 greater vote or voting by class, the proposed transaction to be  
2693 authorized must be approved:

2694 (a) By the board of directors; and

2695 (b) By the members of two-thirds (2/3) of the votes  
2696 cast or a majority of the voting power, whichever is less.

2697 (3) If the corporation does not have members the transaction  
2698 must be approved by a vote of a majority of the directors in  
2699 office at the time the transaction is approved. In addition the  
2700 corporation shall provide notice of any directors' meeting at  
2701 which such approval is to be obtained in accordance with Section  
2702 79-11-259. The notice must also state that the purpose, or one of  
2703 the purposes, of the meeting is to consider the sale, lease,  
2704 exchange or other disposition of all, or substantially all, of the  
2705 property or assets of the corporation and contain or be  
2706 accompanied by a copy or summary of a description of the  
2707 transaction.

2708 (4) The board may condition its submission of the proposed  
2709 transaction, and the members may condition their approval of the  
2710 transaction, on receipt of a higher percentage of affirmative  
2711 votes or on any other basis.

2712 (5) If the corporation seeks to have the transaction  
2713 approved by the members at a membership meeting, the corporation  
2714 shall give notice to its members of the proposed membership  
2715 meeting in accordance with Section 79-11-205. The notice must  
2716 also state that the purpose, or one of the purposes, of the



2717 meeting is to consider the sale, lease, exchange or other  
2718 disposition of all, or substantially all, of the property or  
2719 assets of the corporation and contain or be accompanied by a copy  
2720 or summary of a description of the transaction.

2721 (6) If the board needs to have the transaction approved by  
2722 the members by written consent or written ballot, the material  
2723 soliciting the approval shall contain or be accompanied by a copy  
2724 or summary of a description of the transaction.

2725 (7) After a sale, lease, exchange or other disposition of  
2726 property is authorized, the transaction may be abandoned (subject  
2727 to any contractual rights) without further action by the members  
2728 or any other person who approved the transaction in accordance  
2729 with the procedure set forth in the resolution proposing the  
2730 transaction or, if none is set forth, in the manner determined by  
2731 the board of directors.

2732 **SECTION 114.** Section 79-11-333, Mississippi Code of 1972, is  
2733 brought forward as follows:

2734 79-11-333. (1) A majority of the incorporators or directors  
2735 of a corporation that has no members may, subject to any approval  
2736 required by the articles or bylaws, dissolve the corporation by  
2737 delivering to the Secretary of State articles of dissolution.

2738 (2) The corporation shall give notice of any meeting at  
2739 which dissolution will be approved. The notice shall be in  
2740 accordance with Section 79-11-259. The notice must also state





2741 that the purpose, or one of the purposes, of the meeting is to  
2742 consider dissolution of the corporation.

2743 (3) The incorporators or directors in approving dissolution  
2744 shall adopt a plan of dissolution indicating to whom the assets  
2745 owned or held by the corporation will be distributed after all  
2746 creditors have been paid.

2747 **SECTION 115.** Section 79-11-335, Mississippi Code of 1972, is  
2748 brought forward as follows:

2749 79-11-335. (1) Unless Section 79-11-101 et seq., the  
2750 articles of incorporation, the bylaws or the board of directors or  
2751 members (acting pursuant to subsection (3) of this section)  
2752 require a greater vote or voting by class, dissolution is  
2753 authorized if it is approved:

2754 (a) By the board of directors; and

2755 (b) By the members, if any, by two-thirds (2/3) of the  
2756 votes cast, or a majority of the voting power, whichever is less.

2757 (2) If the corporation does not have members, dissolution  
2758 must be approved by a vote of a majority of the directors in  
2759 office at the time the transaction is approved. In addition, the  
2760 corporation shall provide notice of any directors' meeting at  
2761 which such approval is to be obtained in accordance with Section  
2762 79-11-259. The notice must also state that the purpose, or one of  
2763 the purposes, of the meeting is to consider dissolution of the  
2764 corporation and contain or be accompanied by a copy or summary of  
2765 the plan of dissolution.



2766 (3) The board may condition its submission of the proposed  
2767 dissolution, and the members may condition their approval of the  
2768 dissolution on receipt of a higher percentage of affirmative votes  
2769 or on any other basis.

2770 (4) If the board seeks to have dissolution approved by the  
2771 members at a membership meeting, the corporation shall give notice  
2772 to its members of the proposed membership meeting in accordance  
2773 with Section 79-11-205. The notice must also state that the  
2774 purpose, or one of the purposes, of the meeting is to consider  
2775 dissolving the corporation and contain or be accompanied by a copy  
2776 or summary of the plan of dissolution.

2777 (5) If the board seeks to have dissolution approved by the  
2778 members by written consent or written ballot, the material  
2779 soliciting the approval shall contain or be accompanied by a copy  
2780 or summary of the plan of dissolution.

2781 (6) The plan of dissolution shall indicate to whom the  
2782 assets owned or held by the corporation will be distributed after  
2783 all creditors have been paid.

2784 **SECTION 116.** Section 79-11-336, Mississippi Code of 1972, is  
2785 brought forward as follows:

2786 79-11-336. The assets of a corporation in the process of  
2787 voluntary dissolution pursuant to Section 79-11-333 or Section  
2788 79-11-335 shall be applied and distributed as follows:

2789 (a) All liabilities and obligations of the corporation  
2790 shall be paid, satisfied and discharged; in case its property and



2791 assets are not sufficient to satisfy or discharge all the  
2792 corporation's liabilities and obligations, the corporation shall  
2793 apply them so far as they will go to the just and equitable  
2794 payment of the liabilities and obligations.

2795 (b) Assets held by the corporation upon condition  
2796 requiring return, transfer or conveyance, which condition occurs  
2797 by reason of the dissolution, shall be returned, transferred or  
2798 conveyed in accordance with such requirements.

2799 (c) If the corporation to be dissolved is a charitable  
2800 organization, as defined in Section 79-11-501, the remaining  
2801 assets shall be transferred to another charitable organization or  
2802 other charitable organizations, as defined in Section 79-11-501,  
2803 either domestic or foreign, engaged in activities substantially  
2804 similar to those of the dissolving corporation, or to the federal  
2805 government, or to a state or local government, for a public  
2806 purpose. For all other nonprofit corporations, assets received  
2807 and held by the corporation subject to limitations permitting  
2808 their use only for charitable, religious, eleemosynary,  
2809 benevolent, educational or similar purposes, but not held upon a  
2810 condition requiring return, transfer or conveyance by reason of  
2811 the dissolution, shall be transferred or conveyed to one or more  
2812 domestic or foreign corporations, societies or organizations  
2813 engaged in activities substantially similar to those of the  
2814 dissolving corporation.



2815 (d) Other assets not described above, if any, shall be  
2816 distributed in accordance with the provisions of the articles of  
2817 incorporation or the bylaws to the extent that the articles of  
2818 incorporation or bylaws determine the distributive right of  
2819 members, or any class or classes of members, or provide for  
2820 distribution to others.

