
SUBSTITUTE SENATE BILL 5786

State of Washington

68th Legislature

2024 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Padden, Mullet, Nobles, and Salomon; by request of Washington State Bar Association)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to making updates to the Washington business
2 corporation act; amending RCW 23B.07.250, 23B.07.270, 23B.08.080,
3 23B.08.240, 23B.09.030, 23B.10.030, 23B.12.020, 23B.13.020,
4 23B.13.200, 23B.13.210, 23B.13.220, 23B.17.015, 23B.25.100, and
5 23B.25.130; reenacting and amending RCW 23B.01.400; adding a new
6 chapter to Title 23B RCW; and repealing RCW 23B.11.010, 23B.11.020,
7 23B.11.030, 23B.11.035, 23B.11.040, 23B.11.045, 23B.11.050,
8 23B.11.060, 23B.11.070, 23B.11.080, 23B.11.090, 23B.11.100, and
9 23B.11.110.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 NEW SECTION. **Sec. 1.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1) "Acquired entity" means the domestic corporation that will
15 have all of one or more classes or series of its shares acquired in a
16 share exchange.

17 (2) "Acquiring entity" means the domestic corporation that will
18 acquire all of one or more classes or series of shares of the
19 acquired entity in a share exchange.

20 (3) "New owner liability" means owner liability of a person,
21 resulting from a merger or share exchange, that is (a) in respect of

1 an entity which is different from the entity in which the person held
2 shares or interests immediately before the merger or share exchange
3 became effective; or (b) in respect of the same entity as the one in
4 which the person held shares or interests immediately before the
5 merger or share exchange became effective if (i) the person did not
6 have owner liability immediately before the merger or share exchange
7 became effective, or (ii) the person had owner liability immediately
8 before the merger or share exchange became effective, the terms and
9 conditions of which were changed when the merger or share exchange
10 became effective.

11 (4) "Party to a merger" means any domestic corporation or other
12 entity that will merge under a plan of merger.

13 (5) "Surviving entity" in a merger means the domestic corporation
14 or other entity into which one or more other domestic corporations or
15 other entities are merged.

16 NEW SECTION. **Sec. 2.** (1) By complying with this chapter, one or
17 more domestic corporations may merge with one or more domestic
18 corporations or other entities in accordance with a plan of merger,
19 resulting in a surviving entity.

20 (2) By complying with the provisions of this chapter applicable
21 to other entities, an other entity may be a party to a merger with a
22 domestic corporation, but only if the merger is permitted by the
23 organic law of the other entity.

24 (3) If the organic law or organic rules of a domestic other
25 entity do not provide procedures for the approval of a merger, a plan
26 of merger may nonetheless be approved by the unanimous consent of all
27 of the interest holders of that other entity, and the merger may
28 thereafter be effected as provided in the other provisions of this
29 chapter. For the purposes of applying this chapter in such a case:

30 (a) The other entity, its interest holders, interests, and
31 organic rules taken together will be deemed to be a domestic
32 corporation, shareholders, shares, and articles of incorporation,
33 respectively, and vice versa as the context may require; and

34 (b) If the business and affairs of the other entity are managed
35 by a person or persons that are not identical to the interest
36 holders, that group will be deemed to be the board of directors.

37 (4) The plan of merger must include:

38 (a) As to each party to the merger, its name, jurisdiction of
39 organization, and type of entity;

1 (b) The surviving entity's name, jurisdiction of organization,
2 and type of entity;

3 (c) The manner and basis of converting the shares of each merging
4 domestic corporation and interests of each merging other entity into
5 shares or other securities, interests, obligations, rights to acquire
6 shares, other securities or interests, cash, or other property, or of
7 canceling some or all of such shares or interests, or any combination
8 of the foregoing; and

9 (d) Any other provisions required by the laws under which any
10 party to the merger is organized or by which it is governed, or by
11 the articles of incorporation or organic rules of any such party.

12 (5) In addition to the requirements of subsection (4) of this
13 section, a plan of merger may contain amendments to the articles of
14 incorporation or public organic record of any party to the merger
15 that will be the surviving entity, a restatement that includes one or
16 more amendments to the surviving entity's articles of incorporation
17 or public organic record, and any other provision not prohibited by
18 law.

19 (6) Terms of a plan of merger may be made dependent on facts
20 objectively ascertainable outside the plan in accordance with RCW
21 23B.01.200(3).

22 (7) A plan of merger may be amended only with the consent of each
23 party to the merger, except as provided in the plan of merger. An
24 amendment to a plan of merger that has previously been approved by a
25 party's shareholders or interest holders must be approved:

26 (a) In the same manner as the plan was approved, if the plan of
27 merger does not provide for the manner in which it may be amended; or

28 (b) In the manner provided in the plan of merger, except that
29 shareholders or interest holders that were entitled to vote on or
30 consent to approval of the plan of merger are entitled to vote on or
31 consent to any amendment of the plan of merger that will change:

32 (i) The amount or kind of shares or other securities, interests,
33 obligations, rights to acquire shares, other securities or interests,
34 cash, or other property to be received under the plan of merger by
35 the shareholders or interest holders of any party to the merger;

36 (ii) The articles of incorporation of any domestic corporation,
37 or the organic rules of any other entity, that will be the surviving
38 entity of the merger, unless (A) the change constitutes an amendment
39 to the articles of incorporation or organic rules of the surviving
40 entity that would be permitted without approval of shareholders or

1 interest holders by RCW 23B.10.020 or by comparable provisions of the
2 organic law of any such other entity, or (B) the shareholders or
3 interest holders that were entitled to vote on or consent to approval
4 of the plan of merger will not continue as or become shareholders or
5 interest holders of the surviving entity; or

6 (iii) Any of the other terms or conditions of the plan of merger
7 if the change would adversely affect such shareholders or interest
8 holders in any material respect.

9 NEW SECTION. **Sec. 3.** (1) By complying with this chapter:

10 (a) A domestic corporation may acquire all of the shares of one
11 or more classes or series of shares of another domestic corporation
12 in exchange for shares or other securities, obligations, rights to
13 acquire shares or other securities, cash, other property, or any
14 combination of the foregoing, pursuant to a plan of share exchange;
15 or

16 (b) All of the shares of one or more classes or series of shares
17 of a domestic corporation may be acquired by another domestic
18 corporation in exchange for shares or other securities, obligations,
19 rights to acquire shares or other securities, cash, other property,
20 or any combination of the foregoing, pursuant to a plan of share
21 exchange.

22 (2) The plan of share exchange must include:

23 (a) The name of each domestic corporation the shares of which
24 will be acquired and the name of the domestic corporation that will
25 acquire those shares; and

26 (b) The manner and basis of exchanging shares of a domestic
27 corporation that is the acquired entity for shares or other
28 securities, obligations, rights to acquire shares, other securities,
29 cash, other property, or any combination of the foregoing.

30 (3) In addition to the requirements of subsection (2) of this
31 section, a plan of share exchange may contain any other provision not
32 prohibited by law.

33 (4) Terms of a plan of share exchange may be made dependent on
34 facts objectively ascertainable outside the plan in accordance with
35 RCW 23B.01.200(3).

36 (5) A plan of share exchange may be amended only with the consent
37 of each party to the share exchange, except as provided in the plan
38 of share exchange. A domestic corporation may approve an amendment to
39 a plan of share exchange:

1 (a) In the same manner as the plan of share exchange was
2 approved, if the plan of share exchange does not provide for the
3 manner in which it may be amended; or

4 (b) In the manner provided in the plan of share exchange, except
5 that shareholders that were entitled to vote on or consent to
6 approval of the plan of share exchange are entitled to vote on or
7 consent to any amendment of the plan of share exchange that will
8 change:

9 (i) The amount or kind of shares or other securities,
10 obligations, rights to acquire shares, other securities, cash, or
11 other property to be received under the plan by the shareholders of
12 the acquired entity; or

13 (ii) Any of the other terms or conditions of the plan of share
14 exchange if the change would adversely affect such shareholders in
15 any material respect.

16 NEW SECTION. **Sec. 4.** In the case of a domestic corporation that
17 is a party to a merger or the acquired entity in a share exchange,
18 the plan of merger or share exchange must be approved in the
19 following manner:

20 (1) The plan of merger or share exchange must first be approved
21 by the board of directors.

22 (2) Except as provided in subsection (6) of this section, and in
23 sections 6, 7, and 11 of this act, the plan of merger or share
24 exchange must then be approved by the shareholders. In submitting the
25 plan of merger or share exchange to the shareholders for approval,
26 the board of directors must recommend that the shareholders approve
27 the plan or, in the case of an offer referred to in section 6(1)(b)
28 of this act, that the shareholders tender their shares to the offeror
29 in response to the offer, unless (a) the board of directors makes a
30 determination that because of conflicts of interest or other special
31 circumstances it should not make such a recommendation, or (b) RCW
32 23B.08.245 applies. If either (a) or (b) of this subsection applies,
33 the board of directors must inform the shareholders of the basis for
34 so proceeding.

35 (3) The board of directors may set conditions for the approval of
36 the plan of merger or share exchange by the shareholders or the
37 effectiveness of the plan.

38 (4) If the plan of merger or share exchange is required to be
39 approved by the shareholders, and if the approval is to be given at a

1 meeting, the corporation must notify each shareholder, regardless of
2 whether entitled to vote, of the meeting of shareholders at which the
3 plan is to be submitted for approval. The notice must state that the
4 purpose, or one of the purposes, of the meeting is to consider the
5 plan and must contain or be accompanied by a copy of the plan or a
6 summary of the material terms and conditions of the proposed merger
7 or share exchange and the consideration to be received by
8 shareholders. If the corporation is to be merged into a domestic
9 corporation or other entity, the notice must also include or be
10 accompanied by a copy or summary of the articles of incorporation and
11 bylaws of that domestic corporation or the organic rules of that
12 other entity.

13 (5) (a) With respect to a domestic corporation formed before
14 August 1, 2024:

15 (i) Unless the articles of incorporation, or the board of
16 directors acting in accordance with subsection (3) of this section,
17 require a different vote, shareholder approval of the plan of merger
18 or share exchange requires (A) the approval of two-thirds of the
19 voting group comprising all the votes entitled to be cast on the
20 plan, and (B) the approval of two-thirds of the votes entitled to be
21 cast on the plan by each other voting group entitled under section 5
22 of this act or the articles of incorporation to vote separately on
23 the plan; and

24 (ii) The articles of incorporation may require a different vote
25 than that provided in this subsection, or a different vote by
26 separate voting groups, so long as the required vote is not less than
27 a majority of all the votes entitled to be cast on the plan and of
28 each other voting group entitled to vote separately on the plan.

29 (b) With respect to a domestic corporation formed on or after
30 August 1, 2024, unless the articles of incorporation, or the board of
31 directors acting in accordance with subsection (3) of this section,
32 require a greater vote, shareholder approval of the plan of merger or
33 share exchange requires (i) the approval of a majority of the voting
34 group comprising all the votes entitled to be cast on the plan, and
35 (ii) the approval of a majority of the votes entitled to be cast on
36 the plan by each other voting group entitled under section 5 of this
37 act or the articles of incorporation to vote separately on the plan.

