

Enrolled Senate Bill 141

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Secretary of State Kate Brown)

CHAPTER

AN ACT

Relating to documents used in connection with business entities; creating new provisions; amending ORS 56.035, 56.080, 60.001, 60.111, 60.221, 60.307, 60.992, 62.155, 63.111, 63.990, 65.001, 65.221, 65.227, 65.637, 65.990, 70.025, 128.595, 165.800, 271.330, 307.518 and 554.082; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

NOTE: Sections 1 and 2 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 3. Section 4 of this 2013 Act is added to and made a part of ORS chapter 58.

SECTION 4. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under this chapter.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 5. Section 6 of this 2013 Act is added to and made a part of ORS chapter 62.

SECTION 6. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under this chapter.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 7. Section 8 of this 2013 Act is added to and made a part of ORS chapter 67.

SECTION 8. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under this chapter.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 9. Section 10 of this 2013 Act is added to and made a part of ORS chapter 70.

SECTION 10. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under this chapter.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 11. Section 12 of this 2013 Act is added to and made a part of ORS 554.005 to 554.340.

SECTION 12. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under ORS 554.005 to 554.340.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 13. Section 14 of this 2013 Act is added to and made a part of ORS 128.560 to 128.600.

SECTION 14. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under ORS 128.560 to 128.600.

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 15. Section 16 of this 2013 Act is added to and made a part of ORS chapter 648.

SECTION 16. (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under this chapter.

(2) Signing a false document for filing is a Class A misdemeanor.

(3) This section does not limit or affect any civil penalty the Secretary of State may impose for violating a provision of this chapter or any person's right to seek a remedy that is otherwise available under this chapter.

SECTION 17. ORS 56.035 is amended to read:

56.035. (1) [Where] **If** a document is required by law to be verified before [it may be filed] **being submitted for filing** with the Secretary of State, the document [shall] **must** include or be accompanied by a written declaration[, prepared] **that the person who executes the document prepares** under penalties of perjury [by the person executing the document,] to the effect that the person has examined the document and to the best of the **person's** knowledge and belief [of the person it] **the document** is true, correct and complete. An acknowledgment before a notary public or other officer is not required.

(2) **The Secretary of State, before filing a document that a person submits for filing, may verify that the principal office address or the registered office address listed in the document is a physical street address and not a commercial mail receiving agency.**

SECTION 18. ORS 56.080 is amended to read:

56.080. (1) Except as provided in subsections (2), (3), [and] (4) **and (5)** of this section, [the Secretary of State,] within one year after a filing and not less than 20 days after **giving** written notice to the company or individual who submitted the document [to the office], **the Secretary of State** may withdraw any certificate **the secretary** issued or document [filed by] the secretary [of State] **filed**, except filings [pursuant to] **under** ORS chapter 647, on any ground existing at the time of the filing for which the secretary [of State] could have originally refused to issue the certificate or file the document. The written notice [shall] **must** state the reason for the proposed withdrawal.

(2) The secretary [of State], within one year after a filing, may withdraw from filing any document [filed by] the secretary [of State when] **filed if** the person [who] **that** submitted the document advises the office that the document was submitted prematurely or by inadvertence or mistake. The person [requesting] **that requests** the withdrawal shall accompany the request with a written

statement *[reflecting]* **that reflects** the basis of the person's authority to *[initiate]* **request** the withdrawal.

(3) The secretary, within one year after a filing, may withdraw from filing any document the secretary filed if an authorized representative of the business on behalf of which the document was filed advises the office that the document was submitted in error. The person that requests the withdrawal shall accompany the request with a notarized affidavit that states the basis of the person's authority to request the withdrawal.

[(3)] (4) The secretary [of State] may withdraw without notice or hearing a certificate that the secretary [of State has] issued or a document the secretary [of State has filed when] filed if the fee was paid with a check that was returned to the office for lack of sufficient funds. [Such] The withdrawal [shall be] is retroactive to the date of filing.

[(4)] (5) The secretary [of State] shall withdraw a certificate the secretary [of State has] issued or a document the secretary [of State has] filed if the secretary [of State] receives a final written order from the Director of the Department of Consumer and Business Services that establishes that the person named in the certificate or document has violated ORS 705.638, 707.005 or 707.010.

[(5)] (6) Any decision under this section may be reviewed in accordance with the provisions of ORS chapter 183.

*[(6)] (7) A withdrawal [from filing] of a document **from filing** under this section is retroactive to the date of the filing but does not relieve a person of any liability the person may have incurred while the document was filed with the office. The Secretary of State is not required to refund any fees paid in conjunction with [the] a document **that the secretary withdraws** [withdrawn].*

*[(7)] (8) At any time [prior to] **before** a delayed effective date specified in a document, [upon] **the secretary shall withdraw the document at the** written request of the person or persons who originally filed the document with the secretary. [of State, the document shall be withdrawn. Upon such withdrawal of a document,] The document **after withdrawal** has no further effect and [shall] **must** be treated as if the document had not been filed. The person *[requesting]* **that requests** the withdrawal shall accompany the request with a written statement *[reflecting]* **that reflects** the basis of the person's authority to *[initiate]* **request** the withdrawal.*

SECTION 19. ORS 60.001 is amended to read:

60.001. As used in this chapter:

(1) "Anniversary" means *[that]* **the** day each year **that is** exactly one or more years after:

(a) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** the articles of incorporation *[in the case of]* **for** a domestic corporation.