2821 **SECTION 117.** Section 79-11-337, Mississippi Code of 1972, is  
2822 brought forward as follows:

2823 79-11-337. (1) At any time after dissolution is authorized,  
2824 the corporation may dissolve by delivering to the Secretary of  
2825 State articles of dissolution setting forth:

2826 (a) The name of the corporation;

2827 (b) The date dissolution was authorized;

2828 (c) A statement that dissolution was approved by a  
2829 sufficient vote of the board;

2830 (d) That all debts, obligations and liabilities of the  
2831 corporation have been paid and discharged or that adequate  
2832 provision has been made therefor;

2833 (e) That all remaining property and assets of the  
2834 corporation have been distributed among its members in accordance  
2835 with their respective rights and interest, or have been otherwise  
2836 distributed pursuant to the articles or bylaws of the corporation;  
2837 or, in the case of a corporation which is also a charitable  
2838 organization, as defined in Section 79-11-501, that the remaining  
2839 property and assets of the corporation have been transferred to



2840 another charitable organization or other charitable organizations,  
2841 as defined in Section 79-11-501, either domestic or foreign,  
2842 engaged in activities substantially similar to those of the  
2843 dissolving corporation, or to the federal government, or to a  
2844 state or local government, for a public purpose;

2845 (f) If approval of members was not required, a  
2846 statement to that effect and a statement that dissolution was  
2847 approved by a sufficient vote of the board of directors or  
2848 incorporators;

2849 (g) If approval by members was required:

2850 (i) The designation, number of memberships  
2851 outstanding, number of votes entitled to be cast by each class  
2852 entitled to vote separately on dissolution, and number of votes of  
2853 each class indisputably voting on dissolution; and

2854 (ii) Either the total number of votes cast for and  
2855 against dissolution by each class entitled to vote separately on  
2856 dissolution or the total number of undisputed votes cast for  
2857 dissolution by each class and a statement that the number cast for  
2858 dissolution by each class was sufficient for approval by that  
2859 class.

2860 (2) A corporation is dissolved upon the effective date of  
2861 its articles of dissolution.

2862 **SECTION 118.** Section 79-11-339, Mississippi Code of 1972, is  
2863 brought forward as follows:



2864           79-11-339. (1) A corporation may revoke its dissolution  
2865 within one hundred twenty (120) days of its effective date.

2866           (2) Revocation of dissolution must be authorized in the same  
2867 manner as the dissolution was authorized unless that authorization  
2868 permitted revocation by action of the board of directors alone, in  
2869 which event the board of directors may revoke the dissolution  
2870 without action by the members or any other person.

2871           (3) After the revocation of dissolution is authorized, the  
2872 corporation may revoke the dissolution by delivering to the  
2873 Secretary of State for filing articles of revocation of  
2874 dissolution, together with a copy of its articles of dissolution,  
2875 that set forth:

2876                   (a) The name of the corporation;

2877                   (b) The effective date of the dissolution that was  
2878 revoked;

2879                   (c) The date that the revocation of dissolution was  
2880 authorized;

2881                   (d) If the corporation's board of directors (or  
2882 incorporators) revoked the dissolution, a statement to that  
2883 effect;

2884                   (e) If the corporation's board of directors revoked a  
2885 dissolution authorized by the members alone or in conjunction with  
2886 another person or persons, a statement that revocation was  
2887 permitted by action by the board of directors alone pursuant to  
2888 that authorization; and



2889 (f) If member action was required to revoke the  
2890 dissolution, the information required by Section 79-11-337.

2891 (4) Revocation of dissolution is effective upon the  
2892 effective date of the articles of revocation of dissolution.

2893 (5) When the revocation of dissolution is effective, it  
2894 relates back to and takes effect as of the effective date of the  
2895 dissolution and the corporation resumes carrying on its activities  
2896 as if dissolution had never occurred.

2897 **SECTION 119.** Section 79-11-341, Mississippi Code of 1972, is  
2898 brought forward as follows:

2899 79-11-341. (1) A dissolved corporation continues its  
2900 corporate existence but may not carry on any activities except  
2901 those appropriate to wind up and liquidate its affairs, including:

2902 (a) Preserving and protecting its assets and minimizing  
2903 its liabilities;

2904 (b) Discharging or making provision for discharging its  
2905 liabilities and obligations;

2906 (c) Disposing of its properties that will not be  
2907 distributed in kind;

2908 (d) Returning, transferring or conveying assets held by  
2909 the corporation upon a condition requiring return, transfer or  
2910 conveyance, which condition occurs by reason of the dissolution,  
2911 in accordance with such condition;



2912 (e) Transferring, subject to any contractual or legal  
2913 requirements, its assets as provided in or authorized by its  
2914 articles of incorporation or bylaws; and

2915 (f) Doing every other act necessary to wind up and  
2916 liquidate its assets and affairs.

2917 (2) Dissolution of a corporation does not:

2918 (a) Transfer title to the corporation's property;

2919 (b) Subject its directors or officers to standards of  
2920 conduct different from those prescribed in Sections 79-11-267 and  
2921 79-11-275;

2922 (c) Change quorum or voting requirements for its board  
2923 of directors or members; change provisions for selection,  
2924 resignation or removal of its directors or officers or both; or  
2925 change provisions for amending its bylaws;

2926 (d) Prevent commencement of a proceeding by or against  
2927 the corporation in its corporate name;

2928 (e) Abate or suspend a proceeding pending by or against  
2929 the corporation on the effective date of dissolution; or

2930 (f) Terminate the authority of the registered agent.

2931 **SECTION 120.** Section 79-11-343, Mississippi Code of 1972, is  
2932 brought forward as follows:

2933 79-11-343. (1) A dissolved corporation may dispose of the  
2934 known claims against it by following the procedure described in  
2935 this section.





2936 (2) The dissolved corporation shall notify its known  
2937 claimants in writing of the dissolution at any time after its  
2938 effective date. The written notice must:

2939 (a) Describe information that must be included in a  
2940 claim;

2941 (b) Provide a mailing address where a claim may be  
2942 sent;

2943 (c) State the deadline, which may not be fewer than one  
2944 hundred twenty (120) days from the effective date of the written  
2945 notice, by which the dissolved corporation must receive the claim;  
2946 and

2947 (d) State that the claim will be barred if not received  
2948 by the deadline.

2949 (3) A claim against the dissolved corporation is barred:

2950 (a) If a claimant who was given written notice under  
2951 subsection (2) of this section does not deliver the claim to the  
2952 dissolved corporation by the deadline;

2953 (b) If a claimant whose claim was rejected by the  
2954 dissolved corporation does not commence a proceeding to enforce  
2955 the claim within ninety (90) days from the effective date of the  
2956 rejection notice.

2957 (4) For purposes of this section "claim" does not include a  
2958 contingent liability or a claim based on an event occurring after  
2959 the effective date of dissolution.



2960           **SECTION 121.** Section 79-11-345, Mississippi Code of 1972, is  
2961 brought forward as follows:

2962           79-11-345. (1) A dissolved corporation may also publish  
2963 notice of its dissolution and request that persons with claims  
2964 against the corporation present them in accordance with the  
2965 notice.

2966           (2) The notice must:

2967                   (a) Be published one (1) time in a newspaper of general  
2968 circulation in the county where the dissolved corporation's  
2969 principal office is or was located, or in Hinds County if the  
2970 corporation does not have a principal office in this state;

2971                   (b) Describe the information that must be included in a  
2972 claim and provide a mailing address where the claim may be sent;  
2973 and

2974                   (c) State that a claim against the corporation will be  
2975 barred unless a proceeding to enforce the claim is commenced  
2976 within two (2) years after publication of this notice.