38 (6) Unless the articles of incorporation provide otherwise,
39 approval of a plan of merger by the shareholders of a domestic
40 corporation that is a party to the merger is not required if:

1 (a) Such corporation will survive the merger;
2 (b) Except for amendments permitted by RCW 23B.10.020, its
3 articles of incorporation will not be changed; and
4 (c) Each shareholder of such corporation whose shares were
5 outstanding immediately before the merger becomes effective will hold
6 the same number of shares, with identical preferences, rights, and
7 limitations, immediately after the merger becomes effective.
8 (7) If as a result of a merger or share exchange one or more
9 shareholders of a domestic corporation would become subject to new
10 owner liability, approval of the plan of merger or share exchange
11 requires the express written consent of each such shareholder to
12 become subject to that new owner liability in connection with the
13 merger or share exchange, unless in the case of a shareholder that
14 already has owner liability with respect to that domestic
15 corporation, (a) the new owner liability is with respect to a
16 domestic corporation (which may be a different or the same domestic
17 corporation in which the person is a shareholder) or other entity,
18 and (b) the terms and conditions of the new owner liability are
19 substantially identical to those of the existing owner liability
20 (other than for changes that eliminate or reduce that owner
21 liability).

22 NEW SECTION. **Sec. 5.** (1) Subject to subsection (2) of this
23 section, separate voting by voting groups is required:

24 (a) On a plan of merger, by each class or series of shares of a
25 domestic corporation that is a party to the merger that:

26 (i) Is to be converted under the plan into shares, other
27 securities, interests, obligations, rights to acquire shares, other
28 securities or interests, cash, other property, or any combination of
29 the foregoing, or is to be canceled under the plan; or

30 (ii) Is entitled to vote as a separate group on a provision in
31 the plan that constitutes a proposed amendment to the articles of
32 incorporation of such corporation that requires action by separate
33 voting groups under RCW 23B.10.040 if such corporation is the
34 surviving entity in the merger and the holders of such class or
35 series will continue as shareholders of the surviving entity;

36 (b) On a plan of share exchange, by each class or series of
37 shares of a domestic corporation included in the exchange, with each
38 class or series constituting a separate voting group; and

1 (c) On a plan of merger or share exchange, if the voting group is
2 entitled under the articles of incorporation to vote as a separate
3 voting group on the plan of merger or share exchange, respectively.

4 (2) The articles of incorporation may expressly limit or
5 eliminate the separate voting rights provided in subsection (1)(a)(i)
6 and (b) of this section as to any class or series of shares. A
7 provision in the articles of incorporation of a domestic corporation
8 formed before August 1, 2024, limiting or eliminating the separate
9 voting rights provided under RCW 23B.11.035 in effect prior to the
10 effective date of this section will be deemed to limit or eliminate
11 the separate voting rights provided in subsection (1)(a)(i) and (b)
12 of this section to the same extent.

13 (3) If a proposed plan of merger or share exchange that entitles
14 the holders of two or more classes or series of shares to vote as
15 separate voting groups under this section would affect those two or
16 more classes or series in the same or a substantially similar way,
17 then instead of voting as separate voting groups, the holders of
18 shares of the classes or series so affected are to vote together as a
19 single voting group on the proposed plan of merger or share exchange,
20 unless otherwise provided in the articles of incorporation or by the
21 board of directors in accordance with section 4(3) of this act.

22 (4) Holders of shares of two or more classes or series of shares
23 of a domestic corporation that is a party to the merger or the
24 acquired entity in a share exchange who would, under a proposed plan,
25 receive the same type of consideration in the form of shares or other
26 securities, interests, obligations, rights to acquire shares, other
27 securities or interests of the surviving or acquiring entity or of
28 any parent entity of the surviving entity, cash or other form of
29 consideration, or the same combination thereof, but in differing
30 amounts resulting solely from application of provisions in the
31 corporation's articles of incorporation governing distribution of
32 consideration received in a merger or share exchange, are deemed to
33 be affected in the same or a substantially similar way and are not,
34 by reason of receiving the same types or differing amounts of
35 consideration, entitled to vote as separate voting groups on the
36 proposed plan, unless the articles of incorporation of such
37 corporation expressly require otherwise or the board of directors
38 conditions its submission of the proposed plan on a separate vote by
39 one or more classes or series.

1 NEW SECTION. **Sec. 6.** (1) Unless the articles of incorporation
2 provide otherwise, approval by a corporation's shareholders of a plan
3 of merger or share exchange is not required if:

4 (a) The plan of merger or share exchange expressly (i) permits or
5 requires the merger or share exchange to be effected under this
6 section, and (ii) provides that, if the merger or share exchange is
7 to be effected under this section, the merger or share exchange will
8 be effected as soon as practicable following the satisfaction of the
9 requirements of (f) of this subsection;

10 (b) Another party to the merger, the acquiring entity in the
11 share exchange, or a parent of another party to the merger or the
12 acquiring entity in the share exchange, makes an offer to purchase,
13 on the terms stated in the plan of merger or share exchange, any and
14 all of the outstanding shares of the corporation that, absent this
15 section, would be entitled to vote on the plan of merger or share
16 exchange, except that the offer may exclude shares of the corporation
17 that are owned at the commencement of the offer by the corporation,
18 the offeror, or any parent of the offeror, or by any wholly owned
19 subsidiary of any of the foregoing;

20 (c) The offer discloses that the plan of merger or share exchange
21 provides that the merger or share exchange will be effected as soon
22 as practicable following the satisfaction of the requirements of (f)
23 of this subsection and that the shares of the corporation that are
24 not tendered in response to the offer will be treated as provided in
25 (h) of this subsection;

26 (d) The offer remains open for at least 10 days;

27 (e) The offeror purchases all shares properly tendered in
28 response to the offer and not properly withdrawn;

29 (f) The (i) shares purchased by the offeror in accordance with
30 the offer; (ii) shares otherwise owned by the offeror or by any
31 parent of the offeror or any wholly owned subsidiary of any of the
32 foregoing; and (iii) shares subject to an agreement that they are to
33 be transferred, contributed, or delivered to the offeror, any parent
34 of the offeror, or any wholly owned subsidiary of any of the
35 foregoing in exchange for shares or interests in that offeror,
36 parent, or subsidiary, are collectively entitled to cast at least the
37 minimum number of votes on the merger or share exchange that, absent
38 this section, would be required by this chapter and the articles of
39 incorporation for the approval of the merger or share exchange by the
40 shareholders and by any other voting group entitled to vote on the

1 merger or share exchange at a meeting at which all shares entitled to
2 vote on the merger or share exchange were present and voted;

3 (g) The offeror or a wholly owned subsidiary of the offeror
4 merges with or into, or effects a share exchange in which it acquires
5 shares of, the corporation; and

6 (h) Each outstanding share of each class or series of shares of
7 the corporation that the offeror is offering to purchase in
8 accordance with the offer, and which is not purchased in accordance
9 with the offer, is to be converted in the merger into, or into the
10 right to receive, or is to be exchanged in the share exchange for, or
11 for the right to receive, the same amount and kind of securities,
12 interests, obligations, rights, cash, or other property to be paid or
13 exchanged in accordance with the offer for each share of that class
14 or series of shares that is tendered in response to the offer, except
15 that shares of the corporation that are owned by the corporation or
16 that are described in (f)(ii) or (iii) of this subsection need not be
17 converted into or exchanged for the consideration described in this
18 subsection.

19 (2) As used in this section:

20 (a) "Offer" means the offer referred to in subsection (1)(b) of
21 this section.

22 (b) "Offeror" means the person making the offer.

23 (c) "Parent" of an entity means a person that owns, directly or
24 indirectly, through one or more wholly owned subsidiaries, all of the
25 outstanding shares of or interests in that entity.

26 (d) Shares tendered in response to the offer will be deemed to
27 have been "purchased" in accordance with the offer at the earliest
28 time as of which:

29 (i) The offeror has irrevocably accepted those shares for
30 payment; and

31 (ii) Either: (A) In the case of shares represented by
32 certificates, the offeror, or the offeror's designated depository or
33 other agent, has physically received the certificates representing
34 those shares; or (B) in the case of shares without certificates,
35 those shares have been transferred into the account of the offeror or
36 its designated depository or other agent, or an agent's message
37 relating to those shares has been received by the offeror or its
38 designated depository or other agent.

39 (e) "Wholly owned subsidiary" of a person means an entity of or
40 in which that person owns, directly or indirectly, through one or

1 more wholly owned subsidiaries, all of the outstanding shares or
2 interests.

3 NEW SECTION. **Sec. 7.** (1) A domestic corporation or other entity
4 that owns shares of a domestic corporation that are entitled to cast
5 votes comprising at least 90 percent of the voting power of each
6 class and series of the outstanding voting shares of that subsidiary
7 corporation may: (a) Merge the subsidiary corporation into itself or
8 into (i) another domestic corporation in which the parent entity owns
9 shares that are entitled to cast votes comprising at least 90 percent
10 of the voting power of each class and series of the outstanding
11 voting shares of that other domestic corporation or (ii) an other
12 entity in which the parent entity owns interests that are entitled to
13 cast votes comprising at least 90 percent of the total number of
14 votes entitled to be cast by all outstanding interests of that other
15 entity, or (b) merge itself into that subsidiary corporation, in
16 either case without the approval of the board of directors or
17 shareholders of the subsidiary corporation, unless the articles of
18 incorporation or organic rules of the parent entity or the articles
19 of incorporation of the subsidiary corporation provide otherwise.
20 Section 4(7) of this act applies to a merger under this section. The
21 articles of merger relating to a merger under this section do not
22 need to be executed by the subsidiary corporation.

23 (2) A parent entity must, within 10 days after a merger under
24 subsection (1) of this section becomes effective, notify each of the
25 subsidiary corporation's other shareholders that the merger has
26 become effective. The notice must contain or be accompanied by a copy
27 of the plan of merger or a summary of the material terms and
28 conditions of the merger and the consideration to be received by
29 shareholders.

30 (3) Except as provided in subsections (1) and (2) of this
31 section, a merger under this section will be governed by the
32 provisions of this chapter applicable to mergers generally.

33 NEW SECTION. **Sec. 8.** (1)(a) After a plan of merger has been
34 approved (i) as required by this title, and (ii) in the case of each
35 other entity, if any, that is party to the merger, as required by the
36 organic law or organic rules governing such other entity or by
37 section 2(3) of this act, as applicable, then articles of merger must

1 be executed by each party to the merger except as provided in section
2 7(1) of this act.

3 (b) The articles of merger must state:

4 (i) The name, jurisdiction of organization, and type of entity of
5 each party to the merger;

6 (ii) The name, jurisdiction of organization, and type of entity
7 of the surviving entity;

8 (iii) If the surviving entity of the merger is a domestic
9 corporation and its articles of incorporation are amended or amended
10 and restated, the amendments to or the amendment and restatement of
11 the surviving entity's articles of incorporation;

12 (iv) If the surviving entity of the merger is a domestic other
13 entity and its public organic record is amended or amended and
14 restated, the amendments or the amendment and restatement of the
15 surviving entity's public organic record;

16 (v) If the plan of merger required approval by the shareholders
17 of a domestic corporation that is a party to the merger, a statement
18 that the plan was duly approved by the shareholders and, if voting by
19 any separate voting group was required, by each such separate voting
20 group, in the manner required by this title and the articles of
21 incorporation;

22 (vi) If the plan of merger did not require approval by the
23 shareholders of a domestic corporation that is a party to the merger,
24 a statement to that effect; and

25 (vii) As to each other entity that is a party to the merger, a
26 statement that the merger was approved in accordance with its organic
27 law or section 2(3) of this act.

