

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 301

Representative Swearingen

A BILL

To amend sections 1701.86, 1702.27, 1702.30, 1
1702.33, 1702.38, 1702.521, 1702.53, 1702.55, 2
and 1745.05 and to enact sections 1702.341 and 3
1702.531 of the Revised Code to amend the 4
Nonprofit Corporation Law and the law governing 5
dissolving corporations. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1701.86, 1702.27, 1702.30, 7
1702.33, 1702.38, 1702.521, 1702.53, 1702.55, and 1745.05 be 8
amended and sections 1702.341 and 1702.531 of the Revised Code 9
be enacted to read as follows: 10

Sec. 1701.86. (A) A corporation may be dissolved 11
voluntarily in the manner provided in this section, provided the 12
provisions of Chapter 1704. of the Revised Code do not prevent 13
the dissolution from being effected. 14

(B) A resolution of dissolution for a corporation shall 15
set forth that the corporation elects to be dissolved. The 16
resolution also may include any of the following: 17

(1) The date on which the certificate of dissolution is to 18
be filed or the conditions or events that will result in the 19

filing of the certificate; 20

(2) Authorization for the officers or directors to abandon 21
the proposed dissolution before the filing of the certificate of 22
dissolution; 23

(3) Any additional provision considered necessary with 24
respect to the proposed dissolution and winding up. 25

(C) If an initial stated capital is not set forth in the 26
articles then before the corporation begins business, or if an 27
initial stated capital is set forth in the articles then before 28
subscriptions to shares shall have been received in the amount 29
of that initial stated capital, the incorporators or a majority 30
of them may adopt, by a writing signed by each of them, a 31
resolution of dissolution. 32

(D) The directors may adopt a resolution of dissolution in 33
any of the following cases: 34

(1) When the corporation has been adjudged bankrupt or has 35
made a general assignment for the benefit of creditors; 36

(2) By leave of the court, when a receiver has been 37
appointed in a general creditors' suit or in any suit in which 38
the affairs of the corporation are to be wound up; 39

(3) When substantially all of the assets have been sold at 40
judicial sale or otherwise; 41

(4) When the articles have been canceled for failure to 42
file annual franchise or excise tax returns or for failure to 43
pay franchise or excise taxes and the corporation has not been 44
reinstated or does not desire to be reinstated; 45

(5) When the period of existence of the corporation 46
specified in its articles has expired. 47

(E) The shareholders at a meeting held for such purpose 48
may adopt a resolution of dissolution by the affirmative vote of 49
the holders of shares entitling them to exercise two-thirds of 50
the voting power of the corporation on such proposal or, if the 51
articles provide or permit, by the affirmative vote of a greater 52
or lesser proportion, though not less than a majority, of such 53
voting power, and by such affirmative vote of the holders of 54
shares of any particular class as is required by the articles. 55
Notice of the meeting of the shareholders shall be given to all 56
the shareholders whether or not entitled to vote at it. 57

(F) Upon the adoption of a resolution of dissolution, a 58
certificate shall be prepared, on a form prescribed by the 59
secretary of state, setting forth all of the following: 60

(1) The name of the corporation; 61

(2) A statement that a resolution of dissolution has been 62
adopted; 63

(3) A statement of the manner of adoption of such 64
resolution, and, in the case of its adoption by the 65
incorporators or directors, a statement of the basis for such 66
adoption; 67

(4) The place in this state where its principal office is 68
or is to be located; 69

(5) The internet address of each domain name held or 70
maintained by or on behalf of the corporation; 71

(6) The name and address of its statutory agent; 72

(7) The date of dissolution, if other than the filing 73
date. The date of dissolution shall not be more than ninety days 74
after the filing of the certificate of dissolution. 75

(G) When the resolution of dissolution is adopted by the 76
incorporators, the certificate shall be signed by not less than 77
a majority of them. In all other cases, the certificate shall be 78
signed by any authorized officer, unless the officer fails to 79
execute and file such certificate within thirty days after the 80
date upon which such certificate is to be filed. In that latter 81
event, the certificate of dissolution may be signed by any three 82
shareholders or, if there are less than three shareholders, all 83
of the shareholders and shall set forth a statement that the 84
persons signing the certificate are shareholders and are filing 85
the certificate because of the failure of the officers to do so. 86

(H) Except as otherwise provided in division (I) of this 87
section, a certificate of dissolution, filed with the secretary 88
of state, shall be accompanied by all of the following: 89

(1) An affidavit of one or more of the persons executing 90
the certificate of dissolution or of an officer of the 91
corporation containing a statement of the counties, if any, in 92
this state in which the corporation has personal property or a 93
statement that the corporation is of a type required to pay 94
personal property taxes to state authorities only; 95