2977           (3) If the dissolved corporation publishes a newspaper  
2978 notice in accordance with subsection (2) of this section, the  
2979 claim of each of the following claimants is barred unless the  
2980 claimant commences a proceeding to enforce the claim against the  
2981 dissolved corporation within two (2) years after the publication  
2982 date of the newspaper notice:

2983                   (a) A claimant who did not receive written notice under  
2984 Section 79-11-343;



2985 (b) A claimant whose claim was timely sent to the  
2986 dissolved corporation but not acted on; and

2987 (c) A claimant whose claim is contingent or based on an  
2988 event occurring after the effective date of dissolution.

2989 (4) A claim may be enforced under this section:

2990 (a) Against the dissolved corporation, to the extent of  
2991 its undistributed assets; or

2992 (b) If the assets have been distributed in liquidation,  
2993 against any person, other than a creditor of the corporation, to  
2994 whom the corporation distributed its property to the extent of the  
2995 distributee's pro rata share of the claim or the corporate assets  
2996 distributed to such person in liquidation, whichever is less, but  
2997 the distributee's total liability for all claims under this  
2998 section may not exceed the total amount of assets distributed to  
2999 the distributee.

3000 **SECTION 122.** Section 79-11-347, Mississippi Code of 1972, is  
3001 brought forward as follows:

3002 79-11-347. The Secretary of State may commence a proceeding  
3003 under Section 79-11-349 to administratively dissolve a corporation  
3004 if:

3005 (a) The corporation does not pay within sixty (60) days  
3006 after they are due any taxes or penalties imposed by Section  
3007 79-11-101 et seq. or other law;



3008 (b) The corporation does not deliver the required  
3009 annual report to the Secretary of State within sixty (60) days  
3010 after it is due;

3011 (c) The corporation is without a registered agent in  
3012 this state for sixty (60) days or more;

3013 (d) The corporation does not notify the Secretary of  
3014 State within one hundred twenty (120) days that its registered  
3015 agent has been changed or that its registered agent has resigned;

3016 (e) The corporation's period of duration, if any,  
3017 stated in its articles of incorporation expires;

3018 (f) The corporation fails to report within the time  
3019 period specified in Section 79-11-405 the suspension or revocation  
3020 of its tax-exempt status under Section 501(c)(3) of the Internal  
3021 Revenue Code; or

3022 (g) An incorporator, director, officer or agent of the  
3023 corporation signed a document he knew was false in any material  
3024 respect with intent that the document be delivered to the  
3025 Secretary of State for filing.

3026 **SECTION 123.** Section 79-11-349, Mississippi Code of 1972, is  
3027 brought forward as follows:

3028 79-11-349. (1) Upon determining that one or more grounds  
3029 exist under Section 79-11-347 for dissolving a corporation, the  
3030 Secretary of State shall notify the corporation in the form of a  
3031 record of that determination.



3032           (2) If the corporation does not correct each ground for  
3033 dissolution or demonstrate to the reasonable satisfaction of the  
3034 Secretary of State that each ground determined by the Secretary of  
3035 State does not exist within at least sixty (60) days after service  
3036 of the notice is perfected, the Secretary of State may  
3037 administratively dissolve the corporation by signing a certificate  
3038 of dissolution that recites the ground or grounds for dissolution  
3039 and its effective date. The Secretary of State shall file the  
3040 original of the certificate and serve a copy on the corporation.

3041           (3) A corporation administratively dissolved continues its  
3042 corporate existence but may not carry on any activities except  
3043 those necessary to wind up and liquidate its affairs under Section  
3044 79-11-341 and notify its claimants under Sections 79-11-343 and  
3045 79-11-345.

3046           (4) The administrative dissolution of a corporation does not  
3047 terminate the authority of its registered agent.

3048           **SECTION 124.** Section 79-11-351, Mississippi Code of 1972, is  
3049 brought forward as follows:

3050           79-11-351. (1) A corporation administratively dissolved  
3051 under Section 79-11-349 may apply to the Secretary of State for  
3052 reinstatement at any time after the effective date of dissolution.  
3053 The application must:

3054           (a) Recite the name of the corporation and the  
3055 effective date of its administrative dissolution;



3056 (b) State that the ground or grounds for dissolution  
3057 either did not exist or have been eliminated;

3058 (c) State that the corporation's name satisfies the  
3059 requirements of Section 79-11-157; and

3060 (d) Contain a certificate from the Department of  
3061 Revenue reciting that all taxes owed by the corporation have been  
3062 paid.

3063 (2) If the Secretary of State determines that the  
3064 application contains the information required by subsection (1) of  
3065 this section and that the information is correct, the Secretary of  
3066 State shall cancel the certificate of dissolution and prepare a  
3067 certificate of reinstatement reciting that determination and the  
3068 effective date of reinstatement, file the original of the  
3069 certificate and serve a copy on the corporation.

3070 (3) When reinstatement is effective, it relates back to and  
3071 takes effect as of the effective date of the administrative  
3072 dissolution and the corporation shall resume carrying on its  
3073 activities as if the administrative dissolution had never  
3074 occurred.

3075 **SECTION 125.** Section 79-11-353, Mississippi Code of 1972, is  
3076 brought forward as follows:

3077 79-11-353. (1) The Secretary of State, upon denying a  
3078 corporation's application for reinstatement following  
3079 administrative dissolution, shall serve the corporation with a  
3080 written notice that explains the reason or reasons for denial.



3081           (2) The corporation may appeal the denial of reinstatement  
3082 to the chancery court of the county where the corporation's  
3083 principal office is or was located, or in the Chancery Court of  
3084 the First Judicial District of Hinds County, Mississippi, if the  
3085 corporation does not have a principal office in this state, within  
3086 ninety (90) days after service of the notice of denial is  
3087 perfected. The corporation appeals by petitioning the court to  
3088 set aside the dissolution and attaching to the petition copies of  
3089 the Secretary of State's certificate of dissolution, the  
3090 corporation's application for reinstatement and the Secretary of  
3091 State's notice of denial.

3092           (3) The court may summarily order the Secretary of State to  
3093 reinstate the dissolved corporation or may take other action the  
3094 court considers appropriate.

3095           (4) The court's final decision may be appealed as in other  
3096 civil proceedings.

3097           **SECTION 126.** Section 79-11-355, Mississippi Code of 1972, is  
3098 brought forward as follows:

3099           79-11-355. (1) The chancery court of the county where the  
3100 corporation's principal office is or was located, or in the  
3101 Chancery Court of the First Judicial District of Hinds County,  
3102 Mississippi, if the corporation does not have a principal office  
3103 in this state, may dissolve a corporation:

3104           (a) In a proceeding by the Attorney General or the  
3105 Secretary of State if it is established that:



3106 (i) The corporation obtained its articles of  
3107 incorporation through fraud;

3108 (ii) The corporation has continued to exceed or  
3109 abuse the authority conferred upon it by law; or

3110 (iii) If the corporation is a charitable  
3111 organization, as defined in Section 79-11-501, that:

3112 1. The corporate assets are being misapplied  
3113 or wasted;

3114 2. The corporation is unable to carry out its  
3115 purpose(s); or

3116 3. The corporation has violated the laws  
3117 regulating the solicitation of charitable contributions, Section  
3118 79-11-501 et seq.;

3119 (b) In a proceeding by fifty (50) members or members  
3120 holding five percent (5%) of the voting power, whichever is less,  
3121 or by a director if it is established that:

3122 (i) The directors are deadlocked in the management  
3123 of the corporate affairs, and the members, if any, are unable to  
3124 breach the deadlock;

3125 (ii) The directors or those in control of the  
3126 corporation have acted, are acting or will act in a manner that is  
3127 illegal, oppressive or fraudulent;

3128 (iii) The members are deadlocked in voting power  
3129 and have failed, for a period that includes at least two (2)





3130 consecutive annual meeting dates, to elect successors to directors  
3131 whose terms have, or would otherwise have, expired; or

3132 (iv) The corporate assets are being misapplied or  
3133 wasted;

3134 (c) In a proceeding by a creditor if it is established  
3135 that:

3136 (i) The creditor's claim has been reduced to  
3137 judgment, the execution on the judgment returned unsatisfied and  
3138 the corporation is insolvent; or

3139 (ii) The corporation has admitted in writing that  
3140 the creditor's claim is due and owing and the corporation is  
3141 insolvent; or

3142 (d) In a proceeding by the corporation to have its  
3143 voluntary dissolution continued under court supervision.