28 (2) After a plan of share exchange has been approved as required
29 by this title, then articles of share exchange must be executed by
30 the acquired entity and the acquiring entity. The articles of share
31 exchange must state:

32 (a) The name of the acquired entity;

33 (b) The name of the acquiring entity; and

34 (c) A statement that the plan of share exchange was duly approved
35 by the acquired entity by:

36 (i) The required vote or consent of each class or series of
37 shares included in the exchange; and

38 (ii) The required vote or consent of each other class or series
39 of shares entitled to vote on approval of the exchange by the
40 articles of incorporation of the acquired entity.

1 (3) In addition to the requirements of subsection (1) or (2) of
2 this section, articles of merger or share exchange may contain any
3 other provision not prohibited by law.

4 (4) The articles of merger or share exchange must be delivered to
5 the secretary of state for filing and, subject to subsection (5) of
6 this section, the merger or share exchange will become effective at
7 the effective date and time of the articles of merger or share
8 exchange as determined in accordance with RCW 23B.01.230.

9 (5) With respect to a merger in which one or more other entities
10 is a party, the merger will become effective at the later of:

11 (a) The date and time when all documents required to be filed in
12 foreign jurisdictions to effect the merger have become effective; and

13 (b) The effective date and time of the articles of merger as
14 determined in accordance with RCW 23B.01.230.

15 (6) Articles of merger filed under this section may be combined
16 with any filing required under the organic law governing any other
17 entity involved in the transaction if the combined filing satisfies
18 the requirements of both this section and the other organic law.

19 NEW SECTION. **Sec. 9.** (1) When a merger becomes effective:

20 (a) The domestic corporation or other entity that is designated
21 in the plan of merger as the surviving entity continues;

22 (b) The separate existence of every domestic corporation or other
23 entity that is merged into the surviving entity ceases;

24 (c) All property owned by, and every contract right possessed by,
25 each domestic corporation or other entity that is merged into the
26 surviving entity are the property and contract rights of the
27 surviving entity without transfer, reversion, or impairment;

28 (d) All debts, obligations, and other liabilities of each
29 domestic corporation or other entity that is merged into the
30 surviving entity are debts, obligations, or liabilities of the
31 surviving entity;

32 (e) The name of the surviving entity may, but need not be,
33 substituted in any pending proceeding for the name of any party to
34 the merger whose separate existence ceased in the merger;

35 (f) If the surviving entity is a domestic entity, the articles of
36 incorporation and bylaws or the organic rules of the surviving entity
37 are amended, or amended and restated, to the extent provided in the
38 plan of merger;

1 (g) The shares of or interests in each entity that is a party to
2 the merger that are to be converted in accordance with the terms of
3 the merger into shares or other securities, interests, obligations,
4 rights to acquire shares, other securities, or interests, cash, other
5 property, or any combination of the foregoing, are converted, and the
6 former holders of such shares or interests are entitled only to the
7 rights provided to them by those terms or to any rights they may have
8 under chapter 23B.13 RCW or the organic law governing the other
9 entity;

10 (h) Except as provided by law or the plan of merger, all the
11 rights, privileges, franchises, and immunities of each entity that is
12 merged into the surviving entity, are the rights, privileges,
13 franchises, and immunities of the surviving entity;

14 (i) All the property and contract rights of the surviving entity
15 remain its property and contract rights without transfer, reversion,
16 or impairment;

17 (j) The surviving entity remains subject to all its debts,
18 obligations, and other liabilities; and

19 (k) Except as provided by law or the plan of merger, the
20 surviving entity continues to hold all of its rights, privileges,
21 franchises, and immunities.

22 (2) When a share exchange becomes effective, the shares in the
23 acquired entity that are to be exchanged for shares or other
24 securities, obligations, rights to acquire shares, other securities,
25 cash, other property, or any combination of the foregoing, are
26 entitled only to the rights provided to them in the plan of share
27 exchange or to any rights they may have under chapter 23B.13 RCW.

28 (3) Except as provided otherwise in the articles of incorporation
29 of a domestic corporation or the organic law governing or organic
30 rules of an other entity, the effect of a merger or share exchange on
31 owner liability is as follows:

32 (a) A person who becomes subject to new owner liability in
33 respect of an entity as a result of a merger or share exchange will
34 have that new owner liability only in respect of owner liabilities
35 that arise after the merger or share exchange becomes effective;

36 (b) If a person had owner liability with respect to a party to
37 the merger or the acquired entity before the merger or share exchange
38 becomes effective with respect to shares or interests of such party
39 or acquired entity which were exchanged in the merger or share
40 exchange, which were canceled in the merger, or the terms and

1 conditions of which relating to owner liability were amended under
2 the terms of the merger:

3 (i) The merger or share exchange does not discharge that prior
4 owner liability with respect to any owner liabilities that arose
5 before the merger or share exchange becomes effective;

6 (ii) The provisions of the organic law governing any entity for
7 which the person had that prior owner liability will continue to
8 apply to the collection or discharge of any owner liabilities
9 preserved by (b)(i) of this subsection (3), as if the merger or share
10 exchange had not occurred;

11 (iii) The person will have such rights of contribution from other
12 persons as are provided by the organic law governing the entity for
13 which the person had that prior owner liability with respect to any
14 owner liabilities preserved by (b)(i) of this subsection (3), as if
15 the merger or share exchange had not occurred; and

16 (iv) The person will not, by reason of such prior owner
17 liability, have owner liability with respect to any owner liabilities
18 that arise after the merger or share exchange becomes effective;

19 (c) If a person has owner liability both before and after a
20 merger becomes effective with unchanged terms and conditions with
21 respect to the entity that is the surviving entity by reason of
22 owning the same shares or interests before and after the merger
23 becomes effective, the merger has no effect on such owner liability;
24 and

25 (d) A share exchange has no effect on owner liability related to
26 shares of the acquired entity that were not exchanged in the share
27 exchange.

28 (4) Upon a merger becoming effective, a foreign other entity that
29 is the surviving entity of the merger is deemed to:

30 (a) Appoint the secretary of state as its agent for service of
31 process in a proceeding to enforce the rights of shareholders of each
32 domestic corporation that is a party to the merger who are entitled
33 to and exercise dissenters' rights under chapter 23B.13 RCW; and

34 (b) Agree that it will promptly pay the amount, if any, to which
35 such shareholders are entitled under chapter 23B.13 RCW.

36 (5) Except as provided in the organic law governing a party to a
37 merger or in its articles of incorporation or organic rules, the
38 merger does not give rise to any rights that a shareholder, interest
39 holder, governor, or third party would have upon a dissolution,
40 liquidation, or winding up of that party. The merger does not require

1 a party to the merger to wind up its affairs and does not constitute
2 or cause its dissolution or termination.

3 NEW SECTION. **Sec. 10.** (1) After a plan of merger or share
4 exchange has been approved as required by this chapter, and before
5 articles of merger or share exchange have become effective, the plan
6 of merger or share exchange may be abandoned by a domestic
7 corporation that is a party to the plan of merger or share exchange
8 without action by its shareholders in accordance with any procedures
9 provided in the plan of merger or share exchange or, if no such
10 procedures are provided in the plan of merger or share exchange, in
11 the manner determined by the board of directors.

12 (2) If a merger or share exchange is abandoned under subsection
13 (1) of this section after articles of merger or share exchange have
14 been delivered to the secretary of state for filing but before the
15 merger or share exchange has become effective, a statement of
16 withdrawal executed by all the parties that executed the articles of
17 merger or share exchange must be delivered to the secretary of state
18 for filing before the articles of merger or share exchange become
19 effective in accordance with RCW 23.95.215.

20 (3) The statement of withdrawal will become effective at the
21 effective date and time as determined in accordance with RCW
22 23.95.210 and the merger or share exchange will be deemed abandoned
23 and will not become effective.

24 NEW SECTION. **Sec. 11.** (1) As used in this section:

25 (a) "Holding company" means the corporation that is or becomes
26 the direct parent of the surviving corporation of a merger
27 accomplished under this section and whose capital stock is issued in
28 that merger;

29 (b) "Parent constituent corporation" means the parent corporation
30 that merges with or into the subsidiary constituent corporation in
31 the merger; and

32 (c) "Subsidiary constituent corporation" means the subsidiary
33 corporation with or into which the parent constituent corporation
34 merges in the merger.

35 (2) Unless the articles of incorporation provide otherwise, a
36 parent constituent corporation may merge with or into a single
37 indirect wholly owned subsidiary of the parent constituent

1 corporation without the approval of the plan of merger by the
2 shareholders of the parent constituent corporation if:

3 (a) The plan expressly permits or requires the merger to be
4 effected under this subsection;

5 (b) The holding company and the constituent corporations to the
6 merger are each organized under this title;

7 (c) At all times from its incorporation until consummation of a
8 merger under this section, the holding company was a direct wholly
9 owned subsidiary of the parent constituent corporation;

10 (d) Immediately before consummation of a merger under this
11 section, the subsidiary constituent corporation is a direct wholly
12 owned subsidiary of the holding company and an indirect wholly owned
13 subsidiary of the parent constituent corporation;

14 (e) The parent constituent corporation and the subsidiary
15 constituent corporation are the only constituent entities to the
16 merger;

17 (f) Immediately after the merger becomes effective, the surviving
18 corporation of the merger becomes or remains a direct wholly owned
19 subsidiary of the holding company;

20 (g) Each share or fraction of a share of the parent constituent
21 corporation outstanding immediately before the merger becomes
22 effective is converted in the merger into a share or equal fraction
23 of a share of the holding company having the same designations and
24 relative preferences, rights, and limitations as the share or
25 fraction of a share of the parent constituent corporation being
26 converted in the merger;

27 (h) The articles of incorporation and bylaws of the holding
28 company immediately after the merger becomes effective contain
29 provisions identical to the articles of incorporation and bylaws of
30 the parent constituent corporation immediately before the merger
31 becomes effective, other than any provisions regarding the
32 incorporator or incorporators, the corporate name, the registered
33 office and agent, the initial board of directors and the initial
34 subscribers for shares, and the provisions contained in any amendment
35 to the articles of incorporation of the parent constituent
36 corporation that were necessary to effect an exchange,
37 reclassification, or cancellation of shares if the exchange,
38 reclassification, or cancellation has become effective;

39 (i) The articles of incorporation and bylaws of the surviving
40 corporation immediately after the merger becomes effective contain

1 provisions by specific reference to this subsection requiring that
2 any corporate action by or involving the surviving corporation, other
3 than the election or removal of directors of the surviving
4 corporation, must be approved by the shareholders of the holding
5 company (or any successor by merger) by the same vote as is required
6 by this title or under the articles of incorporation or bylaws of the
7 parent constituent corporation immediately before the merger becomes
8 effective, if that corporate action would have required the approval
9 of the shareholders of the parent constituent corporation under this
10 title or under the articles of incorporation or bylaws of the parent
11 constituent corporation immediately before the merger becomes
12 effective;

13 (j) The directors of the parent constituent corporation
14 immediately before the merger becomes effective become or remain the
15 directors of the holding company immediately after the merger becomes
16 effective; and

17 (k) The board of directors of the parent constituent corporation
18 determines that the shareholders of the parent constituent
19 corporation will not recognize gain or loss for United States federal
20 income tax purposes as a result of the merger.