(2) A certificate or other evidence from the department of 96
taxation showing that the corporation has paid all taxes 97
administered by and required to be paid to the tax commissioner 98
that are or will be due from the corporation on the date of the 99
dissolution, ~~or that the department has received an adequate~~ 100
~~guarantee for the payment of all such taxes~~ an affidavit of one 101
or more of the persons executing the certificate of dissolution 102
or of an officer of the corporation containing a statement that 103
the corporation is not required to pay or the department of 104
taxation has not assessed any tax for which such a certificate 105

or other evidence is not provided; 106

(3) A certificate or other evidence showing the payment of 107
all personal property taxes accruing up to the date of 108
dissolution or showing that such payment has been adequately 109
guaranteed, or an affidavit of one or more of the persons 110
executing the certificate of dissolution or of an officer of the 111
corporation containing a statement that the corporation is not 112
required to pay or the department of taxation has not assessed 113
any tax for which such a certificate or other evidence is not 114
provided; 115

(4) A receipt, certificate, or other evidence from the 116
director of job and family services showing that all 117
contributions due from the corporation as an employer have been 118
paid, or that such payment has been adequately guaranteed, or 119
that the corporation is not subject to such contributions; 120

(5) A receipt, certificate, or other evidence from the 121
bureau of workers' compensation showing that all premiums due 122
from the corporation as an employer have been paid, or that such 123
payment has been adequately guaranteed, or that the corporation 124
is not subject to such premium payments. 125

(I) In lieu of the receipt, certificate, or other evidence 126
described in division ~~(H) (3)~~ (H) (2), (3), (4), or (5) of this 127
section, a certificate of dissolution may be accompanied by an 128
affidavit of one or more persons executing the certificate of 129
dissolution or of an officer of the corporation containing a 130
statement of the date upon which the particular department, 131
agency, or authority was advised in writing of the scheduled 132
effective date of the dissolution and was advised in writing of 133
the acknowledgment by the corporation of the applicability of 134
the provisions of section 1701.95 of the Revised Code. 135

(J) Upon the filing of a certificate of dissolution and 136
such accompanying documents or on a later date specified in the 137
certificate that is not more than ninety days after the filing, 138
the corporation shall be dissolved. 139

Sec. 1702.27. (A) Except as provided in division (B) of 140
this section and section 1702.521 of the Revised Code: 141

(1) The number of directors as fixed by the articles or 142
the regulations shall be not less than three or, if not so 143
fixed, the number shall be three, except that if there are only 144
one or two members of the corporation, the number of directors 145
may be less than three but not less than the number of members. 146

(2) (a) Subject to division (A) (2) (c) of this section, 147
unless the articles or the regulations fix the number of 148
directors or provide the manner in which that number may be 149
fixed or changed by the voting members, the number may be fixed 150
or changed at a meeting of the voting members called for the 151
purpose of electing directors, if a quorum is present, by the 152
affirmative vote of a majority of the voting members present in 153
person, by the use of authorized communications equipment, by 154
mail, or, if permitted, by proxy. 155

(b) For purposes of division (A) (2) (a) of this section, 156
participation by a voting member in a meeting through the use of 157
any of the means of communication described in that division 158
constitutes presence in person of that voting member at the 159
meeting for purposes of determining a quorum. 160

(c) No reduction in the number of directors shall of 161
itself have the effect of shortening the term of any incumbent 162
director. 163

(3) ~~The~~ Each director shall be a natural person and shall 164

have the qualifications, if any, that are stated in the articles 165
or the regulations. 166

(4) The articles or the regulations may provide that 167
persons occupying certain positions within or without the 168
corporation shall be ex officio directors, but, unless otherwise 169
provided in the articles or the regulations, such ex officio 170
directors shall not be considered for quorum purposes and shall 171
have no vote. 172

(B) The court of common pleas of the county in which the 173
corporation maintains its principal office may, pursuant to 174
division (A) of section 1702.521 of the Revised Code, order the 175
appointment of a provisional director for the corporation 176
without regard to the number or qualifications of directors 177
stated in the articles or regulations of the corporation. 178

Sec. 1702.30. (A) Except where the law, the articles, or 179
the regulations require that action be otherwise authorized or 180
taken, all of the authority of a corporation shall be exercised 181
by or under the direction of its directors. For their own 182
government, the directors may adopt bylaws that are not 183
inconsistent with the articles or the regulations. 184