3144 (2) Prior to dissolving a corporation, the court shall  
3145 consider whether there are reasonable alternatives to dissolution.

3146 **SECTION 127.** Section 79-11-357, Mississippi Code of 1972, is  
3147 brought forward as follows:

3148 79-11-357. (1) Venue for a proceeding to dissolve a  
3149 corporation lies in the county where a corporation's principal  
3150 office is or was located, or in the Chancery Court of the First  
3151 Judicial District of Hinds County, Mississippi, if the corporation  
3152 does not have a principal office in this state.



3153 (2) It is not necessary to make directors or members parties  
3154 to a proceeding to dissolve a corporation unless relief is sought  
3155 against them individually.

3156 (3) A court in a proceeding brought to dissolve a  
3157 corporation may issue injunctions, appoint a receiver or custodian  
3158 pendente lite with all powers and duties the court directs, take  
3159 other action required to preserve the corporate assets wherever  
3160 located and carry on the activities of the corporation until a  
3161 full hearing can be held.

3162 **SECTION 128.** Section 79-11-359, Mississippi Code of 1972, is  
3163 brought forward as follows:

3164 79-11-359. (1) A court in a judicial proceeding brought to  
3165 dissolve a corporation shall have the power to issue injunctions  
3166 and may appoint one or more receivers to wind up and liquidate, or  
3167 one or more custodians to manage, the affairs of the corporation.  
3168 The court shall hold a hearing, after notifying all parties to the  
3169 proceeding and any interested persons designated by the court,  
3170 before appointing a receiver or custodian. The court appointing a  
3171 receiver or custodian has exclusive jurisdiction over the  
3172 corporation and all of its property wherever located.

3173 (2) The court may appoint an individual or a domestic or  
3174 foreign business or nonprofit corporation (authorized to transact  
3175 business in this state) as a receiver or custodian. The court may  
3176 require the receiver or custodian to post bond, with or without  
3177 sureties, in an amount the court directs.



3178 (3) The court shall describe the powers and duties of the  
3179 receiver or custodian in its appointing order, which may be  
3180 amended from time to time. Among other powers:

3181 (a) The receiver (i) may dispose of all or any part of  
3182 the assets of the corporation wherever located, at a public or  
3183 private sale, if authorized by the court; provided, however, that  
3184 the receiver's power to dispose of the assets of the corporation  
3185 is subject to any trust and other restrictions that would be  
3186 applicable to the corporation; and (ii) may sue and defend in the  
3187 receiver's or custodian's name as receiver or custodian of the  
3188 corporation in all courts of this state;

3189 (b) The custodian may exercise all of the powers of the  
3190 corporation, through or in place of its board of directors or  
3191 officers, to the extent necessary to manage the affairs of the  
3192 corporation in the best interests of its members and creditors.

3193 (4) The court during a receivership may redesignate the  
3194 receiver a custodian, and during a custodianship may redesignate  
3195 the custodian a receiver, if doing so is in the best interests of  
3196 the corporation, its members and creditors.

3197 (5) The assets of the corporation or the proceeds resulting  
3198 from a sale, conveyance or other disposition thereof shall be  
3199 applied and distributed as the court may order, after taking into  
3200 account the following standards:

3201 (a) All costs and expenses of the court proceedings and  
3202 all liabilities and obligations of the corporation shall, to the



3203 extent that unencumbered assets are available therefor, be paid  
3204 first toward the payment of costs and expenses of the court  
3205 proceedings, and then toward other liabilities and obligations of  
3206 the corporation.

3207 (b) All liabilities and obligations of the corporation  
3208 shall be paid, satisfied and discharged; in case its property and  
3209 assets are not sufficient to satisfy or discharge all the  
3210 corporation's liabilities and obligations, the court shall apply  
3211 them so far as they will go to the just and equitable payment of  
3212 the liabilities and obligations.

3213 (c) Assets held by the corporation upon condition  
3214 requiring return, transfer or conveyance, which condition occurs  
3215 by reason of the dissolution or liquidation, shall be returned,  
3216 transferred or conveyed in accordance with such requirements.

3217 (d) If the corporation to be dissolved is a charitable  
3218 organization, as defined in Section 79-11-501, the remaining  
3219 assets shall be transferred to another charitable organization or  
3220 other charitable organizations, as defined in Section 79-11-501,  
3221 either domestic or foreign, engaged in activities substantially  
3222 similar to those of the dissolving corporation, or to the federal  
3223 government, or to a state or local government, for a public  
3224 purpose. For all other nonprofit corporations, assets received  
3225 and held by the corporation subject to limitations permitting  
3226 their use only for charitable, religious, eleemosynary,  
3227 benevolent, educational or similar purposes, but not held upon a



3228 condition requiring return, transfer or conveyance by reason of  
3229 the dissolution, shall be transferred or conveyed to one or more  
3230 domestic or foreign corporations, societies or organizations  
3231 engaged in activities substantially similar to those of the  
3232 dissolving corporation as the court may direct.

3233 (e) Other assets, if any, shall be distributed in  
3234 accordance with the provisions of the articles of incorporation or  
3235 the bylaws to the extent that the articles of incorporation or  
3236 bylaws determine the distributive right of members, or any class  
3237 or classes of members, or provide for distribution to others.

3238 (f) Any remaining assets may be distributed to such  
3239 persons, societies, organizations or domestic or foreign  
3240 corporations, whether for profit or not for profit, specified in  
3241 the plan of distribution adopted as provided in this chapter, or  
3242 where no plan of distribution has been adopted, as the court may  
3243 direct.

3244 **SECTION 129.** Section 79-11-361, Mississippi Code of 1972, is  
3245 brought forward as follows:

3246 79-11-361. (1) If after the hearing the court determines  
3247 that one or more grounds for judicial dissolution described in  
3248 Section 79-11-355 exist, it may enter a decree dissolving the  
3249 corporation and specifying the effective date of the dissolution,  
3250 and the clerk of the court shall deliver a certified copy of the  
3251 decree to the Secretary of State, who shall file it.



3252 (2) After entering the decree of dissolution, the court  
3253 shall direct the winding up and liquidation of the corporation's  
3254 affairs in accordance with Section 79-11-341 and the notification  
3255 of its claimants in accordance with Sections 79-11-343 and  
3256 79-11-345.

3257 **SECTION 130.** Section 79-11-363, Mississippi Code of 1972, is  
3258 brought forward as follows:

3259 79-11-363. (1) A foreign corporation may not transact  
3260 business in this state until it obtains a certificate of authority  
3261 from the Secretary of State.