21 (3) The holding company must, within 10 days after the effective
22 date of a merger effected under subsection (2) of this section,
23 notify each person who was a shareholder of the parent constituent
24 corporation immediately before the merger became effective that the
25 merger has become effective. The notice must contain or be
26 accompanied by a copy of the plan of merger or a summary of the
27 material terms and conditions of the merger and the consideration to
28 be received by those shareholders.

29 (4) To the extent restrictions under chapter 23B.19 RCW applied
30 to the parent constituent corporation or any of its shareholders at
31 the effective time of the merger, those restrictions apply to the
32 holding company and its shareholders immediately after the merger
33 becomes effective as though the holding company were the parent
34 constituent corporation, and all shares of stock of the holding
35 company acquired in the merger will, for the purposes of chapter
36 23B.19 RCW, be deemed to have been acquired at the time that the
37 corresponding shares of stock of the parent constituent corporation
38 were acquired. No shareholder who, immediately before the merger
39 becomes effective, was not an acquiring person of the parent
40 constituent corporation under chapter 23B.19 RCW will, solely by

1 reason of the merger, become an acquiring person of the holding
2 company under chapter 23B.19 RCW.

3 (5) To the extent a shareholder of the parent constituent
4 corporation immediately before the merger was eligible to commence a
5 proceeding in the right of the parent constituent corporation in
6 accordance with RCW 23B.07.400, nothing in this section is deemed to
7 limit or extinguish that eligibility.

8 (6) Except as provided in subsections (2), (3), (4), and (5) of
9 this section, a merger between a parent constituent corporation and a
10 subsidiary constituent corporation will be governed by the provisions
11 of this chapter applicable to mergers generally.

12 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act
13 constitute a new chapter in Title 23B RCW.

14 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 23B.11.010 (Merger) and 2022 c 42 s 107, 2020 c 194 s 11,
17 & 1989 c 165 s 131;

18 (2) RCW 23B.11.020 (Share exchange) and 2020 c 194 s 12 & 1989 c
19 165 s 132;

20 (3) RCW 23B.11.030 (Approval of plan of merger or share exchange)
21 and 2023 c 432 s 5, 2022 c 42 s 108, 2011 c 328 s 6, 2009 c 189 s 38,
22 2003 c 35 s 6, & 1989 c 165 s 133;

23 (4) RCW 23B.11.035 (Plan of merger or share exchange—Separate
24 voting group) and 2003 c 35 s 7;

25 (5) RCW 23B.11.040 (Merger of or into subsidiary) and 2017 c 28 s
26 17, 2009 c 189 s 39, 2002 c 297 s 34, & 1989 c 165 s 134;

27 (6) RCW 23B.11.045 (Merger without approval of plan of merger—
28 Definitions) and 2023 c 432 s 6;

29 (7) RCW 23B.11.050 (Articles of merger or share exchange) and
30 2022 c 42 s 109 & 1989 c 165 s 135;

31 (8) RCW 23B.11.060 (Effect of merger or share exchange) and 2022
32 c 42 s 110 & 1989 c 165 s 136;

33 (9) RCW 23B.11.070 (Merger or share exchange with foreign
34 corporation) and 2015 c 176 s 2124 & 1989 c 165 s 137;

35 (10) RCW 23B.11.080 (Merger) and 2015 c 188 s 110, 2009 c 188 s
36 1401, 1998 c 103 s 1310, & 1991 c 269 s 38;

1 (11) RCW 23B.11.090 (Articles of merger) and 2022 c 42 s 111,
2 2015 c 188 s 111, 2009 c 188 s 1402, 1998 c 103 s 1311, & 1991 c 269
3 s 39;

4 (12) RCW 23B.11.100 (Merger—Corporation is surviving entity) and
5 2022 c 42 s 112, 1998 c 103 s 1312, & 1991 c 269 s 40; and

6 (13) RCW 23B.11.110 (Merger with foreign and domestic entities—
7 Effect) and 2015 c 188 s 112, 2015 c 176 s 2125, 2009 c 188 s 1403,
8 1998 c 103 s 1313, & 1991 c 269 s 41.

9 **Sec. 14.** RCW 23B.01.400 and 2023 c 432 s 1 are each reenacted
10 and amended to read as follows:

11 The definitions in this section apply throughout this title
12 unless the context clearly requires otherwise.

13 (1) "Articles of incorporation" include amended and restated
14 articles of incorporation and articles of merger.

15 (2) "Authorized shares" means the shares of all classes a
16 domestic or foreign corporation is authorized to issue.

17 (3) "Conspicuous" means so prepared that a reasonable person
18 against whom the writing is to operate should have noticed it. For
19 example, text in italics, boldface, contrasting color, capitals, or
20 underlined is conspicuous.

21 (4) "Controlling interest" means ownership of an entity's
22 outstanding shares or interests in such number as to entitle the
23 holder at the time to elect a majority of the entity's directors or
24 other governors without regard to voting power which may thereafter
25 exist upon a default, failure, or other contingency.

26 (5) "Corporate action" means any resolution, act, policy,
27 contract, transaction, plan, adoption or amendment of articles of
28 incorporation or bylaws, or other matter approved by or submitted for
29 approval to a corporation's incorporators, board of directors or a
30 committee thereof, or shareholders.

31 (6) "Corporation" or "domestic corporation" means a corporation
32 for profit, including a social purpose corporation, which is not a
33 foreign corporation, incorporated under or subject to the provisions
34 of this title.

35 (7) "Deliver" or "delivery" means any method of delivery used in
36 conventional commercial practice, including delivery by hand, mail,
37 commercial delivery, and, if authorized in accordance with RCW
38 23B.01.410, by electronic transmission.

1 (8) "Distribution" means a direct or indirect transfer of money
2 or other property, except its own shares, or incurrence of
3 indebtedness by a corporation to or for the benefit of its
4 shareholders in respect to any of its shares. A distribution may be
5 in the form of a declaration or payment of a dividend; a distribution
6 in partial or complete liquidation, or upon voluntary or involuntary
7 dissolution; a purchase, redemption, or other acquisition of shares;
8 a distribution of indebtedness; or otherwise.

9 (9) "Document" means:

10 (a) Any tangible medium on which information is inscribed, and
11 includes handwritten, typed, printed, or similar instruments or
12 copies of such instruments; and

13 (b) An electronic record.

14 (10) "Electronic" means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic, or similar
16 capabilities.

17 (11) "Electronic mail" means an electronic transmission directed
18 to a unique electronic mail address, which electronic mail will be
19 deemed to include any files attached thereto and any information
20 hyperlinked to a website if the electronic mail includes the contact
21 information of an officer or agent of the corporation who is
22 available to assist with accessing such files and information.

23 (12) "Electronic mail address" means a destination, commonly
24 expressed as a string of characters, consisting of a unique user name
25 or mailbox, commonly referred to as the "local part" of the address,
26 and a reference to an internet domain, commonly referred to as the
27 "domain part" of the address, whether or not displayed, to which
28 electronic mail can be sent or delivered.

29 (13) "Electronic record" means information that is stored in an
30 electronic or other nontangible medium and: (a) Is retrievable in
31 paper form by the recipient through an automated process used in
32 conventional commercial practice; or (b) if not retrievable in paper
33 form by the recipient through an automated process used in
34 conventional commercial practice, is otherwise authorized in
35 accordance with RCW 23B.01.410(10).

36 (14) "Electronic transmission" or "electronically transmitted"
37 means internet transmission, telephonic transmission, electronic mail
38 transmission, transmission of a telegram, cablegram, or datagram, the
39 use of, or participation in, one or more electronic networks or
40 databases including one or more distributed electronic networks or

1 databases, or any other form or process of communication, not
2 directly involving the physical transfer of paper or another tangible
3 medium, which:

4 (a) Is suitable for the retention, retrieval, and reproduction of
5 information by the recipient; and

6 (b) Is retrievable in paper form by the recipient through an
7 automated process used in conventional commercial practice, or, if
8 not retrievable in paper form by the recipient through an automated
9 process used in conventional commercial practice, is otherwise
10 authorized in accordance with RCW 23B.01.410(10).

11 (15) "Employee" includes an officer but not a director. A
12 director may accept duties that make the director also an employee.

13 (16) "Entity" includes a corporation and foreign corporation,
14 not-for-profit corporation, business trust, estate, trust,
15 partnership, limited liability company, association, joint venture,
16 two or more persons having a joint or common economic interest, the
17 state, United States, and a foreign governmental subdivision, agency,
18 or instrumentality, or any other legal or commercial entity.

19 (17) "Execute," "executes," or "executed" means, with present
20 intent to authenticate or adopt a document:

21 (a) To sign or adopt a tangible symbol to the document, and
22 includes any manual, facsimile, or conformed signature;

23 (b) To attach or logically associate with an electronic
24 transmission an electronic sound, symbol, or process, and includes an
25 electronic signature; or

26 (c) With respect to a document to be filed with the secretary of
27 state, in compliance with the standards for filing with the office of
28 the secretary of state as prescribed by the secretary of state.

29 (18) "Foreign corporation" means a corporation for profit
30 incorporated under a law other than the law of this state.

31 (19) "Foreign limited partnership" means a partnership formed
32 under laws other than of this state and having as partners one or
33 more general partners and one or more limited partners.

34 (20) "Forward stock split" means the pro rata division of all the
35 outstanding shares of a class of stock into a greater number of
36 shares of the same class, whether or not the authorized shares of
37 such a class are increased in the same proportion, but does not
38 include a share dividend under RCW 23B.06.230.

39 (21) "General social purpose" means the general social purpose
40 for which a social purpose corporation is organized as set forth in

1 the articles of incorporation of the corporation in accordance with
2 RCW 23B.25.040(1)(c).

3 (22) "Governmental subdivision" includes authority, county,
4 district, and municipality.

5 (23) "Governor" has the meaning given that term in RCW 23.95.105.

6 (24) "Includes" denotes a partial definition.

7 (25) "Individual" includes the estate of an incompetent or
8 deceased individual.

9 (26) "Limited partnership" or "domestic limited partnership"
10 means a partnership formed by two or more persons under the laws of
11 this state and having one or more general partners and one or more
12 limited partners.

13 (27) "Means" denotes an exhaustive definition.

14 (28) "Notice" has the meaning provided in RCW 23B.01.410.

15 (29) "Person" means an individual, corporation, business trust,
16 estate, trust, partnership, limited liability company, association,
17 joint venture, government, governmental subdivision, agency, or
18 instrumentality, or any other legal or commercial entity.