(b) The date *[of filing by]* **on which** the Secretary of State *[of]* **files** an application for authority to transact business *[in the case of]* **for** a foreign corporation.

(2) "Articles of incorporation" *[include]* **means the articles described in ORS 60.047**, amended and restated articles of incorporation, articles of conversion *[and]* **or** articles of merger.

(3) "Authorized shares" means the shares of all classes **that** a domestic or foreign corporation is authorized to issue.

(4) "Conspicuous" means *[so]* written, **printed or typed in text that is italicized, boldfaced, of a contrasting color, capitalized or underlined or similarly enhanced** so that a reasonable person against whom the writing is to operate should have noticed the writing. *[For example, a writing printed in italics, boldface or contrasting color, typed in capitals or underlined is conspicuous.]*

(5) "Corporation" or "domestic corporation" means a corporation for profit **that is** incorporated under or subject to the provisions of this chapter **and** that is not a foreign corporation.

(6) "Delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

(7) "Distribution" means a direct or indirect transfer of money or other property, except of a corporation's own shares, or **an** incurrence of indebtedness by a corporation to or for the benefit of the corporation's shareholders in respect of any of the corporation's shares. *A distribution may*

be], in the form of a declaration or payment of a dividend, a purchase, redemption or other acquisition of shares, a distribution of indebtedness, or otherwise.

(8) “Domestic limited liability company” means an entity that is an unincorporated association [having] **that has** one or more members and that is organized under ORS chapter 63.

(9) “Domestic nonprofit corporation” means a corporation not for profit **that is** incorporated under ORS chapter 65.

(10) “Domestic professional corporation” means a corporation **that is** organized under ORS chapter 58 for the purpose of rendering professional services and for the purposes provided under ORS chapter 58.

(11) “Electronic signature” has the meaning given that term in ORS 84.004.

(12) “Electronic transmission” means any process of communication that does not directly involve the physical transfer of paper and that is suitable for [the retention, retrieval and reproduction of information by the recipient.] **the recipient to retain, retrieve and reproduce information.**

(13) “Employee” includes an officer but not a director, unless the director accepts duties that make the director also an employee.

(14) “Entity” includes a corporation, foreign corporation, nonprofit corporation, profit and nonprofit unincorporated association, business trust, partnership, two or more persons having a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.

(15) “Foreign corporation” means a corporation for profit **that is** incorporated under laws other than the laws of this state.

(16) “Foreign limited liability company” means an entity that is an unincorporated association organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity’s members limited liability with respect to liabilities of the entity.

(17) “Foreign nonprofit corporation” means a corporation not for profit **that is** organized under laws other than the laws of this state.

(18) “Foreign professional corporation” means a professional corporation **that is** organized under laws other than the laws of this state.

(19) “Governmental subdivision” includes an authority, county, district and municipality.

[20] “Includes” denotes a partial definition.]

[21] (20) “Individual” means a natural person. “Individual” includes] **or** the estate of an incompetent individual or a deceased individual.

[22] “Means” denotes an exhaustive definition.]

[23] (21) “Office,” when used to refer to the administrative unit directed by the Secretary of State, means the office of the Secretary of State.

[24] (22) “Person” [includes] **means an** individual [and] **or** entity.

[25] (23) “Principal office” means the **physical street address of the** office, in or out of this state, where the principal executive offices of a domestic or foreign corporation are located and designated in the annual report or **in the** application for authority to transact business in this state.

[26] (24) “Proceeding” [includes] **means a** civil, criminal, administrative [and] **or** investigatory action.

[27] (25) “Record date” means the date established under this chapter on which a corporation determines the identity of the corporation’s shareholders and their shareholdings for purposes of this chapter. [The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.]

[28] (26) “Shares” means the units into which the proprietary interest in a corporation [are] **is** divided.

[29] (27) “Shareholder” means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

[30] (28) "Signature" *includes* means any manual, facsimile, conformed or electronic signature.

(29) "Single voting group" means a voting group, the shares of which are entitled by the articles of incorporation or this chapter to vote generally on a matter.

[31] (30) "State," when referring to a part of the United States, *includes* means a state, commonwealth, territory *and* or insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

[32] (31) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

[33] (32) "United States" includes a district, authority, bureau, commission, department and any other agency of the United States.