3262 (2) The following activities, among others, do not  
3263 constitute transacting business within the meaning of subsection  
3264 (1) of this section:

3265 (a) Maintaining, defending or settling any proceeding;

3266 (b) Holding meetings of the board of directors or  
3267 members or carrying on other activities concerning internal  
3268 corporate affairs;

3269 (c) Maintaining bank accounts;

3270 (d) Maintaining offices or agencies for the transfer,  
3271 exchange and registration of memberships or securities or  
3272 maintaining trustees or depositaries with respect to those  
3273 securities;

3274 (e) Selling through independent contractors;



3275 (f) Soliciting or obtaining orders, whether by mail or  
3276 through employees or agents or otherwise, if the orders require  
3277 acceptance outside this state before they become contracts;

3278 (g) Creating or acquiring indebtedness, mortgages and  
3279 security interests in real or personal property;

3280 (h) Securing or collecting debts or enforcing mortgages  
3281 and security interests in property securing the debts;

3282 (i) Owning, without more, real or personal property;

3283 (j) Conducting an isolated transaction that is  
3284 completed within thirty (30) days and that is not one in the  
3285 course of repeated transactions of a like nature;

3286 (k) Transacting business in interstate commerce.

3287 (3) The list of activities in subsection (2) of this section  
3288 is not exhaustive.

3289 **SECTION 131.** Section 79-11-365, Mississippi Code of 1972, is  
3290 brought forward as follows:

3291 79-11-365. (1) A foreign corporation transacting business  
3292 in this state without a certificate of authority may not maintain  
3293 a proceeding in any court in this state until it obtains a  
3294 certificate of authority.

3295 (2) The successor to a foreign corporation that transacted  
3296 business in this state without a certificate of authority and the  
3297 assignee of a cause of action arising out of that business may not  
3298 maintain a proceeding on that cause of action in any court in this



3299 state until the foreign corporation or its successor obtains a  
3300 certificate of authority.

3301 (3) A court may stay a proceeding commenced by a foreign  
3302 corporation, its successor or assignee until it determines whether  
3303 the foreign corporation, its successor or assignee requires a  
3304 certificate of authority. If it so determines, the court may  
3305 further stay the proceeding until the foreign corporation or its  
3306 successor obtains the certificate.

3307 (4) A foreign corporation is liable for a civil penalty of  
3308 Five Dollars (\$5.00) for each day, but not to exceed a total of  
3309 two (2) times the fee required under Section 79-11-109 for  
3310 securing articles of incorporation for each year, it transacts  
3311 business in this state without a certificate of authority. The  
3312 Attorney General may collect all penalties due under this  
3313 subsection.

3314 **SECTION 132.** Section 79-11-367, Mississippi Code of 1972, is  
3315 brought forward as follows:

3316 79-11-367. (1) A foreign corporation may apply for a  
3317 certificate of authority to transact business in this state by  
3318 delivering an application to the Secretary of State. The  
3319 application must set forth:

3320 (a) The name of the foreign corporation or, if its name  
3321 is unavailable for use in this state, a corporate name that  
3322 satisfies the requirements of Section 79-11-373;





3323 (b) The name of the state or country under whose law it  
3324 is incorporated;  
3325 (c) The date of incorporation and period of duration;  
3326 (d) The street address of its principal office;  
3327 (e) The information required under Section 79-35-5(a);  
3328 (f) The names and usual business or home addresses of  
3329 its current directors and officers; and  
3330 (g) Whether the foreign corporation has members.

3331 (2) The foreign corporation shall deliver with the completed  
3332 application a certificate of existence (or a document of similar  
3333 import), dated not more than sixty (60) days prior to the date the  
3334 application is filed in this state, duly authenticated by the  
3335 Secretary of State or other official having custody of corporate  
3336 records in the state or country under whose law it is  
3337 incorporated.

3338 **SECTION 133.** Section 79-11-369, Mississippi Code of 1972, is  
3339 brought forward as follows:

3340 79-11-369. (1) A foreign corporation authorized to transact  
3341 business in this state must obtain an amended certificate of  
3342 authority from the Secretary of State if it changes:

3343 (a) Its corporate name;  
3344 (b) The period of its duration;  
3345 (c) Any information required by Section 79-35-5(a); or  
3346 (d) The state or country or its incorporation.



3347 (2) The requirements of Section 79-11-367 for obtaining an  
3348 original certificate of authority apply to obtaining an amended  
3349 certificate under this section.

3350 **SECTION 134.** Section 79-11-371, Mississippi Code of 1972, is  
3351 brought forward as follows:

3352 79-11-371. (1) A certificate of authority authorizes the  
3353 foreign corporation to which it is issued to transact business in  
3354 this state subject, however, to the right of the state to revoke  
3355 the certificate as provided in Section 79-11-101 et seq.

3356 (2) A foreign corporation with a valid certificate of  
3357 authority has the same rights and enjoys the same privileges as,  
3358 and except as otherwise provided by Section 79-11-101 et seq. is  
3359 subject to the same duties, restrictions, penalties, liabilities  
3360 now or later imposed on, a domestic corporation of like character.

3361 (3) Section 79-11-101 et seq. do not authorize this state to  
3362 regulate the organization or internal affairs of a foreign  
3363 corporation authorized to transact business in this state.

3364 **SECTION 135.** Section 79-11-373, Mississippi Code of 1972, is  
3365 brought forward as follows:

3366 79-11-373. (1) If the corporate name of a foreign  
3367 corporation does not satisfy the requirements of Section  
3368 79-11-157, the foreign corporation to obtain or maintain a  
3369 certificate of authority to transact business in this state may  
3370 use a fictitious name to transact business in this state if its  
3371 real name is unavailable and it delivers to the Secretary of State



3372 for filing a copy of the resolution of its board of directors,  
3373 certified by its secretary, adopting the fictitious name.

3374 (2) Except as authorized by subsections (3) and (4) of this  
3375 section, the corporate name (including a fictitious name) of a  
3376 foreign corporation must be distinguishable upon the records of  
3377 the Secretary of State from:

3378 (a) The corporate name of a nonprofit or business  
3379 corporation incorporated or authorized to transact business in  
3380 this state;

3381 (b) A corporate name reserved or registered under  
3382 Section 79-11-159 or 79-11-161 or pursuant to the Mississippi  
3383 Business Corporation Act;

3384 (c) The fictitious name of another foreign business or  
3385 nonprofit corporation authorized to transact business in this  
3386 state.

3387 (3) A foreign corporation may apply to the Secretary of  
3388 State for authorization to use in this state the name of another  
3389 corporation (incorporated or authorized to transact business in  
3390 this state) that is not distinguishable upon the records of the  
3391 Secretary of State from the name applied for. The Secretary of  
3392 State shall authorize use of the name applied for if:

3393 (a) The other corporation consents to the use in  
3394 writing and submits an undertaking in form satisfactory to the  
3395 Secretary of State to change its name to a name that is



3396 distinguishable upon the records of the Secretary of State from  
3397 the name of the applying corporation; or

3398 (b) The applicant delivers to the Secretary of State a  
3399 certified copy of a final judgment of a court of competent  
3400 jurisdiction establishing the applicant's right to use the name  
3401 applied for in this state.