19 (30) "Principal office" means the office, in or out of this
20 state, so designated in the annual report where the principal
21 executive offices of a domestic or foreign corporation are located.

22 (31) "Proceeding" includes civil suit and criminal,
23 administrative, and investigatory action.

24 (32) "Public company" means a corporation that either has a class
25 of shares registered with the federal securities and exchange
26 commission pursuant to section 12 or which is subject to section
27 15(d) of the securities exchange act of 1934, or section 8 of the
28 investment company act of 1940, or any successor statute.

29 (33) "Qualified director" means (a) with respect to a director's
30 conflicting interest transaction as defined in RCW 23B.08.700, any
31 director who does not have either (i) a conflicting interest
32 respecting the transaction, or (ii) a familial, financial,
33 professional, or employment relationship with a second director who
34 does have a conflicting interest respecting the transaction, which
35 relationship would, in the circumstances, reasonably be expected to
36 exert an influence on the first director's judgment when voting on
37 the transaction; (b) with respect to RCW 23B.08.735, a qualified
38 director under (a) of this subsection if the business opportunity
39 were a director's conflicting interest transaction; and (c) with
40 respect to RCW 23B.02.020(2)(g), a director who is not a director (i)

1 to whom the limitation or elimination of the duty of an officer to
2 offer potential business opportunities to the corporation would
3 apply, or (ii) who has a familial, financial, professional, or
4 employment relationship with another officer to whom the limitation
5 or elimination would apply, which relationship would, in the
6 circumstances, reasonably be expected to exert an influence on the
7 director's judgment when voting on the limitation or elimination.

8 (34) "Record date" means the date fixed for determining the
9 identity of a corporation's shareholders and their shareholdings for
10 purposes of this title. The determinations shall be made as of the
11 close of business on the record date unless another time for doing so
12 is specified when the record date is fixed.

13 (35) "Registered office" means the address of the corporation's
14 registered agent.

15 (36) "Reverse stock split" means the pro rata combination of all
16 the outstanding shares of a class of stock into a smaller number of
17 shares of the same class, whether or not the authorized shares of
18 such a class are reduced in the same proportion.

19 (37) "Secretary" means the corporate officer to whom the board of
20 directors has delegated responsibility under RCW 23B.08.400(3) for
21 custody of the minutes of the meetings of the board of directors and
22 of the shareholders and for authenticating records of the
23 corporation.

24 (38) "Shareholder" means the person in whose name shares are
25 registered in the records of a corporation or the beneficial owner of
26 shares to the extent of the rights granted by a nominee certificate
27 on file with a corporation.

28 (39) "Shares" means the units into which the proprietary
29 interests in a corporation are divided.

30 (40) "Social purpose" includes any general social purpose and any
31 specific social purpose.

32 (41) "Social purpose corporation" means a corporation that has
33 elected to be governed as a social purpose corporation under chapter
34 23B.25 RCW.

35 (42) "Specific social purpose" means the specific social purpose
36 or purposes for which a social purpose corporation is organized as
37 set forth in the articles of incorporation of the corporation in
38 accordance with RCW 23B.25.040(2)(a).

39 (43) "State," when referring to a part of the United States,
40 includes a state and commonwealth, and their agencies and

1 governmental subdivisions, and a territory and insular possession,
2 and their agencies and governmental subdivisions, of the United
3 States.

4 (44) "Stock split" means a forward stock split or a reverse stock
5 split.

6 (45) "Subscriber" means a person who subscribes for shares in a
7 corporation, whether before or after incorporation.

8 (46) "Subsidiary" means an entity in which the corporation has,
9 directly or indirectly, a controlling interest.

10 (47) "United States" includes a district, authority, bureau,
11 commission, department, and any other agency of the United States.

12 (48) "Voting group" means all shares of one or more classes or
13 series that under the articles of incorporation or this title are
14 entitled to vote and be counted together collectively on a matter at
15 a meeting of shareholders. All shares entitled by the articles of
16 incorporation or this title to vote generally on the matter are for
17 that purpose a single voting group.

18 (49) "Writing" or "written" means any information in the form of
19 a document.

20 (50) "Interest" means either or both of the following rights
21 under the organic law governing an other entity:

22 (a) A right to receive distributions from the other entity either
23 in the ordinary course of business or upon liquidation; or

24 (b) The right to receive notice of or vote on issues involving
25 the other entity's internal affairs, other than as an agent,
26 assignee, proxy, or person responsible for managing the other
27 entity's business affairs.

28 (51) "Interest holder" means a person who holds of record an
29 interest.

30 (52) "Jurisdiction of organization" means the state or country
31 the law of which includes the organic law governing a domestic
32 corporation or other entity.

33 (53) "Organic law" means the statute governing the internal
34 affairs of an entity.

35 (54) "Organic rules" means the public organic record and private
36 organic rules of an entity.

37 (55) "Other entity" means any entity that is not any of the
38 following: A domestic corporation, a domestic or foreign not-for-
39 profit corporation, a series of a limited liability company or
40 similar entity, an estate, a trust, a state, the United States, or a

1 foreign governmental subdivision, agency, or instrumentality. The
2 term includes, but is not limited to, a foreign corporation, a
3 limited partnership, a general partnership, a limited liability
4 company, a joint venture, a joint stock company, and a business
5 trust.

6 (56) "Owner liability" means personal liability for a debt,
7 obligation, or liability of an entity that is imposed on a person:

8 (a) Solely by reason of the person's status as a shareholder or
9 interest holder;

10 (b) By the articles of incorporation or bylaws of a corporation
11 authorizing the articles of incorporation or bylaws to make one or
12 more specified shareholders liable in their capacity as shareholders
13 for all or specified debts, obligations, or liabilities of the
14 corporation; or

15 (c) By one or more organic rules of an other entity authorizing
16 the organic rules to make one or more specified interest holders
17 liable in their capacity as interest holders for all or specified
18 debts, obligations, or liabilities of the other entity.

19 (57) "Private organic rules" means (a) the bylaws of a domestic
20 corporation or (b) the rules, regardless of whether in writing, (i)
21 that govern the internal affairs of an other entity, (ii) which are
22 binding on all of the other entity's interest holders, and (iii)
23 which are not part of the other entity's public organic record, if
24 any. Where private organic rules have been amended or restated, the
25 term means the private organic rules as last amended or restated.

26 (58) "Public organic record" means (a) the articles of
27 incorporation of a domestic corporation or (b) the document, if any,
28 the filing of which is required to create an other entity. Where a
29 public organic record has been amended or restated, the term means
30 the public organic record as last amended or restated.

31 (59) "Voting power" means the total number of votes entitled to
32 be cast by all of the outstanding voting shares of a corporation on
33 the date in question.

34 (60) "Voting shares" means the shares of all classes of a
35 corporation entitled to vote generally in the election of directors
36 on the date in question.

37 **Sec. 15.** RCW 23B.07.250 and 2009 c 189 s 18 are each amended to
38 read as follows:

1 (1) Shares entitled to vote as a separate voting group may
2 approve a corporate action at a meeting only if a quorum of those
3 shares exists with respect to that corporate action. Unless the
4 articles of incorporation or this title provide otherwise, a majority
5 of the votes entitled to be cast on the corporate action by the
6 voting group constitutes a quorum of that voting group for approval
7 of that corporate action. Whenever this title requires a particular
8 quorum for a specified corporate action, the articles of
9 incorporation may not provide for a lower quorum.

10 (2) Once a share is represented for any purpose at a meeting
11 other than solely to object to holding the meeting or transacting
12 business at the meeting, it is deemed present for quorum purposes for
13 the remainder of the meeting and for any adjournment of that meeting
14 unless a new record date is or must be set for that adjourned
15 meeting.

16 (3) If a quorum exists, a corporate action, other than the
17 election of directors, is approved by a voting group if the votes
18 cast within the voting group favoring the corporate action exceed the
19 votes cast within the voting group opposing the corporate action,
20 unless the articles of incorporation or this title require a greater
21 number of affirmative votes.

22 (4) An amendment of the articles of incorporation adding,
23 changing, or deleting (~~((either (i) [(a)]))~~) a quorum (~~((for a voting~~
24 ~~group greater or lesser than specified in subsection (1) of this~~
25 ~~section,~~) or (~~((ii) [(b)] a)~~) voting requirement for a voting group
26 greater than specified in subsection (1) or (3) of this section(~~(7)~~)
27 is governed by RCW 23B.07.270.

28 (5) Whenever a provision of this title provides for voting of
29 classes or series as separate voting groups, the rules provided in
30 RCW 23B.10.040(3) for amendments of the articles of incorporation
31 apply to that provision.

32 (6) The election of directors is governed by RCW 23B.07.280.

33 **Sec. 16.** RCW 23B.07.270 and 2009 c 189 s 20 are each amended to
34 read as follows:

35 (~~((1) The articles of incorporation may provide for a greater or~~
36 ~~lesser quorum, but not less than one-third of the votes entitled to~~
37 ~~be cast, for shareholders, or voting groups of shareholders, than is~~
38 ~~provided for by this title.~~

1 ~~(2) The articles of incorporation may provide for a greater~~
2 ~~voting requirement for shareholders, or voting groups of~~
3 ~~shareholders, than is provided for by this title.~~

4 ~~(3) Under RCW 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020,~~
5 ~~the articles of incorporation may provide for a lesser vote than is~~
6 ~~otherwise prescribed in those sections or for a lesser vote by~~
7 ~~separate voting groups, so long as the vote provided for each voting~~
8 ~~group entitled to vote separately on the plan or transaction is not~~
9 ~~less than a majority of all the votes entitled to be cast on the plan~~
10 ~~or transaction by that voting group.~~

11 ~~(4) Except as provided in subsection (5) of this section, an~~
12 ~~amendment to the articles of incorporation that adds, changes, or~~
13 ~~deletes a greater or lesser quorum or voting requirement for a~~
14 ~~particular corporate action must meet the same quorum requirement and~~
15 ~~be adopted by the same vote and voting groups as are required under~~
16 ~~the quorum and voting requirements then in effect for approval of the~~
17 ~~corporate action.~~

18 ~~(5)) An amendment to the articles of incorporation that adds,~~
19 ~~changes, or deletes a ((greater or lesser)) quorum or voting~~
20 ~~requirement ((for a merger, share exchange, sale of substantially all~~
21 ~~assets, or dissolution must be adopted)) must meet the same quorum~~
22 ~~requirement and be approved by the same vote and voting groups ((as~~
23 ~~are)) required ((under the quorum and voting requirements then in~~
24 ~~effect for approval of the particular corporate action, or)) to take~~
25 ~~action under the quorum and voting requirements then in effect ((for~~
26 ~~amendments to articles of incorporation)) or proposed to be approved,~~
27 ~~whichever is greater.~~

28 **Sec. 17.** RCW 23B.08.080 and 1995 c 47 s 7 are each amended to
29 read as follows:

30 (1) The shareholders may remove one or more directors with or
31 without cause unless the articles of incorporation provide that
32 directors may be removed only for cause.

33 (2) If a director is elected by holders of one or more authorized
34 classes or series of shares, only the holders of those classes or
35 series of shares may participate in the vote to remove the director.