(B) A director shall perform the director's duties ~~of as a~~ 185
director, including the duties as a member of any committee of 186
the directors upon which the director may serve, in good faith, 187
in a manner the director reasonably believes to be in or not 188
opposed to the best interests of the corporation, and with the 189
care that an ordinarily prudent person in a like position would 190
use under similar circumstances. A director serving on a 191
committee of directors is acting as a director. 192

(C) In performing ~~the duties of a director~~ director's 193

duties, a director is entitled to rely on information, opinions, 194
reports, or statements, including financial statements and other 195
financial data, that are prepared or presented by any of the 196
following: 197

(1) One or more directors, officers, or employees of the 198
corporation who the director reasonably believes are reliable 199
and competent in the matters prepared or presented; 200

(2) Counsel, public accountants, or other persons as to 201
matters that the director reasonably believes are within the 202
person's professional or expert competence; 203

(3) A committee of the directors upon which the director 204
does not serve, duly established in accordance with a provision 205
of the articles or the regulations, as to matters within its 206
designated authority, which committee the director reasonably 207
believes to merit confidence. 208

(D) For purposes of division (B) of this section, the 209
following apply: 210

(1) A director shall not be found to have ~~failed to~~ 211
~~perform~~ violated the director's duties ~~in accordance with that~~ 212
under division (B) of this section, unless it is proved, by 213
clear and convincing evidence, ~~in an action brought against the~~ 214
~~director~~ that the director has not acted in good faith, in a 215
manner the director reasonably believes to be in or not opposed 216
to the best interests of the corporation, or with the care that 217
an ordinarily prudent person in a like position would use under 218
similar circumstances. ~~Such an action includes, but is not~~ 219
~~limited to, an action that involves or affects~~ in any action 220
brought against a director, including actions involving or 221
affecting any of the following: 222

(a) A change or potential change in control of the corporation; 223
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(b) A termination or potential termination of the director's service to the corporation as a director; 225
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(c) The director's service in any other position or relationship with the corporation. 227
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(2) A director shall not be considered to be acting in good faith if the director has knowledge concerning the matter in question that would cause reliance on information, opinions, reports, or statements that are prepared or presented by the persons described in divisions (C) (1) to (3) of this section, to be unwarranted. 229
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(3) ~~The provisions of~~ Nothing in this division ~~do not~~ limit limits relief available under section 1702.301 of the Revised Code. 235
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~~(E) (1) Subject to divisions (E) (2) and (3) of this section, a~~ (E) A director is ~~shall be~~ liable in damages for any act action that the director takes or fails to take as a director only if it is proved, by clear and convincing evidence, in a court ~~with~~ of competent jurisdiction that the director's action or failure to act involved an act or omission of the ~~director was one~~ undertaken with a deliberate intent to cause injury to the corporation or ~~was one~~ undertaken with a reckless disregard for the best interests of the corporation. 238
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~~(2) Division (E) (1) of this section does not affect~~ Nothing in this division affects the liability of a ~~director~~ directors under section 1702.55 of the Revised Code. 247
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~~(3) Subject to~~ This division ~~(E) (2) of this section,~~ division (E) (1) of this section does not apply if, and only to 250
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the extent that, at the time of ~~an~~a director's act or omission 252
~~of a director~~ that is the subject of complaint, the articles or 253
the regulations of the corporation state, by specific reference 254
to ~~that this~~ division, that ~~its~~ the provisions of this division 255
do not apply to the corporation. 256

(F) For purposes of this section, a director, in 257
determining what ~~a the~~ director reasonably believes to be in ~~or~~ 258
~~not opposed to~~ the best interests of the corporation, ~~a director~~ 259
shall consider the purposes of the corporation and, in the 260
director's discretion, may consider any of the following: 261

(1) The interests of the corporation's employees, 262
suppliers, creditors, and customers ~~of the corporation~~; 263

(2) The economy of this state and ~~of the~~ nation; 264

(3) Community and societal considerations; 265

(4) The long-term ~~and as well as~~ short-term ~~best~~ interests 266
of the corporation, including, ~~but not limited to~~, the 267
possibility that ~~those~~ these interests may be best served by the 268
continued independence of the corporation. 269

(G) ~~Divisions~~ 270

Nothing in division (D) and or (E) ~~of this section do not~~ 271
~~affect~~ affects the duties of a director who acts in any capacity 272
other than in the capacity as a director. 273

Sec. 1702.33. (A) The regulations may provide for the 274
creation by the directors of an executive committee or any other 275
committee of the directors, to consist of one or more directors, 276
and may authorize the delegation to any such committee of any of 277
the authority of the directors, however conferred. 278

(B) The directors may appoint one or more directors as 279

alternate members of any committee described in division (A) of 280
this section, who may take the place of any absent member or 281
members at any meeting of the particular committee. 282