3402 (4) A foreign corporation may use in this state the name  
3403 (including the fictitious name) of another domestic or foreign  
3404 business or nonprofit corporation that is used in this state if  
3405 the other corporation is incorporated or authorized to transact  
3406 business in this state and the foreign corporation:

3407 (a) Has merged with the other corporation;

3408 (b) Has been formed by reorganization of the other  
3409 corporation; or

3410 (c) Has acquired all or substantially all of the  
3411 assets, including the corporate name, of the other corporation.

3412 (5) If a foreign corporation authorized to transact business  
3413 in this state changes its corporate name to one that does not  
3414 satisfy the requirements of Section 79-11-157, it shall not  
3415 transact business in this state under the changed name until it  
3416 adopts a name satisfying the requirements of Section 79-11-157 and  
3417 obtains an amended certificate of authority under Section  
3418 79-11-369.

3419 **SECTION 136.** Section 79-11-381, Mississippi Code of 1972, is  
3420 brought forward as follows:



3421           79-11-381. Notice or demand required or permitted by law on  
3422 a foreign corporation authorized to transact business in this  
3423 state is governed by Section 79-35-13 Agents Act. Service of  
3424 process is governed by the Mississippi Rules of Civil Procedure.

3425           **SECTION 137.** Section 79-11-383, Mississippi Code of 1972, is  
3426 brought forward as follows:

3427           79-11-383. (1) A foreign corporation authorized to transact  
3428 business in this state may not withdraw from this state until it  
3429 obtains a certificate of withdrawal from the Secretary of State.

3430           (2) A foreign corporation authorized to transact business in  
3431 this state may apply for a certificate of withdrawal by delivering  
3432 an application to the Secretary of State for filing. The  
3433 application must set forth:

3434           (a) The name of the foreign corporation and the name of  
3435 the state or country under whose law it is incorporated;

3436           (b) A representation that it is not transacting  
3437 business in this state and that it surrenders its authority to  
3438 transact business in this state;

3439           (c) A representation that it revokes the authority of  
3440 its registered agent to accept service on its behalf and appoints  
3441 the Secretary of State as its agent for service of process in any  
3442 proceeding based on a cause of action arising during the time it  
3443 was authorized to do business in this state;



3444 (d) A mailing address to which the Secretary of State  
3445 may mail a copy of any process served on him or her under  
3446 paragraph (c) of this subsection; and

3447 (e) A commitment to notify the Secretary of State in  
3448 the future of any change in the mailing address.

3449 (3) After the withdrawal of the foreign corporation is  
3450 effective, service of process on the Secretary of State under the  
3451 Mississippi Rules of Civil Procedure is service on the foreign  
3452 corporation. Upon receipt of process, the Secretary of State  
3453 shall mail a copy of the process to the foreign corporation at the  
3454 address set forth in its application for withdrawal.

3455 **SECTION 138.** Section 79-11-385, Mississippi Code of 1972, is  
3456 brought forward as follows:

3457 79-11-385. (1) The Secretary of State may commence a  
3458 proceeding under Section 79-11-387 to revoke the certificate of  
3459 authority of a foreign corporation authorized to transact business  
3460 in this state if:

3461 (a) The foreign corporation does not deliver the annual  
3462 report to the Secretary of State within sixty (60) days after it  
3463 is due;

3464 (b) The foreign corporation does not pay within sixty  
3465 (60) days after they are due any franchise taxes or penalties  
3466 imposed by Section 79-11-101 et seq. or other law;

3467 (c) The foreign corporation is without a registered  
3468 agent in this state for sixty (60) days or more;



3469 (d) The foreign corporation does not inform the  
3470 Secretary of State by an appropriate filing that its registered  
3471 agent has changed or that its registered agent has resigned within  
3472 ninety (90) days of the change or resignation;

3473 (e) An incorporator, director, officer or agent of the  
3474 foreign corporation signed a document such person knew was false  
3475 in any material respect with intent that the document be delivered  
3476 to the Secretary of State for filing; or

3477 (f) The Secretary of State receives a duly  
3478 authenticated certificate from the Secretary of State or other  
3479 official having custody of corporate records in the state or  
3480 country under whose law the foreign corporation is incorporated  
3481 stating that it has been dissolved or has disappeared as the  
3482 result of a merger.

3483 (2) The Attorney General may commence a proceeding under  
3484 Section 79-11-387 to revoke the certificate of authority of a  
3485 foreign corporation authorized to transact business in this state  
3486 if the foreign corporation has continued to exceed or abuse the  
3487 authority conferred upon it by law.

3488 **SECTION 139.** Section 79-11-387, Mississippi Code of 1972, is  
3489 brought forward as follows:

3490 79-11-387. (1) The Secretary of State upon determining that  
3491 one or more grounds exist under Section 79-11-385 for revocation  
3492 of a certificate of authority shall serve the foreign corporation  
3493 with written notice of that determination under Section 79-11-381.



3494           (2) The Attorney General upon determining that grounds exist  
3495 under Section 79-11-385(2) for revocation of a certificate of  
3496 authority shall request the Secretary of State to serve, and the  
3497 Secretary of State shall serve the foreign corporation with  
3498 written notice of that determination under Section 79-11-381.

3499           (3) If the foreign corporation does not correct each ground  
3500 for revocation or demonstrate to the reasonable satisfaction of  
3501 the Secretary of State or Attorney General that each ground for  
3502 revocation determined by the Secretary of State or Attorney  
3503 General does not exist within sixty (60) days after service of the  
3504 notice is perfected under Section 79-11-381, the Secretary of  
3505 State may revoke the foreign corporation's certificate of  
3506 authority by signing a certificate of revocation that recites the  
3507 ground or grounds for revocation and its effective date. The  
3508 Secretary of State shall file the original of the certificate and  
3509 serve a copy on the foreign corporation under Section 79-11-381.

3510           (4) The authority of a foreign corporation to transact  
3511 business in this state ceases on the date shown on the certificate  
3512 revoking its certificate of authority.

3513           (5) The Secretary of State's revocation of a foreign  
3514 corporation's certificate of authority appoints the Secretary of  
3515 State, the foreign corporation's agent for service of process in  
3516 any proceeding based on a cause of action which arose during the  
3517 time the foreign corporation was authorized to transact business  
3518 in this state. Service of process on the Secretary of State under





3519 this subsection is service on the foreign corporation. Upon  
3520 receipt of process, the Secretary of State shall mail a copy of  
3521 the process to the secretary of the foreign corporation at its  
3522 principal office shown in its most recent annual report or in any  
3523 subsequent communications received from the corporation stating  
3524 the current mailing address of its principal office, or, if none  
3525 is on file, in its application for a certificate of authority.

3526 (6) Revocation of a foreign corporation's certificate of  
3527 authority does not terminate the authority of the registered agent  
3528 of the corporation.

3529 **SECTION 140.** Section 79-11-389, Mississippi Code of 1972, is  
3530 brought forward as follows:

3531 79-11-389. (1) A foreign corporation may appeal the  
3532 Secretary of State's revocation of its certificate of authority to  
3533 the Chancery Court of the First Judicial District of Hinds County,  
3534 Mississippi, or the chancery court of the county where the  
3535 corporation's principal office is located within thirty (30) days  
3536 after the service of the certificate of revocation is perfected  
3537 under Section 79-11-381. The foreign corporation applies by  
3538 petitioning the court to set aside the revocation and attaching to  
3539 the petition copies of its certificate of authority and the  
3540 Secretary of State's certificate of revocation.