[34] (33) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. *[All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.]*

SECTION 20. ORS 60.111 is amended to read:

60.111. (1) *[Each]* A corporation shall continuously maintain in this state a registered agent and registered office that may be, but need not be, the same as any of *[its]* **the corporation's** places of business. **The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency.**

(2) A registered agent shall be:

(a) An individual who resides in this state and whose business office is identical to the registered office;

(b) A domestic corporation, domestic limited liability company, domestic professional corporation or domestic nonprofit corporation, *[whose]* **the business office of which** is identical to the registered office; or

(c) A foreign corporation, foreign limited liability company, foreign professional corporation or foreign nonprofit corporation **that is** authorized to transact business in this state, *[whose]* **the business office of which** is identical to the registered office.

SECTION 21. ORS 60.221 is amended to read:

60.221. (1) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote or to take any other action. The record date *[shall]* **must** be the same for all voting groups. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date, or a later time on the date the board of directors fixes the record date, as the record date.

(2)(a) A record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of shareholders.

(b) A determination of shareholders must be made as of the close of business on the record date unless another time for making the determination is specified when the record date is fixed.

(3) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which *[it]* **the board** must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, *[it]* **the court** may provide that the original record date continues in effect or *[it]* **the court** may fix a new record date.

SECTION 22. ORS 60.307 is amended to read:

60.307. (1) A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws. Notwithstanding ORS

60.001 [(21)] **(20)**, the estate of an incompetent individual or a deceased individual may not be a director.

(2) The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

(3) Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless *[their]* **the directors'** terms are staggered under ORS 60.317.

SECTION 23. ORS 60.992 is amended to read:

60.992. (1) A person commits the crime of *[falsely]* signing a **false** document for filing if the person:

(a) **Knows the document is false in any material respect; and**

(b) Signs *[a]* **the** document *[knowing it is false in any material respect]* with **an** intent that the document be delivered to the office **of the Secretary of State** for filing **under this chapter**.

(2) *[Falsely]* Signing a **false** document for filing is a *[Class B]* **Class A** misdemeanor.

SECTION 24. ORS 62.155 is amended to read:

62.155. (1) *[Each]* **A** cooperative shall have and continuously maintain in this state:

(a) A registered office *[which may]* **that may be**, but need not be, the same as *[its]* **the cooperative's** place of business. **The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency.**

(b) A registered agent *[who shall]* **that must be:**

(A) An individual *[resident]* **who resides** in this state **and** whose business office is identical to *[such]* **the** registered office;

(B) A domestic corporation, domestic limited liability company, domestic professional corporation or domestic nonprofit corporation *[having]* **that has** a business office identical to *[such]* **the** registered office; or

(C) A foreign corporation, foreign limited liability company, foreign professional corporation or foreign nonprofit corporation **that is** authorized to transact business in this state and *[having]* **that has** a business office identical to *[such]* **the** registered office.

(2) A cooperative may change *[its]* **the cooperative's** registered office or registered agent in accordance with the procedure set forth in ORS 60.114.

(3) A person *[who has been designated by a cooperative as its]* **that a cooperative has designated as the cooperative's** registered agent may resign in accordance with the procedure set forth in ORS 60.117.

(4) A registered agent appointed by a cooperative is an agent of the cooperative upon whom any process, notice or demand required or permitted by law to be served upon the cooperative may be served.

(5) The provisions of ORS 60.121 are applicable to cooperatives.

SECTION 25. ORS 63.111 is amended to read:

63.111. (1) *[Each]* **A** limited liability company shall continuously maintain in this state a registered agent and registered office that may be, but need not be, the same as any of *[its]* **the limited liability company's** places of business. **The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency.**

(2) A registered agent *[shall]* **must be:**

(a) An individual who resides in this state and whose business office is identical to the registered office;

(b) A domestic limited liability company, a domestic corporation, a domestic professional corporation or a domestic nonprofit corporation, *[whose]* **the** business office **of which** is identical to the registered office; or

(c) A foreign limited liability company, foreign corporation, foreign professional corporation or foreign nonprofit corporation **that is** authorized to transact business in this state, *[whose]* **the** business office **of which** is identical to the registered office.

SECTION 26. ORS 63.990 is amended to read:

63.990. (1) A person commits the crime of [*falsely*] signing a **false** document for filing [*under this chapter*] if the person:

(a) **Knows the document is false in any material respect; and**

(b) Signs [*a*] **the** document [*knowing it is false in any material respect*] with **an** intent that the document be delivered to the office **of the Secretary of State** for filing **under this chapter**.

(2) [*Falsely*] Signing a **false** document for filing is a [*Class B*] **Class A** misdemeanor.

SECTION 27. ORS 65.001 is amended to read:

65.001. As used in this chapter[, *unless otherwise specifically provided*]:

(1) “Anniversary” means [*that*] **the** day each year **that is** exactly one or more years after the date [*of filing by*] **on which** the Office of the Secretary of State [*of*] **files** the articles of incorporation [*in the case of*] **for** a domestic corporation or the date [*of filing by*] **on which** the office [*of the Secretary of State of*] **files** an application for authority to transact business [*in the case of*] **for** a foreign corporation. An event that would otherwise cause an anniversary to fall on February 29 [*shall be deemed to have occurred*] **will cause the anniversary to fall** on February 28.