36 (3) ~~((If))~~ A director may be removed if the number of votes cast
37 to remove exceeds the number of votes cast not to remove the
38 director, except to the extent the articles of incorporation or
39 bylaws require a greater number; except that if cumulative voting is

1 authorized, and if less than the entire board is to be removed, no
2 director may be removed if, in the case of a meeting, the number of
3 votes sufficient to elect the director under cumulative voting is
4 voted against the director's removal (~~(. If cumulative voting is not~~
5 ~~authorized, a director may be removed only if the number of votes~~
6 ~~cast to remove the director exceeds the number of votes cast not to~~
7 ~~remove the director)) and, if action is taken by less than unanimous
8 written consent, voting shareholders entitled to the number of votes
9 sufficient to elect the director under cumulative voting do not
10 consent to the removal.~~

11 (4) A director may be removed by the shareholders only at a
12 special meeting called for the purpose of removing the director and
13 the meeting notice must state that (~~the purpose, or one of the~~
14 ~~purposes, of the meeting is~~) removal of the director is a purpose of
15 the meeting.

16 **Sec. 18.** RCW 23B.08.240 and 2020 c 57 s 61 are each amended to
17 read as follows:

18 (1) Unless the articles of incorporation or bylaws (~~require~~)
19 provide for a greater or lesser number or unless otherwise expressly
20 provided in this title, a quorum of a board of directors consists of
21 a majority of the number of directors specified in or fixed in
22 accordance with the articles of incorporation or bylaws.

23 (2) Notwithstanding subsection (1) of this section, a quorum of
24 (~~a~~) the board of directors (~~may in no event be less than one-third~~
25 ~~of the number of directors specified in or fixed in accordance with~~
26 ~~the articles of incorporation or bylaws~~) specified in or fixed in
27 accordance with the articles of incorporation or bylaws may not
28 consist of less than one-third of the specified or fixed number of
29 directors.

30 (3) If a quorum is present when a vote is taken, the affirmative
31 vote of a majority of directors present is the act of the board of
32 directors unless the articles of incorporation or bylaws require the
33 vote of a greater number of directors or unless otherwise expressly
34 provided in this title.

35 (4) A director who is present at a meeting of the board of
36 directors or a committee when corporate action is approved is deemed
37 to have assented to the corporate action unless: (a) The director
38 objects at the beginning of the meeting, or promptly upon the
39 director's arrival, to holding it or transacting business at the

1 meeting; (b) the director's dissent or abstention as to the corporate
2 action is entered in the minutes of the meeting; or (c) the director
3 delivers written notice of the director's dissent or abstention as to
4 the corporate action to the presiding officer of the meeting before
5 adjournment or to the corporation within a reasonable time after
6 adjournment of the meeting. The right of dissent or abstention is not
7 available to a director who votes in favor of the corporate action.

8 **Sec. 19.** RCW 23B.09.030 and 2020 c 57 s 65 are each amended to
9 read as follows:

10 In the case of an entity conversion of a domestic corporation to
11 an other entity, the plan of conversion must be approved in the
12 following manner:

13 (1) The plan of entity conversion must first be ~~((adopted))~~
14 approved by the board of directors of the converting entity ~~((and the~~
15 ~~shareholders entitled to vote must approve the plan))~~.

16 ~~((After adopting a plan of entity conversion, the board of~~
17 ~~directors of the converting entity must submit the plan of entity~~
18 ~~conversion for approval by its shareholders.~~

19 ~~(3))~~ The plan of entity conversion must then be approved by the
20 shareholders of the converting entity. In submitting the plan of
21 entity conversion to the shareholders for approval, the board of
22 directors must recommend that the shareholders approve the plan of
23 entity conversion ~~((to the shareholders))~~, unless (a) the board of
24 directors makes a determination that because of conflicts of interest
25 or other special circumstances it should not make such a
26 recommendation; or (b) RCW 23B.08.245 applies ~~((, and in either case~~
27 ~~the board of directors communicates the basis for so proceeding to~~
28 ~~the shareholders))~~. If either (a) or (b) of this subsection applies,
29 the board of directors must inform the shareholders of the basis for
30 its so proceeding.

31 ~~((4))~~ (3) The board of directors may ~~((condition its~~
32 ~~submission))~~ set conditions for the approval of the plan of entity
33 conversion ~~((on any basis, including the affirmative vote of holders~~
34 ~~of a specified percentage of shares held by any group of shareholders~~
35 ~~not otherwise entitled to vote as a separate voting group on))~~ or the
36 effectiveness of the plan of entity conversion.

37 ~~((5) In the case of an entity conversion of a domestic~~
38 ~~corporation to a foreign corporation, in addition to any other voting~~
39 ~~conditions imposed by the board of directors acting pursuant to~~

1 subsection (4) of this section, approval of the plan of entity
2 conversion requires the affirmative vote of shareholders that would
3 be required to approve a plan of merger under RCW 23B.11.030, and of
4 each other voting group entitled under RCW 23B.11.035 or the articles
5 of incorporation to vote separately on a plan of merger. Separate
6 voting by additional voting groups is required on a plan of entity
7 conversion if such voting group or groups would be entitled to vote
8 on a plan of merger under the circumstances described in RCW
9 23B.11.035. The articles of incorporation may require a greater or
10 lesser vote to approve a plan of entity conversion than that provided
11 in this subsection, or a greater or lesser vote by separate voting
12 groups, so long as the required vote is not less than a majority of
13 all the votes entitled to be cast on the plan of entity conversion
14 and of each other voting group entitled to vote separately on the
15 plan.

16 (6) In the case of an entity conversion of a domestic corporation
17 to an other entity that is not a foreign corporation, approval of the
18 plan of entity conversion requires the approval of all shareholders
19 of the domestic corporation, whether or not entitled to vote under
20 this title or the articles of incorporation.

21 (7) If as a result of the conversion one or more shareholders of
22 the domestic corporation would become subject to owner liability for
23 the debts, obligations, or liabilities of any other person or entity,
24 in addition to the approval requirements under subsections (5) and
25 (6) of this section, approval of the plan of entity conversion must
26 also require each such shareholder to execute a separate written
27 consent to become subject to such owner liability.

28 (8)) (4) If the approval of the shareholders is to be given at a
29 meeting, the ((domestic corporation)) converting entity must notify
30 each shareholder, regardless of whether ((or not)) entitled to vote,
31 of the ((proposed)) meeting of shareholders at which the plan of
32 entity conversion is to be submitted for approval ((in accordance
33 with RCW 23B.07.050)). The notice must state that ((the purpose, or
34 one of the purposes, of the meeting is to consider the plan of entity
35 conversion)) consideration of the plan of entity conversion is a
36 purpose of the meeting and must contain or be accompanied by a copy
37 or summary of the plan of entity conversion. The notice must include
38 or be accompanied by a copy of the organic ((documents)) rules of the
39 surviving entity as they will be in effect immediately after the
40 conversion.

1 ~~((9) If any provision of the articles of incorporation, bylaws,~~
2 ~~or an agreement to which any of the directors or shareholders of the~~
3 ~~domestic corporation are parties, adopted, or entered into before~~
4 ~~June 12, 2014, applies to a merger of the domestic corporation, other~~
5 ~~than a provision that limits or eliminates voting or dissenters'~~
6 ~~rights, and the document does not refer to an entity conversion of~~
7 ~~the domestic corporation, the provision is deemed to apply to an~~
8 ~~entity conversion of the domestic corporation until the provision is~~
9 ~~subsequently amended.))~~

10 (5) Unless the articles of incorporation, or the board of
11 directors acting in accordance with subsection (3) of this section,
12 requires a greater vote, shareholder approval of the plan of entity
13 conversion requires (a) the affirmative vote of shareholders that
14 would be required to approve a plan of merger under section 4 of this
15 act, and (b) the approval of each other voting group that would be
16 entitled under the circumstances described in section 5 of this act
17 or the articles of incorporation to vote separately on a plan of
18 merger.

19 (6) If as a result of the conversion one or more shareholders of
20 the converting entity would become subject to owner liability,
21 approval of the plan of entity conversion must also require each such
22 shareholder to execute a separate written consent to become subject
23 to such owner liability.

24 **Sec. 20.** RCW 23B.10.030 and 2011 c 328 s 5 are each amended to
25 read as follows:

26 ~~((1) A corporation's board of directors may propose one or more~~
27 ~~amendments to the articles of incorporation for submission to the~~
28 ~~shareholders.~~

29 ~~(2) For the amendment to be adopted:~~

30 ~~(a) The)~~ If a corporation has issued shares, an amendment to the
31 articles of incorporation, other than an amendment pursuant to RCW
32 23B.10.020, must be approved in the following manner:

33 (1) The proposed amendment must first be approved by the board of
34 directors;

35 (2) Except as provided in RCW 23B.10.070 and 23B.10.080, the
36 amendment must then be approved by the shareholders. In submitting
37 the proposed amendment to the shareholders for approval, the board of
38 directors must recommend that the shareholders approve the amendment
39 ~~((to the shareholders))~~ unless ((i)) (a) the board of directors

1 ((determines)) makes a determination that because of conflicts of
2 interest or other special circumstances it should not make ((no))
3 such a recommendation, or ((-ii-)) (b) RCW 23B.08.245 applies ((, and
4 in either case the board of directors communicates the basis for so
5 proceeding to the shareholders; and

6 ~~(b) The shareholders entitled to vote on the amendment must
7 approve the amendment as provided in subsection (5) of this
8 section).~~ If either (a) or (b) of this subsection applies, the board
9 of directors must inform the shareholders of the basis for its so
10 proceeding.

11 (3) The board of directors may ((condition its submission of the
12 proposed amendment on any basis, including the affirmative vote of
13 holders of a specified percentage of shares held by any group of
14 shareholders not otherwise entitled under this title or the articles
15 of incorporation to vote as a separate voting group on the proposed
16 amendment)) set conditions for the approval of the amendment by the
17 shareholders or the effectiveness of the amendment.

18 (4) ((The)) If the amendment is required to be approved by the
19 shareholders, and if the approval is to be given at a meeting, the
20 corporation ((shall)) must notify each shareholder, regardless of
21 whether ((or not)) entitled to vote, of the ((proposed shareholders'
22 meeting in accordance with RCW 23B.07.050)) meeting of shareholders
23 at which the amendment is to be submitted for approval. The notice of
24 meeting must ((also)) state that the purpose, or one of the purposes,
25 of the meeting is to consider the ((proposed)) amendment and contain
26 or be accompanied by a copy of the amendment.