3541 (2) The court may summarily order the Secretary of State to  
3542 reinstate the certificate of authority or may take any other  
3543 action the court considers appropriate.



3544 (3) The court's final decision may be appealed as in other  
3545 civil proceedings.

3546 **SECTION 141.** Section 79-11-391, Mississippi Code of 1972, is  
3547 brought forward as follows:

3548 79-11-391. (1) Each domestic corporation, and each foreign  
3549 corporation authorized to transact business in this state, shall  
3550 upon request deliver to the Secretary of State a status report on  
3551 a form prescribed and furnished by the Secretary of State that  
3552 sets forth:

3553 (a) The name of the corporation and the jurisdiction  
3554 under whose law it is incorporated;

3555 (b) The information required by Section 79-35-5(a);

3556 (c) The address of its principal office;

3557 (d) The names and business or residence addresses of  
3558 its directors and principal officers;

3559 (e) A brief description of the nature of its  
3560 activities; and

3561 (f) Whether or not it has members.

3562 (2) Upon receiving the request for a status report, a  
3563 domestic or foreign corporation shall have ninety (90) days to  
3564 deliver the report to the Secretary of State.

3565 (3) The information in the status report must be current on  
3566 the date the status report is executed on behalf of the  
3567 corporation.



3568 (4) The Secretary of State may request a status report from  
3569 time to time, but not more frequently than once every five (5)  
3570 years, beginning five (5) years from the date upon which a  
3571 domestic corporation was incorporated or a foreign corporation was  
3572 authorized to transact business.

3573 (5) If a status report does not contain the information  
3574 required by this section, the Secretary of State shall promptly  
3575 notify the reporting domestic or foreign corporation in writing  
3576 and return the report to it for correction. If the report is  
3577 corrected to contain the information required by this section and  
3578 delivered to the Secretary of State within thirty (30) days after  
3579 the effective date of notice, it is deemed to be timely filed.

3580 **SECTION 142.** Section 79-11-393, Mississippi Code of 1972, is  
3581 brought forward as follows:

3582 79-11-393. Rural water companies organized pursuant to  
3583 Section 79-11-101 et seq. shall be subject to the following  
3584 requirements in order to obtain federal tax exemptions:

3585 (a) Each rural water company shall maintain a roster of  
3586 all members which shall include the date upon which each member  
3587 joined.

3588 (b) Each rural water company shall maintain a roster of  
3589 patrons which shall include periodic data as to services rendered  
3590 by the water company. Such roster shall be the basis for any  
3591 distribution of excess revenues of the water company. Any such  
3592 distribution shall be to the members and shall be based upon



3593 patronage for the time period over which such excess revenues to  
3594 be distributed were collected, and the loss of membership by death  
3595 or otherwise shall not terminate the rights and interest of such  
3596 member in any patronage distribution due him at the termination of  
3597 his membership. Any amount to be distributed shall be net income  
3598 or funds in excess of those needed to meet current losses and  
3599 operating expenses; provided, that such amount to be distributed  
3600 shall be in excess of that needed for normal, reasonable business  
3601 purposes.

3602 Before a rural water company shall construct, operate or  
3603 maintain a water transmission or distribution system for the sale  
3604 of water to the public, it shall obtain a certificate of public  
3605 convenience and necessity from the Public Service Commission,  
3606 pursuant to the provisions of Sections 77-3-1 through 77-3-87.

3607 **SECTION 143.** Section 79-11-394, Mississippi Code of 1972, is  
3608 brought forward as follows:

3609 79-11-394. (1) (a) Any nonprofit, nonshare corporation  
3610 chartered under the Mississippi Nonprofit Corporation Act, Section  
3611 79-11-101 et seq., for the purpose of owning and operating rural  
3612 waterworks annually shall prepare a financial report showing the  
3613 financial condition of the corporation. The financial report  
3614 shall be prepared on forms provided by the State Auditor within  
3615 ninety (90) days following the close of the fiscal year of that  
3616 corporation. Each report shall contain a certification signed by  
3617 the president of the board of directors of the corporation that



3618 the president has reviewed the information contained in the  
3619 financial report and that the information is true and correct.

3620 (b) As part of the billing statement received by the  
3621 subscriber immediately before the annual meeting of the  
3622 corporation, each corporation owning and operating rural  
3623 waterworks shall notify each subscriber provided water service by  
3624 the corporation of the availability of the most recently completed  
3625 annual financial report, how that report may be obtained and where  
3626 the report may be reviewed. If requested in writing, the  
3627 corporation shall provide a copy of the financial report to any  
3628 subscriber.

3629 (c) Before July 1, 1999, and July 1 of each subsequent  
3630 year, each corporation required to prepare a financial report  
3631 under this section shall submit the most recently completed annual  
3632 financial report to the State Auditor. In addition, the  
3633 corporation shall provide a copy of that financial report to the  
3634 public library in the county seat of the county in which the  
3635 corporation's principal office is located. If no public library  
3636 is located in the county seat, the corporation shall provide that  
3637 report to the public library serving the largest population in the  
3638 county of the corporation's principal office. If requested in  
3639 writing, the State Auditor shall provide a copy of the financial  
3640 report to any subscriber of a water system owned and operated by  
3641 that corporation and may recover the costs of providing that  
3642 report.



3643 (2) In addition to the information required under subsection  
3644 (1) of this section, each financial report shall contain the  
3645 following:

3646 (a) A statement certifying that an annual meeting was  
3647 held in accordance with the corporation's bylaws, as required  
3648 under Section 79-11-197, including the date of the most recent  
3649 annual meeting;

3650 (b) A list of the directors currently serving on the  
3651 board of the corporation; and

3652 (c) A list of those directors required who have failed  
3653 to meet the management training requirements under Section  
3654 41-26-101.

3655 (3) (a) Before July 15, 1999, and July 15 of each  
3656 subsequent year, the State Auditor shall provide the State  
3657 Department of Health a list of all corporations failing to file a  
3658 report as required under subsection (1) of this section. The  
3659 State Department of Health shall notify the president of the board  
3660 of directors of each listed system in writing and shall require  
3661 that the financial report be submitted to the State Auditor within  
3662 thirty (30) days after the date of the letter.

3663 (b) If any corporation required to prepare a financial  
3664 report under this section fails to notify subscribers of the  
3665 availability of the financial report, no corporate action taken  
3666 after the date of the annual meeting shall be valid. If any  
3667 corporation required to prepare a financial report under this



3668 section fails to submit the most recently completed annual  
3669 financial report to the State Auditor, no corporate action taken  
3670 after the date for submission specified in the letter from the  
3671 State Department of Health, as required under paragraph (a) of  
3672 this subsection, shall be valid.

3673 (4) (a) Each nonprofit, nonshare corporation chartered  
3674 under Section 79-11-101 et seq., for the purpose of owning and  
3675 operating rural waterworks shall mail to each subscriber provided  
3676 water service by the corporation, as part of the billing statement  
3677 received by the subscriber immediately before the annual meeting  
3678 of the corporation, a notice of the annual meeting of the  
3679 corporation. Each corporation also shall submit, at the time the  
3680 notice is provided to the subscribers, a copy of that notice to  
3681 the State Department of Health.

3682 (b) If any corporation fails to provide notice as  
3683 required under this subsection, no corporate action taken after  
3684 the date stated in or fixed in accordance with the corporation's  
3685 bylaws for the annual meeting shall be valid.