(2) “Approved by the members” or “approval by the members” means approved or ratified by the members entitled to vote on the issue through either:

(a) The affirmative vote of a majority of the votes of [*such*] **the** members represented and voting at a duly held meeting at which a quorum is present or the affirmative vote of [*such*] **a** greater proportion including the votes of any required proportion of the members of any class as the articles, bylaws or this chapter may provide for specified types of member action; or

(b) A written ballot or written consent in conformity with this chapter.

(3) “Articles of incorporation” or “articles” [*include*] **means the articles described in ORS 65.047**, amended and restated articles of incorporation [*and*] **or** articles of merger, and corrections [*thereto*] **to the articles**.

(4) “Board” or “board of directors” means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated, except that [*no*] **an** individual or **a** group of individuals [*are*] **is not** the board of directors because of powers delegated to [*that*] **the** individual or group [*pursuant to*] **under** ORS 65.301.

(5) “Bylaws” means the code or codes of rules, other than the articles adopted [*pursuant to*] **under** this chapter or the laws governing a foreign corporation, for [*the regulation or management of*] **regulating or managing** the affairs of the domestic or foreign corporation, irrespective of the name or names by which [*such*] **the** rules are designated.

(6) “Class” means a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights are the same if the rights are determined by a formula applied uniformly.

(7) “Contact address” means a mailing address at which a person affiliated with the organization will receive and transmit to the organization notices intended for the foreign or domestic corporation either when sending [*such*] **the** notices to the registered agent is not practical or when a duplicate notice is desirable. The contact address may be the principal place of business, if any, or the business or residence address of any person associated with the corporation or foreign corporation who has consented to serve, but [*shall*] **may** not be the address of the registered agent.

(8) “Corporation” or “domestic corporation” means a nonprofit corporation that is not a foreign corporation, and that is incorporated under or subject to the provisions of this chapter.

(9) “Delegates” means those persons elected or appointed to vote in a representative assembly for [*the election of*] **electing** a director or directors or on other matters.

(10) “Deliver” [*includes mail.*] **means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.**

(11) "Directors" means individuals [*designated in*] **whom** the articles or bylaws **designate** or [*elected by*] **whom** the incorporators **elect** to act as members of the board, and [*their*] **the** successors **to the individuals**.

(12) "Distribution" means [*the payment of*] **paying** a dividend or any part of the income or profit of a corporation to the corporation's members, directors or officers, other than [*payment of*] **paying** value for property received or services performed or [*payment of*] **paying** benefits [*in furtherance of*] **to further** the corporation's purposes.

(13) "Domestic business corporation" means a for profit corporation **that is** incorporated under ORS chapter 60.

(14) "Domestic limited liability company" means [*an entity that is*] an unincorporated association [*having*] **that has** one or more members and that is organized under ORS chapter 63.

(15) "Domestic professional corporation" means a corporation **that is** organized under ORS chapter 58 for the purpose of rendering professional services and for the purposes provided under ORS chapter 58.

(16) "Effective date of notice" has the meaning given that term in ORS 65.034.

(17) "Employee" includes an officer or director [*who is employed by*] **whom** the corporation **employs** with compensation for services beyond those encompassed by board membership.

(18) "Entity" [*includes*] **means** a corporation, foreign corporation, business corporation and foreign business corporation, profit and nonprofit unincorporated association, corporation sole, business trust, partnership, two or more persons [*having*] **that have** a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.

(19) "File," "filed" or "filing" means reviewed, accepted and entered in the Office of the Secretary of State.

(20) "Foreign business corporation" means a for profit corporation **that is** incorporated under laws other than the laws of this state.

(21) "Foreign corporation" means a corporation **that is** organized under laws other than the laws of this state **and** that would be a nonprofit corporation if formed under the laws of this state.

(22) "Foreign limited liability company" means [*an entity that is*] an unincorporated association **that is** organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity's members limited liability with respect to liabilities of the entity.

(23) "Foreign professional corporation" means a professional corporation **that is** organized under laws other than the laws of this state.

(24) "Governmental subdivision" includes an authority, county, district and municipality.

[*(25) "Includes" denotes a partial definition.*]

[*(26)*] **(25)** "Individual" means a natural person, [*and includes*] **including** the guardian of an incompetent individual.

[*(27) "Means" denotes an exhaustive definition.*]

[*(28)(a)*] **(26)(a)** "Member" means a person [*or persons*] **that is** entitled, [*pursuant to*] **under** a domestic or foreign corporation's articles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on more than one occasion [*for the election of*] **to elect** a director or directors.

(b) A person is not a member by virtue of any of the following rights the person has:

(A) As a delegate;

(B) To designate or appoint a director or directors;

(C) As a director; or

(D) As a holder of an evidence of indebtedness [*issued or to be issued by*] the corporation **has issued or will issue**.