(C) Each committee described in division (A) of this 283
section shall serve at the pleasure of the directors, shall act 284
only in the intervals between meetings of the directors, and 285
shall be subject to the control and direction of the directors. 286

(D) Unless otherwise provided in the regulations or 287
ordered by the directors, any committee described in division 288
(A) of this section may act by a majority of its members at a 289
meeting or by a writing or writings signed by all of its 290
members. 291

(E) Meetings of committees described in division (A) of 292
this section may be held by any means of authorized 293
communications equipment, unless participation by members of the 294
committee at a meeting by means of authorized communications 295
equipment is prohibited by the articles, the regulations, or an 296
order of the directors. Participation in a meeting pursuant to 297
this division constitutes presence at the meeting. 298

(F) An act or authorization of an act by any committee 299
described in division (A) of this section within the authority 300
delegated to it shall be as effective for all purposes as the 301
act or authorization of the directors. 302

(G) Unless otherwise provided in the articles, the 303
regulations, or the resolution of the directors creating a 304
committee described in division (A) of this section, a committee 305
described in division (A) of this section may do both of the 306
following: 307

(1) Create one or more subcommittees, each of which 308

consists of one or more members of the committee; 309

(2) Delegate to a subcommittee any or all of the powers 310
and authority of the committee. 311

Sec. 1702.341. (A) Unless the articles, the regulations, 312
or a written agreement with an officer establishes additional 313
fiduciary duties, the only fiduciary duties of an officer are 314
the duties to the corporation set forth in division (B) of this 315
section. 316

(B) An officer shall perform the officer's duties to the 317
corporation in good faith, in a manner the officer reasonably 318
believes to be in or not opposed to the best interests of the 319
corporation, and with the care that an ordinarily prudent person 320
in a like position would use under similar circumstances. In 321
performing an officer's duties, an officer is entitled to rely 322
on information, opinions, reports, or statements, including 323
financial statements and other financial data, that are prepared 324
or presented by any of the following: 325

(1) One or more directors, officers, or employees of the 326
corporation who the officer reasonably believes are reliable and 327
competent in the matters prepared or presented; 328

(2) Counsel, public accountants, or other persons as to 329
matters that the officer reasonably believes are within the 330
person's professional or expert competence. 331

(C) For purposes of this section, both of the following 332
apply: 333

(1) In any action brought against an officer, the officer 334
shall not be found to have violated the officer's duties under 335
division (B) of this section unless it is proved by clear and 336
convincing evidence that the officer has not acted in good 337

faith, in a manner the officer reasonably believes to be in or 338
not opposed to the best interests of the corporation, or with 339
the care that an ordinarily prudent person in a like position 340
would use under similar circumstances. 341

(2) An officer shall not be considered to be acting in 342
good faith if the officer has knowledge concerning the matter in 343
question that would cause reliance on information, opinions, 344
reports, or statements that are prepared or presented by any of 345
the persons described in division (B) (1) or (2) of this section 346
to be unwarranted. 347

(D) An officer shall be liable in damages for a violation 348
of the officer's duties under division (B) of this section only 349
if it is proved by clear and convincing evidence in a court of 350
competent jurisdiction that the officer's action or failure to 351
act involved an act or omission undertaken with deliberate 352
intent to cause injury to the corporation or undertaken with 353
reckless disregard for the best interests of the corporation. 354
This division does not apply if, and only to the extent that, at 355
the time of an officer's act or omission that is the subject of 356
the complaint, either of the following is true: 357

(1) The articles or the regulations of the corporation 358
state by specific reference to division (D) of this section that 359
the provisions of division (D) of this section do not apply to 360
the corporation. 361

(2) A written agreement between the officer and the 362
corporation states by specific reference to division (D) of this 363
section that the provisions of division (D) of this section do 364
not apply to the officer. 365

(E) Nothing in this section affects the duties of an 366

officer who acts in any capacity other than the officer's 367
capacity as an officer. Nothing in this section affects any 368
contractual obligations of an officer to the corporation. 369

Sec. 1702.38. (A) The articles may be amended from time to 370
time in any respect if the articles as amended set forth all the 371
provisions that are required in, and only those provisions that 372
may properly be in, original articles filed at the time of 373
adopting the amendment, other than with respect to the initial 374
directors, except that a public benefit corporation shall not 375
amend its articles in such manner that it will cease to be a 376
public benefit corporation. 377

(B) Without limiting the generality of the authority 378
described in division (A) of this section, the articles may be 379
amended to: 380

(1) Change the name of the corporation; 381

(2) Change the place in this state where its principal 382
office is to be located; 383