3686 (5) If any nonprofit, nonshare corporation chartered under  
3687 Section 79-11-101 et seq., for the purpose of owning and  
3688 operating rural waterworks fails to hold an annual meeting, no  
3689 corporate action taken after the date stated in or fixed in  
3690 accordance with the corporation's bylaws for the annual meeting  
3691 shall be valid.



3692           **SECTION 144.** Section 79-11-395, Mississippi Code of 1972, is  
3693 brought forward as follows:

3694           79-11-395. Section 79-11-101 et seq. apply to all domestic  
3695 nonprofit, nonshare corporations in existence on its effective  
3696 date that were incorporated under Section 79-11-1 or any  
3697 predecessor thereto.

3698           **SECTION 145.** Section 79-11-397, Mississippi Code of 1972, is  
3699 brought forward as follows:

3700           79-11-397. (1) A foreign corporation authorized to transact  
3701 business in this state on January 1, 1988, Section 79-11-101 et  
3702 seq. is subject to Section 79-11-101 et seq. but is not required  
3703 to obtain a new certificate of authority to transact business  
3704 under Section 79-11-101 et seq.

3705           (2) A foreign corporation domesticated in this state on  
3706 January 1, 1988, is subject to Section 79-11-101 et seq., and its  
3707 status shall automatically change from a foreign corporation  
3708 domesticated in this state to that of a foreign corporation  
3709 authorized to transact business in this state, and such  
3710 corporation is not required to obtain a new certificate of  
3711 authority to transact business under Section 79-11-101 et seq.

3712           **SECTION 146.** Section 79-11-399, Mississippi Code of 1972, is  
3713 brought forward as follows:

3714           79-11-399. (1) Except as provided in subsection (2) of this  
3715 section, the repeal of a statute by Section 79-11-101 et seq. does  
3716 not affect:





3717 (a) The operation of the statute or any action taken  
3718 under it before its repeal;

3719 (b) Any ratification, right, remedy, privilege,  
3720 obligation or liability acquired, accrued or incurred under the  
3721 statute before its repeal;

3722 (c) Any violation of the statute or any penalty,  
3723 forfeiture or punishment incurred because of the violation before  
3724 its repeal;

3725 (d) Any proceeding, reorganization or dissolution  
3726 commenced under the statute before its repeal, and the proceeding,  
3727 reorganization or dissolution may be completed in accordance with  
3728 the statute as if it had not been repealed; or

3729 (e) Any meeting of members or directors or action by  
3730 written consent noticed or any action taken before its repeal as a  
3731 result of a meeting of members or directors or action by written  
3732 consent.

3733 (2) If a penalty or punishment imposed for violation of a  
3734 statute repealed by Section 79-11-101 et seq. is reduced by  
3735 Section 79-11-101 et seq., the penalty or punishment, if not  
3736 already imposed, shall be imposed in accordance with Section  
3737 79-11-101 et seq.

3738 (3) This chapter modifies, limits, or supersedes the federal  
3739 Electronic Signatures in Global and National Commerce Act, 15 USC  
3740 Section 7001 et seq., but this chapter does not modify, limit, or  
3741 supersede Section 101(c) of that act or authorize electronic



3742 delivery of any of the notices described in Section 103(b) of that  
3743 act.

3744           **SECTION 147.** Section 79-11-401, Mississippi Code of 1972, is  
3745 brought forward as follows:

3746           79-11-401. Except as may be otherwise provided in Sections  
3747 79-11-31, 79-11-33 and 79-11-403, Section 79-11-101 et seq. apply  
3748 to religious corporations.

3749           **SECTION 148.** Section 79-11-403, Mississippi Code of 1972, is  
3750 brought forward as follows:

3751           79-11-403. (1) The following provisions shall not apply to  
3752 religious corporations unless otherwise provided in their articles  
3753 or bylaws:

3754                   (a) Section 79-11-133

3755                   (b) Section 79-11-189

3756                   (c) Section 79-11-193

3757                   (d) Section 79-11-213

3758                   (e) Section 79-11-239

3759                   (f) Section 79-11-245

3760                   (g) Section 79-11-282

3761                   (h) Section 79-11-359

3762           (2) If religious doctrine governing the affairs of a  
3763 religious corporation is inconsistent with the provisions of  
3764 Section 79-11-101 et seq. on the same subject, the religious  
3765 doctrine shall control to the extent required by the Constitution  
3766 of the United States or the Constitution of this state or both.



3767           **SECTION 149.** Section 79-11-405, Mississippi Code of 1972, is  
3768 brought forward as follows:

3769           79-11-405. (1) A nonprofit corporation granted a  
3770 determination of exemption from tax as an organization described  
3771 in Section 501(c)(3) of the Internal Revenue Code shall notify the  
3772 Secretary of State, in the form and manner prescribed by the  
3773 Secretary of State, within thirty (30) calendar days of the  
3774 determination of exemption.

3775           (2) If a nonprofit corporation's exemption from tax as an  
3776 organization described in Section 501(c)(3) of the Internal  
3777 Revenue Code is suspended or revoked, the nonprofit corporation  
3778 shall notify the Secretary of State of the suspension or  
3779 revocation, in the form and manner prescribed by the Secretary of  
3780 State, within thirty (30) calendar days of the suspension or  
3781 revocation.

3782           **SECTION 150.** Section 79-11-407, Mississippi Code of 1972, is  
3783 brought forward as follows:

3784           79-11-407. (1) Each nonprofit corporation, as defined in  
3785 Section 79-11-127(z), shall file an annual report with the  
3786 Secretary of State Business Services Division before May 15 of  
3787 each year on a form prescribed by the Secretary of State.

3788           (2) Each domestic nonprofit corporation and each foreign  
3789 nonprofit corporation authorized to transact business in this  
3790 state shall deliver an annual report to the Secretary of State for



3791 filing, on such date as may be established by the Secretary of  
3792 State, which provides the following information:

3793 (a) The name of the nonprofit corporation and the state  
3794 or country or other foreign jurisdiction under whose law it is  
3795 organized;

3796 (b) The name, email address and street or physical  
3797 address of its registered agent in this state;

3798 (c) The address of its principal office;

3799 (d) The name, titles and business address of its  
3800 principal officer;

3801 (e) A brief description of the nature of its business;  
3802 and

3803 (f) Whether it has received public funds and a listing  
3804 of any governmental entity that distributed the public funds. The  
3805 term "public funds" means funds received by the organization  
3806 during its most recently completed fiscal year which were received  
3807 from the State of Mississippi or any local governmental authority  
3808 located within the State of Mississippi.

3809 (3) Information in the annual report must be current as of  
3810 the date the annual report is executed on behalf of the nonprofit  
3811 corporation.

3812 (4) If an annual report does not contain the information  
3813 required by this section, the Secretary of State shall provide  
3814 written notice promptly to the reporting nonprofit corporation and  
3815 return the report for correction. If the report is corrected to



3816 contain the information required by this section and delivered to  
3817 the Secretary of State within thirty (30) days after the effective  
3818 date of notice, the report is deemed to be timely filed.

3819 (5) If the nonprofit corporation fails to file timely or  
3820 fails to disclose the information required under this section,  
3821 the corporation may be subject to the penalties of dissolution or  
3822 disallowance of nonprofit status, or both.

3823 (6) The requirements of this section shall not apply to  
3824 water associations as defined in Section 79-11-394.

3825 **SECTION 151.** This act shall take effect and be in force from  
3826 and after July 1, 2025.