(c) Notwithstanding the provisions of paragraph (a) of this subsection, a person is not a member if the person's membership rights have been eliminated as provided in ORS 65.164 or 65.167.

[(29)] (27) “Membership” *[refers to]* **means** the rights and obligations a member has under this chapter.

[(30)] (28) “Mutual benefit corporation” means a domestic corporation that is formed as a mutual benefit corporation *[pursuant to]* **under** ORS 65.044 to 65.067[,] **and** is designated a mutual benefit corporation by a statute or does not come within the definition of public benefit or religious corporation.

[(31)] (29) “Nonprofit corporation” means **a** mutual benefit *[corporations]* **corporation, a** public benefit *[corporations and]* **corporation or a** religious *[corporations]* **corporation.**

[(32)] (30) “Notice” has the meaning given that term in ORS 65.034.

[(33)] (31) “Office,” when used to refer to the administrative unit directed by the Secretary of State, means the Office of the Secretary of State.

[(34)] (32) “Person” *[includes any]* **means** individual or entity.

[(35)] (33) “Principal office” means the **physical street address of the** place, in or out of this state, **where the principal executive offices of a domestic or foreign corporation are located and that is designated as the principal office** *[so designated]* in the most recent annual report filed pursuant to ORS 65.787 or, if no annual report is on file, *[as designated]* in the articles of incorporation or the application for authority to transact business in this state, *that is the place where the principal executive offices of a domestic or foreign corporation are located or, if none, the contact address*].

[(36)] (34) “Proceeding” *[includes]* **means a** civil, criminal, administrative *[and]* **or** investigatory action.

[(37)] (35) “Public benefit corporation” means a domestic corporation that:

(a) Is formed as a public benefit corporation *[pursuant to]* **under** ORS 65.044 to 65.067, is designated as a public benefit corporation by a statute, is recognized as tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;

(b) Is restricted so that on dissolution the corporation must distribute the corporation’s assets to an organization organized for a public or charitable purpose, a religious corporation, the United States, a state or a person that is recognized as exempt under section 501 (c) (3) of the Internal Revenue Code of 1986; and

(c) Does not come within the definition of “religious corporation.”

[(38)] (36) “Record date” means the date established under ORS 65.131 to 65.177 or 65.201 to 65.254 on which a corporation determines the identity of the corporation’s members and *[their]* **the members’** membership rights for the purposes of this chapter. *[The determinations shall be made as of the time of close of transactions on the record date unless another time for doing so is specified at the time the record date is fixed.]*

[(39)] (37) “Religious corporation” means a domestic corporation that is formed as a religious corporation *[pursuant to]* **under** ORS 65.044 to 65.067, is designated a religious corporation by a statute or is organized primarily or exclusively for religious purposes.

[(40)] (38) “Secretary,” when used in the context of a corporate official, means the corporate officer to whom the board of directors has delegated responsibility under ORS 65.371 for preparing the minutes of the directors’ and members’ meetings and for authenticating the records of the corporation.

[(41)] (39) “State,” when referring to a part of the United States, *[includes]* **means** a state, commonwealth, territory *[and]* **or** insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

[(42)] (40) “Uncompensated officer” means an individual who serves in an office without compensation for personal service. For purposes of this subsection, payment solely for actual expenses in performing duties of the officer or a stipend that is paid only to compensate the average expenses the individual incurs over the course of a year is not compensation.

[(43)] (41) “United States” *[includes]* **means a** district, authority, bureau, commission, department *[and]* **or** any other agency of the United States.

[(44)] (42) “Vote” [includes] **means** authorization by written ballot and written consent, where permitted.

[(45)] (43) “Voting power” means the total number of votes entitled to be cast on [the] **an** issue at the time the determination of voting power is made, excluding a vote that is contingent upon [the happening of] a condition or event **occurring** that has not occurred at the time. [When a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.]

SECTION 28. ORS 65.221 is amended to read:

65.221. (1) The bylaws may fix or provide the manner of fixing the record date in order to determine the members entitled to notice of a members’ meeting, to demand a special meeting, to vote or to take any other lawful action. **A determination of members must be made as of the time of close of transactions on the record date unless another time for doing so is specified at the time the record date is fixed.** If the bylaws do not fix or provide for fixing [such] a record date, the board of directors may fix a future date as the record date. If [no such] a record date is **not** fixed, then:

(a) To determine the members entitled to notice of a members’ meeting, the record date [shall be] **is** the day before the day on which first notice is mailed or otherwise transmitted to members in accordance with ORS 65.034, or if notice is waived, the day preceding the day on which the meeting is held.

(b) To determine the members entitled to demand a special meeting, the record date [shall be] **is** as set forth in ORS 65.204 (2).

(c) To determine the members entitled to take action without a meeting, the record date [shall be] **is** as set forth in ORS 65.211 (2).

(d) To determine the members entitled to vote at a members’ meeting, the record date [shall be] **is** the date of the meeting.