27 (5) ((In addition to any other voting conditions imposed by the
28 board of directors under subsection (3) of this section, the
29 amendment to be adopted must be approved by two-thirds, or, in the
30 case of a public company, a majority, of the voting group comprising
31 all the votes entitled to be cast on the proposed amendment, and of
32 each other voting group entitled under RCW 23B.10.040 or the articles
33 of incorporation to vote separately on the proposed amendment. The
34 articles of incorporation may require a greater vote than that
35 provided for in this subsection. The articles of incorporation of a
36 corporation other than a public company may require a lesser vote
37 than that provided for in this subsection, or may require a lesser
38 vote by separate voting groups, so long as the required vote is not
39 less than a majority of all the votes entitled to be cast on the
40 proposed amendment and of each other voting group entitled to vote

1 ~~separately on the proposed amendment. Separate voting by additional~~
2 ~~voting groups is required on a proposed amendment under the~~
3 ~~circumstances described in RCW 23B.10.040)) (a) With respect to a~~
4 ~~corporation formed before August 1, 2024:~~

5 (i) Unless the articles of incorporation, or the board of
6 directors acting in accordance with subsection (3) of this section,
7 require a different vote, shareholder approval of the amendment
8 requires (A) the approval of two-thirds, or, in the case of a public
9 company, a majority, of the votes entitled to be cast on the
10 amendment, and (B) the approval of two-thirds, or, in the case of a
11 public company, a majority, of the votes entitled to be cast on the
12 amendment by each other voting group entitled under RCW 23B.10.040 or
13 the articles of incorporation to vote separately on the amendment;
14 and

15 (ii) The articles of incorporation may require a different vote
16 than that provided in this subsection, or a different vote by
17 separate voting groups, so long as the required vote is not less than
18 a majority of all the votes entitled to be cast on the amendment and
19 of each other voting group entitled to vote separately on the
20 amendment.

21 (b) With respect to a corporation formed on or after August 1,
22 2024, unless the articles of incorporation, or the board of directors
23 acting in accordance with subsection (3) of this section, require a
24 greater vote, shareholder approval of the amendment requires (i) the
25 approval of a majority of the votes entitled to be cast on the
26 amendment, and (ii) the approval of a majority of the votes entitled
27 to be cast on the amendment by each other voting group entitled under
28 RCW 23B.10.040 or the articles of incorporation to vote separately on
29 the amendment.

30 **Sec. 21.** RCW 23B.12.020 and 2019 c 141 s 7 are each amended to
31 read as follows:

32 (1) Except as provided in subsection (11) of this section, a
33 sale, lease, exchange, or other disposition of a corporation's
34 property and assets, other than in the usual and regular course of
35 its business, requires approval of the corporation's shareholders if
36 the disposition would leave the corporation without a significant
37 continuing business activity.

38 (2) A continuing business activity will be conclusively presumed
39 to represent a significant continuing business activity if, for the

1 corporation and its subsidiaries on a consolidated basis, it
2 represented at least:

3 (a) Twenty-five percent of total assets at the end of the most
4 recently completed fiscal year; and

5 (b) Either: (i) Twenty-five percent of income from continuing
6 operations before taxes, or (ii) twenty-five percent of revenues from
7 continuing operations, in each case for the most recently completed
8 fiscal year.

9 (3) No presumption that a disposition will leave the corporation
10 without a significant continuing business activity will arise from
11 the fact that the corporation's continuing business activity does not
12 equal or exceed any of the percentages set forth in subsection (2) of
13 this section.

14 (4) The determination of whether or not a continuing business
15 activity constitutes a significant continuing business under
16 subsection (2) of this section may be based either on financial
17 statements prepared on the basis of accounting practices and
18 principles that are reasonable in the circumstances or, in the case
19 of subsection (2)(a) of this section, on a fair valuation or other
20 method that is reasonable in the circumstances.

21 (5) For a disposition to be approved by a corporation's
22 shareholders:

23 (a) The board of directors must approve the disposition and
24 submit the proposed disposition for approval by the shareholders;

25 (b) The board of directors must recommend the proposed
26 disposition to the shareholders unless (i) the board of directors
27 determines that because of conflicts of interest or other special
28 circumstances it should make no recommendation or (ii) RCW 23B.08.245
29 applies, and in either case the board of directors communicates the
30 basis for so proceeding to the shareholders; and

31 (c) The shareholders entitled to vote on the proposed disposition
32 must approve the proposed disposition as provided in subsection (8)
33 of this section.

34 (6) The board of directors may condition its submission of the
35 proposed disposition on any basis, including the affirmative vote of
36 holders of a specified percentage of shares held by any group of
37 shareholders not otherwise entitled under this title or the articles
38 of incorporation to vote as a separate voting group on the proposed
39 disposition.

1 (7) If the approval of the shareholders is to be given at a
2 meeting, the corporation must notify each shareholder, whether or not
3 entitled to vote, of the proposed shareholders' meeting in accordance
4 with RCW 23B.07.050. The notice must state that the purpose, or one
5 of the purposes, of the meeting is to consider the proposed
6 disposition and contain or be accompanied by a description of the
7 proposed disposition, including a summary of the material terms and
8 conditions thereof and the consideration to be received by the
9 corporation.

10 (8) (~~In addition to any other voting conditions imposed by the~~
11 ~~board of directors under subsection (6) of this section)~~ (a) With
12 respect to a corporation formed before August 1, 2024:

13 (i) Unless the articles of incorporation, or the board of
14 directors acting in accordance with subsection (6) of this section,
15 require a different vote, shareholder approval of the proposed
16 disposition requires (A) the approval of two-thirds of the votes
17 entitled to be cast on the proposed disposition, and (B) the approval
18 of two-thirds of the votes entitled to be cast on the proposed
19 disposition by each other voting group entitled under the articles of
20 incorporation to vote separately on the proposed disposition, unless
21 shareholder approval is not required under subsection (11) of this
22 section; and

23 (ii) The articles of incorporation may require a different vote
24 than that provided in this subsection, or a different vote by
25 separate voting groups, so long as the required vote is not less than
26 a majority of all the votes entitled to be cast on the proposed
27 disposition and of each other voting group entitled to vote
28 separately on the proposed disposition.

29 (b) With respect to a corporation formed on or after August 1,
30 2024, unless the articles of incorporation, or the board of directors
31 acting in accordance with subsection (6) of this section, requires a
32 greater vote, the proposed disposition must be approved by (~~two-~~
33 ~~thirds)) a majority~~ of the voting group comprising all the votes
34 entitled to be cast on the proposed disposition, and of each other
35 voting group entitled under the articles of incorporation to vote
36 separately on the proposed disposition, unless shareholder approval
37 is not required under subsection (11) of this section. (~~The articles~~
38 ~~of incorporation may require a greater or lesser vote than provided~~
39 ~~in this subsection, or a greater or lesser vote by any separate~~
40 ~~voting groups provided for in the articles of incorporation, so long~~

1 ~~as the required vote is not less than a majority of all the votes~~
2 ~~entitled to be cast on the proposed disposition and of each other~~
3 ~~voting group entitled to vote separately on the proposed~~
4 ~~disposition.)~~)

5 (9) After a proposed disposition has been approved by the
6 shareholders as required by this section, and at any time before the
7 proposed disposition has been consummated, the board of directors may
8 abandon the proposed disposition without further action by the
9 shareholders, subject to any contractual rights of other parties
10 relating thereto.

11 (10) A disposition that constitutes a distribution is governed by
12 RCW 23B.06.400 and not by this section.

13 (11) Unless the articles of incorporation otherwise require,
14 approval by the shareholders of a parent corporation is not required
15 for the transfer of any or all of the parent corporation's property
16 and assets to one or more subsidiaries all of the shares or interests
17 of which are owned, directly or indirectly, by the parent
18 corporation.

19 (12) The assets of a subsidiary are to be treated as the assets
20 of its parent corporation for purposes of this section.

21 **Sec. 22.** RCW 23B.13.020 and 2022 c 42 s 113 are each amended to
22 read as follows:

23 (1) A shareholder is entitled to dissent from, and obtain payment
24 of the fair value of the shareholder's shares in the event of, any of
25 the following corporate actions:

26 (a) ~~((A plan of merger, which has become effective, to which the~~
27 ~~corporation is a party (i) if shareholder approval was required for~~
28 ~~the merger by RCW 23B.11.030, 23B.11.080, or the articles of~~
29 ~~incorporation, or would have been required but for the provisions of~~
30 ~~RCW 23B.11.030(9), and the shareholder was, or but for the provisions~~
31 ~~of RCW 23B.11.030(9) would have been, entitled to vote on the merger,~~
32 ~~or (ii) if the corporation was a subsidiary and the plan of merger~~
33 ~~provided for the merger of the subsidiary with its parent under RCW~~
34 ~~23B.11.040)) Consummation of a merger to which the corporation is a~~
35 ~~party (i) if shareholder approval is required for the merger by~~
36 ~~section 4 of this act or the articles of incorporation, or would be~~
37 ~~required but for the provisions of section 6 of this act, and the~~
38 ~~shareholder is, or but for the provisions of section 6 of this act~~
39 ~~would be, entitled to vote on the merger, except that the right to~~

1 dissent will not be available to any shareholder of the corporation
2 with respect to shares of any class or series that remain outstanding
3 after consummation of the merger; or (ii) if the corporation is a
4 subsidiary and the merger is governed by section 7 of this act;

5 (b) A plan of share exchange, which has become effective, to
6 which the corporation is a party as the corporation whose shares have
7 been acquired, if the shareholder was entitled to vote on the plan;

8 (c) A sale, lease, exchange, or other disposition, which has
9 become effective, of all, or substantially all, of the property and
10 assets of the corporation other than in the usual and regular course
11 of business, if the shareholder was entitled to vote on the sale,
12 lease, exchange, or other disposition, including a disposition in
13 dissolution, but not including a disposition pursuant to court order
14 or a disposition for cash pursuant to a plan by which all or
15 substantially all of the net proceeds of the disposition will be
16 distributed to the shareholders within one year after the date of the
17 disposition;

18 (d) An amendment of the articles of incorporation, whether or not
19 the shareholder was entitled to vote on the amendment, if the
20 amendment effects a redemption or cancellation of all of the
21 shareholder's shares in exchange for cash or other consideration
22 other than shares of the corporation;

23 (e) Any action described in RCW 23B.25.120;

24 (f) Any corporate action approved pursuant to a shareholder vote
25 to the extent the articles of incorporation, bylaws, or a resolution
26 of the board of directors provides that voting or nonvoting
27 shareholders are entitled to dissent and obtain payment for their
28 shares; or

29 (g) A plan of entity conversion in the case of a conversion of a
30 domestic corporation to a foreign corporation, which has become
31 effective, to which the domestic corporation is a party as the
32 converting entity, if: (i) The shareholder was entitled to vote on
33 the plan; and (ii) the shareholder does not receive shares in the
34 surviving entity that have terms as favorable to the shareholder in
35 all material respects and that represent at least the same percentage
36 interest of the total voting rights of the outstanding shares of the
37 surviving entity as the shares held by the shareholder before the
38 conversion.

39 (2) A shareholder entitled to dissent and obtain payment for the
40 shareholder's shares under this chapter may not challenge the

1 corporate action creating the shareholder's entitlement unless the
2 action fails to comply with the procedural requirements imposed by
3 this title, RCW 25.10.831 through 25.10.886, the articles of
4 incorporation, or the bylaws, or is fraudulent with respect to the
5 shareholder or the corporation.

6 (3) The right of a dissenting shareholder to obtain payment of
7 the fair value of the shareholder's shares shall terminate upon the
8 occurrence of any one of the following events:

9 (a) The proposed corporate action is abandoned or rescinded;

10 (b) A court having jurisdiction permanently enjoins or sets aside
11 the corporate action; or

12 (c) The shareholder's demand for payment is withdrawn with the
13 written consent of the corporation.