(3) Change, enlarge, or diminish its purpose or purposes; 384

(4) Change any provision of the articles or add any 385
provision that may properly be included in the articles. 386

(C) (1) If initial directors are not named in the articles, 387
at any time prior to a meeting of voting members and before the 388
incorporators have elected directors, the incorporators or a 389
majority of them, at a meeting, may adopt an amendment. 390

(2) The voting members present in person, by use of 391
authorized communications equipment, by mail, or, if permitted, 392
by proxy at a meeting held for that purpose, may adopt an 393
amendment by the affirmative vote of a majority of the voting 394

members present if a quorum is present or, if the articles or 395
the regulations provide or permit, by the affirmative vote of a 396
greater or lesser proportion or number of the voting members, 397
and by the affirmative vote of the voting members of any 398
particular class that is required by the articles or the 399
regulations. 400

~~(2)~~ (3) For purposes of division (C) (1) or (2) of this 401
section, participation by a voting member at a meeting through 402
the use of any of the means of communication described in that 403
division constitutes presence in person of that voting member at 404
the meeting for purposes of determining a quorum. 405

(D) In addition to or in lieu of adopting an amendment to 406
the articles, the voting members may adopt amended articles by 407
the same action or vote as that required to adopt the amendment. 408

(E) The directors may adopt amended articles to 409
consolidate the original articles and all previously adopted 410
amendments to the articles that are in force at the time, or the 411
voting members at a meeting held for that purpose may adopt the 412
amended articles by the same vote as that required to adopt an 413
amendment. 414

(F) Amended articles shall set forth all the provisions 415
that are required in, and only the provisions that may properly 416
be in, original articles filed at the time of adopting the 417
amended articles, other than with respect to the initial 418
directors, and shall contain a statement that they supersede the 419
existing articles. 420

(G) Upon the adoption of any amendment or amended 421
articles, a certificate containing a copy of the resolution 422
adopting the amendment or amended articles, a statement of the 423

manner of its adoption, and, in the case of adoption of the 424
resolution by the directors, a statement of the basis for such 425
adoption, shall be filed with the secretary of state, and upon 426
that filing the articles shall be amended accordingly, and the 427
amended articles shall supersede the existing articles. The 428
certificate shall be signed by any authorized officer of the 429
corporation. 430

(H) A copy of an amendment or amended articles changing 431
the name of a corporation or its principal office in this state, 432
certified by the secretary of state, may be filed for record in 433
the office of the county recorder of any county in this state, 434
and for that recording the county recorder shall charge and 435
collect the same fee as provided for in division (A)(1) of 436
section 317.32 of the Revised Code. That copy shall be recorded 437
in the official records of the county recorder. 438

Sec. 1702.521. (A) Upon the complaint of not less than 439
one-fourth of the directors of the corporation or upon the 440
complaint of not less than one-fourth of the voting members of 441
the corporation, the court of common pleas of the county in 442
which the corporation maintains its principal office may order 443
the appointment of a provisional director for that corporation 444
if the articles or regulations of the corporation expressly 445
provide for such an appointment. No appointment shall be made 446
until a hearing is held by the court. Notice of the hearing 447
shall be given to each director and the secretary of the 448
corporation in any manner that the court directs. The 449
complainants shall establish at the hearing that, because of 450
irreconcilable differences among the existing directors or 451
because there are no directors and the voting members are unable 452
to elect any directors, the continued operation of the 453
corporation has been substantially impeded or made impossible. 454

(B) A provisional director shall have the same rights and 455
duties as other directors and shall serve until removed by the 456
appointing court or by the members of the corporation entitled 457
to exercise a majority of the voting power of the corporation in 458
the election of directors or until the provisional director's 459
earlier resignation or death. If the provisional director dies 460
or resigns, the court, pursuant to division (A) of this section, 461
may appoint a replacement provisional director, upon its own 462
motion and without the filing of a complaint for the appointment 463
of a provisional director. If the appointing court finds that 464
the irreconcilable differences no longer exist, it shall order 465
the removal of the provisional director. 466

(C) No person shall be appointed as a provisional director 467
unless the person is generally conversant with corporate 468
affairs, has no legal or equitable interest in the obligations 469
of the corporation of which the person is to be appointed a 470
director, and is not indebted to such corporation. The 471
compensation of a provisional director shall be determined by 472
agreement with the corporation for which the provisional 473
director is serving, subject to the approval of the appointing 474
court, except that the appointing court may fix the provisional 475
director's compensation in the absence of agreement or in the 476
event of disagreement between the provisional director and the 477
corporation. 478