(e) To determine the members entitled to exercise any rights in respect to any other lawful action, the record date [shall be] **is** the day on which the board adopts the resolution [relating thereto] **that relates to the other action**, or the 60th day [prior to] **before** the date of [such] **the** other action, whichever is later.

(2) A record date fixed under this section may not be more than 70 days before the meeting or action [requiring the] **that requires a** determination of members.

(3) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new record date, which [it] **the board** must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, [it] **the court** may provide that the original record date continues in effect or [it] **the court** may fix a new record date.

SECTION 29. ORS 65.227 is amended to read:

65.227. (1) Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter [voted on by] **on which** the members **vote**, including each matter on which a member [is entitled to] **may** vote under this chapter or the articles or bylaws. Except as expressly prohibited in this chapter, the articles or bylaws may provide for different allocations of votes among member classes or exclude the members or some or all member classes from voting on any issue on which they would otherwise be entitled to vote under this chapter. [Persons not retaining] **A person that does not retain** a right to vote on more than one occasion [for the election of] **to elect** a director or directors [shall not be deemed members] **is not a member.**

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

(a) If only one **person** votes, [such] **the person’s** act binds all; and

(b) If more than one **person** votes, the vote [*shall be*] **is** divided on a pro rata basis.

(3) If a class is entitled to vote as a class for directors, a determination of the voting power of the class must be based on the percentage of the number of directors the class may elect out of the total number of authorized directors.

SECTION 30. ORS 65.637 is amended to read:

65.637. (1) A dissolved corporation continues the corporation's corporate existence but may not carry on any activities except [*those*] **activities that are** appropriate to wind up and liquidate the corporation's affairs, including:

(a) Preserving and protecting the corporation's assets and minimizing the corporation's liabilities;

(b) Discharging or providing for discharging the corporation's liabilities and obligations;

(c) Disposing of the corporation's properties that will not be distributed in kind;

(d) Returning, transferring or conveying assets in accordance with a condition under which the corporation holds the assets subject to a requirement to return, transfer or convey the assets, if the condition occurs by reason of the dissolution;

(e) Transferring, subject to any contractual or legal requirements, the corporation's assets as provided in or authorized by the corporation's articles of incorporation or bylaws;

(f) If the corporation is a public benefit or religious corporation, and the corporation has not provided in the corporation's articles or bylaws for distributing assets on dissolution, transferring, subject to any contractual or legal requirement, the corporation's assets to one or more persons described in ORS 65.001 [(37)(b)] **(35)(b)**;

(g) If the corporation is a mutual benefit corporation and the corporation has not provided in the corporation's articles or bylaws for distributing assets on dissolution, transferring, subject to any contractual or legal requirements, the corporation's assets to the corporation's members or, if the corporation has no members, to those persons whom the corporation purports to benefit or serve;

(h) Adopting a plan of merger; and

(i) Doing other acts necessary to liquidate the corporation's assets and wind up the corporation's affairs.

(2) Dissolution of a corporation does not:

(a) Transfer title to the corporation's property;

(b) Subject the corporation's directors or officers to standards of conduct different from [*those*] **the standards** prescribed in ORS 65.301 to 65.414;

(c) Change quorum or voting requirements for the corporation's board or members, change provisions for selection, resignation or removal of the corporation's directors or officers, or both, or change provisions for amending the corporation's bylaws;

(d) Prevent commencement of a proceeding by or against the corporation in the corporation's corporate name;

(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(f) Terminate the authority of the registered agent of the corporation.

SECTION 31. ORS 65.990 is amended to read:

65.990. (1) A person commits the crime of [*falsely*] signing a **false** document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs [a] the document [*knowing it is false in any material respect*] with an intent that the document be delivered to the Office of the Secretary of State for filing **under this chapter.**

[*(2) Violation of subsection (1) of this section is a Class B misdemeanor.*]

(2) Signing a false document for filing is a Class A misdemeanor.

SECTION 32. ORS 70.025 is amended to read:

70.025. (1)(a) [*Each*] **A** domestic limited partnership and [*each*] **a** foreign limited partnership [*doing*] **that does** business in this state and all general partners of each domestic limited partner-

ship or foreign limited partnership [shall] **must** continuously maintain in this state a [single] registered agent [who shall be amenable to service of process at the registered agent's business office in this state.] **and a registered office. The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency.**

(b) The registered agent [shall] **must** be:

[(a)] (A) An individual resident of this state who has a business office in this state;

[(b)] (B) A domestic corporation, domestic limited liability company, domestic professional corporation or domestic nonprofit corporation that has a business office in this state; or

[(c)] (C) A foreign corporation, foreign limited liability company, foreign professional corporation or foreign nonprofit corporation that is authorized to transact business in this state and has a business office in this state.

(2) A domestic or foreign limited partnership and the general partners [thereof] **of the domestic or foreign limited partnership** may change [their] **the** registered agent **of the domestic or foreign limited partnership** by [upon] submitting for filing to the Office of Secretary of State a statement described in this subsection. The statement [shall] **must** be executed by [any] **a** general partner. [The filing of the statement shall immediately terminate] **Filing the statement immediately terminates** the existing registered agent and [establish] **establishes** the newly appointed registered agent as the registered agent of the domestic or foreign limited partnership and the general partners [thereof] **of the domestic or foreign limited partnership**. The statement [shall] **must** include [the following]:

(a) The name of the domestic or foreign limited partnership and the name and address of each general partner [thereof] **of the domestic or foreign limited partnership**; and

(b) The name of the successor registered agent and the **physical** street address of [that] **the** registered agent's business office in this state.

SECTION 33. ORS 128.595 is amended to read:

128.595. (1) A business trust by the trust's anniversary date shall deliver to the office of the Secretary of State for filing an annual report accompanied by the annual fee.

(2) The annual report [shall] **must** contain [the following]:

(a) The name of the business trust and the state or country under [whose] **the** law **of which** the business trust is formed;

(b) The names and addresses of the business trust's trustees;

(c) The **physical** street address of the business trust's registered office in this state, **which must be a location at which process may be personally served on the registered agent and which may not be a commercial mail receiving agency**, and the name of the trust's registered agent at the registered office;

(d) A mailing address to which the Secretary of State may mail notices;

(e) A description of the primary business activity of the business trust; and

(f) Any additional identifying information that the Secretary of State may require by rule.

(3) The annual report [shall] **must** be on forms prescribed and furnished by the Secretary of State. The information contained in the annual report [shall] **must** be current as of 30 days before the anniversary of the business trust.

(4) The Secretary of State shall mail the report form to any address shown for the business trust in the current records of the office of the Secretary of State. The [failure of the business trust] **business trust's failure** to receive the report form from the Secretary of State does not relieve the business trust of the trust's duty under this section to deliver a report to the office.

(5) If the Secretary of State finds the report conforms to the requirements of this section, the Secretary of State shall file the report.

(6) If the Secretary of State finds that the annual report does not conform to the requirements of this section, the Secretary of State shall return the report to the business trust. The business trust shall correct the annual report and return the corrected report to the Secretary of State within 45 days after the Secretary of State returns the report.

(7) If no report is filed by the reporting date or if no corrected report is filed within the 45-day period, the Secretary of State shall send to the business trust a final notice advising that [no] a report has **not** been filed and [it is,] **the Secretary of State**, therefore, [assumed] **assumes** that the business trust is no longer active unless a report is filed within 45 days after the mailing of [such] **the** final notice.

(8) Not less than 45 days after the **mailing** date [of mailing] of the final notice [provided for by] **specified in** subsection (7) of this section, the Secretary of State may assume and note on the records of the Secretary of State that the business trust is inactive.

SECTION 34. ORS 165.800 is amended to read:

165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the personal identification of another person.

(2) Identity theft is a Class C felony.

(3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense:

(a) Was under 21 years of age at the time of committing the offense and the person used the personal identification of another person solely for the purpose of purchasing alcohol;

(b) Was under 18 years of age at the time of committing the offense and the person used the personal identification of another person solely for the purpose of purchasing tobacco products; or

(c) Used the personal identification of another person solely for the purpose of misrepresenting the person's age to gain access to a:

(A) Place the access to which is restricted based on age; or

(B) Benefit based on age.

(4) As used in this section:

(a) "Another person" means [a real person] **an individual**, whether living or deceased, [or] an imaginary person **or a firm, association, organization, partnership, business trust, company, corporation, limited liability company, professional corporation or other private or public entity**.

(b) "Personal identification" includes, but is not limited to, any written document or electronic data that does, or purports to, provide information concerning:

(A) A person's name, address or telephone number;

(B) A person's driving privileges;

(C) A person's Social Security number or tax identification number;

(D) A person's citizenship status or alien identification number;

(E) A person's employment status, employer or place of employment;

(F) The identification number assigned to a person by a person's employer;

(G) The maiden name of a person or a person's mother;

(H) The identifying number of a person's depository account at a "financial institution" or "trust company," as those terms are defined in ORS 706.008, or a credit card account;

(I) A person's signature or a copy of a person's signature;

(J) A person's electronic mail name, electronic mail signature, electronic mail address or electronic mail account;

(K) A person's photograph;

(L) A person's date of birth; and

(M) A person's personal identification number.

SECTION 35. ORS 271.330 is amended to read:

271.330. (1) Any political subdivision is granted express power to relinquish the title to any of [its] **the political subdivision's** property not needed for public use to any governmental body, providing [such] **the** property shall be used for not less than 20 years for a public purpose by the governmental body in the State of Oregon. These transfers for public purposes may include transfers without consideration of property held by counties as a result of tax foreclosures.