(D) A proceeding concerning the appointment of a 479
provisional director of a corporation is a special proceeding, 480
and final orders issued in the proceeding may be vacated, 481
modified, or reversed on appeal pursuant to the Rules of 482
Appellate Procedure and, to the extent not in conflict with 483
those rules, Chapter 2505. of the Revised Code. 484

Sec. 1702.53. (A) A copy of the articles or amended 485
articles filed in the office of the secretary of state, 486
certified by the secretary of state, shall be conclusive 487
evidence, except as against the state, that the corporation has 488
been incorporated under the laws of this state; and a copy duly 489
certified by the secretary of state of any certificate of 490
amendment or other certificate filed in the secretary of state's 491
office shall be prima-facie evidence of such amendment or of the 492
facts stated in any such certificate, and of the observance and 493
performance of all antecedent conditions necessary to the action 494
which such certificate purports to evidence. 495

(B) A copy of amended articles filed in the office of the 496
secretary of state, certified by the secretary of state, shall 497
be accepted in this state and other jurisdictions in lieu of the 498
original articles, amendments thereto, and prior amended 499
articles. 500

(C) The original or a copy of the record of minutes of the 501
proceedings of the incorporators of a corporation, or of the 502
proceedings or meetings of the members or any class of members, 503
or of the directors, or of any committee thereof, including any 504
written consent, waiver, release, or agreement entered in such 505
record or minutes, or the original or a copy of a statement that 506
no specified proceeding was had or that no specified consent, 507
waiver, release, or agreement exists, shall, when certified to 508
be true by the secretary or an assistant secretary of a 509
corporation, be received in the courts as prima-facie evidence 510
of the facts stated therein. Every meeting referred to in such 511
certified original or copy shall be deemed duly called and held, 512
and all motions and resolutions adopted and proceedings had at 513
such meeting shall be deemed duly adopted and had, and all 514
elections of directors and all elections or appointments of 515

officers chosen at such meeting shall be deemed valid, until the 516
contrary is proved; and whenever a person who is not a member of 517
a corporation has acted in good faith in reliance upon any such 518
certified original or copy, it is conclusive in the person's 519
favor. 520

(D) (1) A certificate issued by the secretary of state 521
confirming that a corporation is in good standing is, for seven 522
days after the date on the certificate, conclusive evidence of 523
both of the following: 524

(a) That the authority of a domestic corporation has not 525
been limited as described in section 1702.49 or 1702.52 of the 526
Revised Code, provided that both of the following apply: 527

(i) The person relying on the certificate had no knowledge 528
that the corporation's articles had been canceled. 529

(ii) The certificate is not presented as evidence against 530
the state. 531

(b) That the license authorizing a foreign corporation to 532
transact business in this state has not expired, been canceled, 533
or been surrendered. 534

(2) For purposes of division (D) of this section, "good 535
standing" means that the authority of the corporation to carry 536
on business is not limited by section 1702.49 of the Revised 537
Code. 538

Sec. 1702.531. (A) Absent an express agreement to the 539
contrary, a person providing goods to or performing services for 540
a domestic or foreign corporation owes no duty to, incurs no 541
liability or obligation to, and is not in privity with the 542
members or creditors of the corporation by reason of providing 543
goods to or performing services for the corporation. 544

(B) Absent an express agreement to the contrary, a person 545
providing goods to or performing services for a member or group 546
of members of a domestic or foreign corporation owes no duty to, 547
incurs no liability or obligation to, and is not in privity with 548
the corporation, any other members of the corporation, or the 549
creditors of the corporation by reason of providing goods to or 550
performing services for the member or group of members. 551

Sec. 1702.55. (A) The members, the directors, and the 552
officers of a corporation shall not be personally liable for any 553
obligation of the corporation. 554

~~(B) Directors who~~ In addition to any other liabilities 555
imposed by law upon directors of a corporation and except as 556
provided in division (D) of this section, directors shall be 557
jointly and severally liable to the corporation as provided in 558
division (C) of this section if they vote for or assent to any 559
of the following: 560

(1) A distribution of assets to members contrary to law or 561
the articles; 562

(2) A distribution of assets to persons other than 563
creditors during the winding up of the affairs of the 564
corporation, on dissolution or otherwise, without the payment of 565
all known obligations of the corporation, or without making 566
adequate provision therefor; 567

(3) The making of loans, other than in the usual conduct 568
of its affairs or in accordance with provisions therefor in the 569
articles, to an officer, or director, ~~or member~~ of the 570
corporation; ~~shall be jointly and severally liable to the~~ 571
~~corporation as follows: in~~ other than if, at the time of the 572
making of the loan, a majority of the disinterested directors of 573

the corporation voted for the loan and, taking into account the 574
terms and provisions of the loan and other relevant factors, 575
determined that the making of the loan could reasonably be 576
expected to benefit the corporation. 577