(2)(a) Any political subdivision is granted express power to relinquish the title to any of *[its]* **the political subdivision's** property to a qualifying nonprofit corporation or a municipal corporation for the purpose of providing any of the following:

- (A) Low income housing;
 - (B) Social services; or
 - (C) Child care services.
- (b) As used in this subsection:

(A) "Qualifying nonprofit corporation" means a corporation that is a public benefit corporation *[under]* **as defined in** ORS 65.001 *[(37)]* and that has obtained a ruling from the federal Internal Revenue Service providing that the corporation is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code.

(B) "Social services" and "child care services" include but are not limited to education, training, counseling, health and mental health services and the provision of facilities and administrative services to support social services and child care services.

(3) Any political subdivision is granted express power to convey real property to a nonprofit or municipal corporation to be used by the nonprofit or municipal corporation for the creation of open space, parks or natural areas for perpetual public use. The instrument conveying the real property shall include a restriction on the use of the property that limits the uses of the property to those uses described in this subsection. The instrument conveying the property shall also contain a provision for the reversion of the property to the political subdivision if the property is not used in conformance with the restriction. Real property conveyed under this subsection may include real property held by a political subdivision as a result of tax foreclosures.

(4) Transfers under this section may include transfers without consideration of property held by counties as a result of tax foreclosures.

(5) Before any county court or board of county commissioners may transfer, under subsection (1) of this section, any tax foreclosed lands in which the state or a political subdivision has represented delinquent and uncollected taxes, liens or assessments, *[it]* **the county court or board of county commissioners** shall advertise in a newspaper of general circulation in the county for two successive weeks *[its]* **the court's or the board's** intention to so transfer the property. The notice shall state when the county court will hear objections to the transfer and must specifically describe the property intended to be transferred. After the hearing set in the notice is held and objections are heard, *[it]* **the court** may, in *[its]* **the court's** sound discretion, proceed with the transfer. Except in the case of a transfer for low income housing, real property shall be conveyed by deed, subject to a reversionary interest retained by the granting political subdivision in the event that the property is used for a purpose that is inconsistent with the grant. The granting political subdivision may waive the subdivision's right to a reversionary interest at the time the property is conveyed. After the transfer the interests of the state or any political subdivision in the land on account of uncollected taxes, liens or assessments are extinguished, and the county is relieved of the necessity to account for uncollected taxes, liens or assessments.

SECTION 36. ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property that meets all of the following criteria *[shall be]* **is** exempt from taxation as provided under ORS 307.515 to 307.523:

- (a) If unoccupied, the property:
 - (A) Is offered for rental solely as a residence for low income persons; or
 - (B) Is held for the purpose of developing low income rental housing.
- (b) If occupied, the property is occupied solely as a residence for low income persons.
- (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before January 1, 2020.
- (d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, *[as described under ORS 65.001 (37) or for a religious corporation, as described under ORS 65.001 (39).]* **or a religious corporation, both as defined in ORS 65.001.**

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of *[its]* **the nonprofit corporation's** annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property.

(2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

SECTION 37. ORS 554.082 is amended to read:

554.082. (1) *[Each]* A corporation shall continuously maintain in this state a registered agent and registered office that may be, but need not be, the same as any of *[its]* **the corporation's** places of business. **The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency.**

(2) A registered agent *[shall]* **must** be:

(a) An individual who resides in this state and whose business office is identical to the registered office;

(b) A domestic corporation or domestic nonprofit corporation, *[whose]* **the business office of which** is identical to the registered office; or

(c) A foreign corporation or foreign nonprofit corporation **that is** authorized to transact business in this state, *[whose]* **the business office of which** is identical to the registered office.

SECTION 38. (1) Sections 4, 6, 8, 10, 12, 14 and 16 of this 2013 Act and the amendments to ORS 56.035, 56.080, 60.992, 63.990 and 65.990 by sections 17, 18, 23, 26 and 31 of this 2013 Act apply to documents filed with the office of the Secretary of State on or after the operative date specified in section 39 of this 2013 Act.

(2) The amendments to ORS 128.595 by section 33 of this 2013 Act apply to annual reports filed with the office of the Secretary of State on or after the operative date specified in section 39 of this 2013 Act.

SECTION 39. (1) Sections 4, 6, 8, 10, 12, 14 and 16 of this 2013 Act and the amendments to ORS 56.035, 56.080, 60.001, 60.111, 60.221, 60.307, 60.992, 62.155, 63.111, 63.990, 65.001, 65.221, 65.227, 65.637, 65.990, 70.025, 128.595, 165.800, 271.330, 307.518 and 554.082 by sections 17 to 37 of this 2013 Act become operative 91 days after the effective date of this 2013 Act.

(2) The Secretary of State may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the Secretary of State to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Secretary of State by sections 4, 6, 8, 10, 12, 14 and 16 of this 2013 Act and the amendments to ORS 56.035, 56.080, 60.001, 60.111, 60.221, 60.307, 60.992, 62.155, 63.111, 63.990, 65.001, 65.221, 65.227, 65.637, 65.990, 70.025, 128.595, 165.800, 271.330, 307.518 and 554.082 by sections 17 to 37 of this 2013 Act.

SECTION 40. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate March 13, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 8, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State