(C) (1) In cases under division (B) (1) of this section, 578
to the amount of such distribution in excess of the amount that 579
could have been distributed without violation of law or the 580
articles, but not in excess of the amount that would inure to 581
the benefit of the creditors of the corporation if it was 582
insolvent at the time of the distribution or there was 583
reasonable ground to believe that by such action it would be 584
rendered insolvent, or to the benefit of the members other than 585
members of the class in respect of which the distribution was 586
made; ~~and in~~ 587

(2) In cases under division (B) (2) of this section, to the 588
extent that such obligations (not otherwise barred by statute) 589
are not paid, or for the payment of which adequate provision has 590
not been made; ~~and in~~ 591

(3) In cases under division (B) (3) of this section, for 592
the amount of the loan with interest thereon at the rate ~~of six~~ 593
~~per cent per annum until such~~ specified in section 1343.03 of 594
the Revised Code until the amount has been paid, ~~except that a.~~ 595

(D) A director shall not be liable under ~~division~~ 596
divisions (B) (1) and (C) (1) or ~~(2)~~ divisions (B) (2) and (C) (2) 597
of this section if in determining the amount available for any 598
such distribution, the director in good faith relied on a 599
financial statement of the corporation prepared by an officer or 600
employee of the corporation in charge of its accounts or 601
certified by a public accountant or firm of public accountants, 602
or in good faith the director considered the assets to be of 603

their book value, or the director followed what the director 604
believed to be sound accounting and business practice. 605

~~(C)~~ (E) A director who is present at a meeting of the 606
directors or a committee thereof at which action on any matter 607
is authorized or taken and who has not voted for or against such 608
action shall be presumed to have voted for the action unless the 609
director's written dissent therefrom is filed either during the 610
meeting or within a reasonable time after the adjournment 611
thereof, with the person acting as secretary of the meeting or 612
with the secretary of the corporation. 613

~~(D)~~ (F) A member who knowingly receives any distribution 614
made contrary to law or the articles shall be liable to the 615
corporation for the amount received by the member that is in 616
excess of the amount that could have been distributed without 617
violation of law or the articles. 618

~~(E)~~ (G) A director against whom a claim is asserted under 619
or pursuant to this section and who is held liable thereon shall 620
be entitled to contribution, on equitable principles, from other 621
directors who also are liable; and in addition, any director 622
against whom a claim is asserted under or pursuant to this 623
section or who is held liable shall have a right of contribution 624
from the members who knowingly received any distribution made 625
contrary to law or the articles, and such members as among 626
themselves shall also be entitled to contribution in proportion 627
to the amounts received by them respectively. 628

~~(F)~~ (H) The fact that a loan is made in violation of this 629
section does not affect the borrower's liability on the loan. 630

(I) No action shall be brought by or on behalf of a 631
corporation upon any cause of action arising under division (B) 632

(1) or (2) of this section at any time after two years from the 633
day on which the violation occurs. 634

~~(G)~~ (J) Nothing contained in this section shall preclude 635
any creditor whose claim is unpaid from exercising such rights 636
as the creditor otherwise would have by law to enforce the 637
creditor's claim against assets of the corporation distributed 638
to members or other persons. 639

Sec. 1745.05. As used in this chapter, unless the context 640
otherwise requires: 641

(A) "Authorized communications equipment" means any 642
communications equipment that provides a transmission, 643
including, but not limited to, by telephone, telecopy, or any 644
electronic means, from which it can be determined that the 645
transmission was authorized by, and accurately reflects the 646
intention of, the member or manager involved and, with respect 647
to meetings, allows all persons participating in the meeting to 648
contemporaneously communicate with each other. 649

(B) (1) "Entity" means any of the following: 650

(a) An unincorporated nonprofit association existing under 651
the laws of this state or any other state; 652

(b) A nonprofit corporation existing under the laws of 653
this state or any other state; 654

(c) A for profit corporation existing under the laws of 655
this state or any other state; 656

(d) Any of the following organizations existing under the 657
laws of this state, the United States, or any other state: 658

(i) An unincorporated business or for profit organization, 659
including a general or limited partnership; 660

(ii) A limited liability company; 661

(iii) Any other legal or commercial entity the formation 662
and operation of which is governed by statute. 663

(2) "Entity" includes a domestic or foreign entity. 664

(C) "Established practices" means the practices used by an 665
unincorporated nonprofit association without material change 666
during the most recent five years of its existence or, if it has 667
existed for less than five years, during its entire existence. 668

(D) "Governing principles" means all agreements, whether 669
oral, in a record, or implied from its established practices, or 670
any combination of them, that govern the purpose or operation of 671
an unincorporated nonprofit association and the rights and 672
obligations of its members and managers. "Governing principles" 673
includes any amendment or restatement of the agreements 674
constituting the governing principles. 675

(E) "Internal Revenue Code" means the "Internal Revenue 676
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 677

(F) "Manager" means a person, irrespective of the person's 678
designation as director or other designation, that is 679
responsible, alone or in concert with others, for the management 680
of an unincorporated nonprofit association as stated in division 681
(E) of section 1745.32 of the Revised Code. 682

(G) "Member" means a person that, under the governing 683
principles of an unincorporated nonprofit association, is 684
entitled to participate in the selection of persons authorized 685
to manage the affairs of the association or in the adoption of 686
the policies and activities of the association. 687

(H) "Mutual benefit association" means any unincorporated 688

nonprofit association organized under this chapter other than a 689
public benefit association. 690

(I) "Person" means an individual, corporation, business 691
trust, statutory entity trust, estate, trust, partnership, 692
limited liability company, cooperative, association, joint 693
venture, public corporation, government or governmental 694
subdivision, agency, or instrumentality, two or more persons 695
having a joint or common interest, or any other legal or 696
commercial entity. 697

(J) "Public benefit association" means an unincorporated 698
nonprofit association that is exempt from federal income 699
taxation under section 501(c)(3) of the Internal Revenue Code or 700
is organized for a public or charitable purpose and that upon 701
dissolution must distribute its assets to a public benefit 702
association, the United States, a state or any political 703
subdivision of a state, or a person that is recognized as exempt 704
from federal income taxation under section 501(c)(3) of the 705
Internal Revenue Code. 706

(K) "Public benefit entity" means an entity that is 707
recognized as exempt from federal income taxation under section 708
501(c)(3) of the Internal Revenue Code or is organized for a 709
public or charitable purpose and that upon dissolution must 710
distribute its assets to a public benefit entity, the United 711
States, a state or any political subdivision of a state, or a 712
person that is recognized as exempt from federal income taxation 713
under section 501(c)(3) of the Internal Revenue Code. "Public 714
benefit entity" does not include an entity that is organized by 715
one or more municipal corporations to further a public purpose 716
that is not a charitable purpose. 717

(L) "Record" means information that is inscribed on a 718

tangible medium or that is stored in an electronic or other 719
medium and is retrievable in perceivable form. 720

(M) "Unincorporated nonprofit association" means an 721
unincorporated organization, consisting of two or more members 722
joined by mutual consent pursuant to an agreement, written, 723
oral, or inferred from conduct, for one or more common, 724
nonprofit purposes. "Unincorporated nonprofit association" does 725
not include any of the following: 726

(1) A trust; 727

(2) A marriage, domestic partnership, common law 728
relationship, or other domestic living arrangement; 729

(3) An organization that is formed under any other statute 730
that governs the organization and operation of unincorporated 731
associations; 732

(4) A joint tenancy, tenancy in common, or tenancy by the 733
entireties notwithstanding that the co-owners share use of the 734
property for a nonprofit purpose; 735

(5) A religious organization that operates according to 736
the rules, regulations, canons, discipline, or customs 737
established by the organization, including any ministry, 738
apostolate, committee, or group within that organization, unless 739
the governing principles of such organization specifically 740
provide that division (M) (5) of this section does not apply to 741
such organization. 742

(N) (1) Subject to division (N) (2) of this section, 743
"volunteer" means a manager, officer, member, or agent of an 744
unincorporated nonprofit association, or another person acting 745
for the association, who satisfies both of the following: 746

(a) Performs services for or on behalf of, and under the 747
authority or auspices of, that unincorporated nonprofit 748
association; 749

(b) Does not receive compensation, either directly or 750
indirectly, for performing those services. 751

(2) For purposes of division (N)(1) of this section, 752
"compensation" does not include any of the following: 753

(a) Actual and necessary expenses that are incurred by a 754
volunteer in connection with the services performed for an 755
unincorporated nonprofit association and that are reimbursed to 756
the volunteer or otherwise paid; 757

(b) Insurance premiums paid on behalf of a volunteer, and 758
amounts paid or reimbursed, pursuant to divisions (A) and (G) of 759
section 1745.43 of the Revised Code; 760

(c) Modest perquisites. 761

Section 2. That existing sections 1701.86, 1702.27, 762
1702.30, 1702.33, 1702.38, 1702.521, 1702.53, 1702.55, and 763
1745.05 of the Revised Code are hereby repealed. 764