14 **Sec. 23.** RCW 23B.13.200 and 2022 c 42 s 114 are each amended to
15 read as follows:

16 (1) If proposed corporate action creating dissenters' rights
17 under RCW 23B.13.020 is submitted for approval by a vote at a
18 shareholders' meeting, the meeting notice must state that
19 shareholders are or may be entitled to assert dissenters' rights
20 under this chapter and be accompanied by a copy of this chapter.

21 (2) If proposed corporate action creating dissenters' rights
22 under RCW 23B.13.020 would be submitted for approval by a vote at a
23 shareholders' meeting but for the provisions of (~~RCW 23B.11.030(9)~~)
24 section 4 of this act, the offer made pursuant to (~~RCW~~
25 ~~23B.11.030(9)~~) section 4 of this act must state that shareholders
26 are or may be entitled to assert dissenters' rights under this
27 chapter and be accompanied by a copy of this chapter.

28 (3) If corporate action creating dissenters' rights under RCW
29 23B.13.020 is submitted for approval without a vote of shareholders
30 in accordance with RCW 23B.07.040, the shareholder consent described
31 in RCW 23B.07.040(1)(b) and the notice described in RCW
32 23B.07.040(3)(a) must include a statement that shareholders are or
33 may be entitled to assert dissenters' rights under this chapter and
34 be accompanied by a copy of this chapter.

35 **Sec. 24.** RCW 23B.13.210 and 2022 c 42 s 115 are each amended to
36 read as follows:

37 (1) If proposed corporate action creating dissenters' rights
38 under RCW 23B.13.020 is submitted to a vote at a shareholders'

1 meeting, a shareholder who wishes to assert dissenters' rights must
2 (a) deliver to the corporation before the vote is taken written
3 notice of the shareholder's intent to demand payment for the
4 shareholder's shares if the proposed corporate action is effected,
5 and (b) not vote such shares in favor of the proposed corporate
6 action.

7 (2) If proposed corporate action creating dissenters' rights
8 under RCW 23B.13.020 does not require shareholder approval pursuant
9 to (~~RCW 23B.11.030(9)~~) section 4 of this act, a shareholder who
10 wishes to assert dissenters' rights with respect to any class or
11 series of shares:

12 (a) Shall deliver to the corporation before the shares are
13 purchased pursuant to the offer under (~~RCW 23B.11.030(9)~~) section 4
14 of this act written notice of the shareholder's intent to demand
15 payment for the shareholder's shares if the proposed corporate action
16 is effected; and

17 (b) Shall not tender, or cause to be tendered, any shares of such
18 class or series in response to such offer.

19 (3) If proposed corporate action creating dissenters' rights
20 under RCW 23B.13.020 is submitted for approval without a vote of
21 shareholders in accordance with RCW 23B.07.040, a shareholder who
22 wishes to assert dissenters' rights must not execute the consent or
23 otherwise vote such shares in favor of the proposed corporate action.

24 (4) A shareholder who does not satisfy the requirements of
25 subsection (1), (2), or (3) of this section is not entitled to
26 payment for the shareholder's shares under this chapter.

27 **Sec. 25.** RCW 23B.13.220 and 2022 c 42 s 116 are each amended to
28 read as follows:

29 (1) If proposed corporate action creating dissenters' rights
30 under RCW 23B.13.020 is approved at a shareholders' meeting, the
31 corporation shall within ten days after the effective date of the
32 corporate action deliver to all shareholders who satisfied the
33 requirements of RCW 23B.13.210(1) a notice in compliance with
34 subsection (6) of this section.

35 (2) If proposed corporate action creating dissenters' rights
36 under RCW 23B.13.020 is approved without a vote of shareholders in
37 accordance with (~~RCW 23B.11.030(9)~~) section 4 of this act, the
38 corporation shall within 10 days after the effective date of the
39 corporate action deliver to all shareholders who satisfied the

1 requirements of RCW 23B.13.210(2) a notice in compliance with
2 subsection (6) of this section.

3 (3) If proposed corporate action creating dissenters' rights
4 under RCW 23B.13.020 is approved without a vote of shareholders in
5 accordance with RCW 23B.07.040, the notice delivered pursuant to RCW
6 23B.07.040(3)(b) to shareholders who satisfied the requirements of
7 RCW 23B.13.210(3) shall comply with subsection (6) of this section.

8 (4) In the case of proposed corporate action creating dissenters'
9 rights under RCW 23B.13.020(1)(a)(ii), the corporation shall within
10 ten days after the effective date of the corporate action deliver to
11 all shareholders of the subsidiary other than the parent a notice in
12 compliance with subsection (6) of this section.

13 (5) In the case of proposed corporate action creating dissenters'
14 rights under RCW 23B.13.020(1)(d) that, pursuant to RCW
15 23B.10.020(4)(b), is not required to be approved by the shareholders
16 of the corporation, the corporation shall within ten days after the
17 effective date of the corporate action deliver to all shareholders
18 entitled to dissent under RCW 23B.13.020(1)(d) a notice in compliance
19 with subsection (6) of this section.

20 (6) Any notice under subsection (1), (2), (3), (4), or (5) of
21 this section must:

22 (a) State where the payment demand must be sent and where and
23 when certificates for certificated shares must be deposited;

24 (b) Inform holders of uncertificated shares to what extent
25 transfer of the shares will be restricted after the payment demand is
26 received;

27 (c) Supply a form for demanding payment that includes the date of
28 the first announcement to news media or to shareholders of the terms
29 of the proposed corporate action and requires that the person
30 asserting dissenters' rights certify whether or not the person
31 acquired beneficial ownership of the shares before that date;

32 (d) Set a date by which the corporation must receive the payment
33 demand, which date may not be fewer than thirty nor more than sixty
34 days after the date the notice in subsection (1), (2), (3), (4), or
35 (5) of this section is delivered; and

36 (e) Be accompanied by a copy of this chapter.

37 **Sec. 26.** RCW 23B.17.015 and 2011 c 42 s 1 are each amended to
38 read as follows:

1 (1) A corporation that meets the following requirements is
2 subject to the alternative quorum and voting requirements set forth
3 in subsection (2) of this section:

4 (a) As of the record date of the annual or special meeting of
5 shareholders:

6 (i) The corporation is a public company;

7 (ii) Shares of its common stock are admitted to trading on a
8 regulated market listed on the list of the regulated markets notified
9 to the European commission by the member states under Article 16 of
10 the investment services directive (93/22/EEC), as such list is
11 amended from time to time; and

12 (iii) At least twenty percent of the shares of the corporation's
13 common stock are held of record by the depository trust company and
14 are deposited securities, as defined in the rules, bylaws, and
15 organization certificate of the depository trust company, credited to
16 the account or accounts of one or more stock depositories located in
17 a member state of the European Union;

18 (b) At the time that such shares were initially listed on the
19 regulated market, shares of the corporation's common stock were
20 listed on the New York stock exchange or the (~~nasdaq~~) NASDAQ stock
21 market;

22 (c) At the time that such shares were initially listed on the
23 regulated market, such listing was a condition to the acquisition of
24 one hundred percent of the equity interests of a foreign corporation
25 or similar entity where:

26 (i) The securities of the foreign corporation or similar entity
27 were admitted to trading on the regulated market immediately prior to
28 the acquisition;

29 (ii) The consideration for the acquisition was newly issued
30 shares of common stock of the corporation; and

31 (iii) The shares issued in connection with the acquisition
32 equaled before the issuance more than forty percent of the
33 outstanding common stock of the corporation; and

34 (d) At the corporation's most recent annual or special meeting of
35 shareholders less than sixty-five percent of the shares within the
36 voting group comprising all the votes entitled to be cast were
37 present in person or by proxy.

38 (2) At any annual or special meeting actually held, other than by
39 written consent under RCW 23B.07.040, by a corporation meeting the
40 requirements of subsection (1) of this section:

1 (a) The required quorum of the voting group consisting of all
2 votes entitled to be cast, and of each other voting group that
3 includes common shares of the corporation which is entitled to vote
4 separately with respect to a proposed corporate action, shall be the
5 lesser of:

6 (i) A majority of the shares of such voting group other than
7 shares credited to the account of stock depositories located in a
8 member state of the European Union as described in subsection
9 (1)(a)(iii) of this section, provided the number of votes comprising
10 such majority equals or exceeds one-sixth of the total votes entitled
11 to be cast by the voting group; or

12 (ii) One-third of the total votes entitled to be cast by the
13 voting group.

14 (b) The vote required for approval by any voting group entitled
15 to vote with respect to any amendment of the corporation's articles
16 of incorporation or bylaws, or any plan of merger or share exchange
17 to which the corporation is a party, or any sale, lease, exchange, or
18 other disposition of all or substantially all of the corporation's
19 property otherwise than in the usual and regular course of business,
20 or dissolution, shall be a majority of the votes actually cast by
21 such voting group with respect to the proposed corporate action,
22 provided that the votes approving the proposed corporate action equal
23 or exceed fifteen percent of the votes within the voting group.

24 (3) The alternative quorum and voting requirements specified in
25 subsection (2) of this section shall, with respect to any corporation
26 meeting the requirements of subsection (1) of this section, control
27 over and supersede any greater quorum or voting requirements that may
28 be specified in the corporation's articles of incorporation or bylaws
29 or in RCW 23B.02.020, 23B.07.250, 23B.07.270, 23B.10.030,
30 (~~23B.11.030~~) section 4 of this act, 23B.12.020, or 23B.14.020.

31 **Sec. 27.** RCW 23B.25.100 and 2012 c 215 s 11 are each amended to
32 read as follows:

33 (1) In addition to approval in accordance with (~~RCW 23B.11.030~~)
34 section 4 of this act, a plan of merger or share exchange pursuant to
35 which a social purpose corporation would not be the surviving
36 corporation must be approved by two-thirds of the voting group
37 comprising all the votes of the corporation entitled to be cast on
38 the plan, and by two-thirds of the holders of the outstanding shares
39 of each class or series, voting as separate voting groups, and of

1 each other voting group entitled under the articles of incorporation
2 to vote separately on the proposed plan. The articles of
3 incorporation may require a greater vote than that provided for in
4 this subsection.

5 (2) The additional approval described in subsection (1) of this
6 section is not required if the surviving corporation of the plan of
7 merger or share exchange is a social purpose corporation governed by
8 this chapter and includes a specific social purpose or purposes that
9 do not materially differ from the disappearing corporation's specific
10 social purpose or purposes, if any.

11 **Sec. 28.** RCW 23B.25.130 and 2012 c 215 s 14 are each amended to
12 read as follows:

13 (1) ~~((Any))~~ By complying with this chapter, any corporation that
14 is not a social purpose corporation may ~~((elect to))~~ become a social
15 purpose corporation ~~((if, pursuant to the proposed election, each of~~
16 ~~the following conditions are met:~~

17 ~~(a) Each))~~ in accordance with a plan of election.

18 (2) The plan of election must provide that each share of the same
19 class or series of the electing corporation shall, unless all
20 shareholders of the class or series consent, be treated equally with
21 respect to any cash, rights, securities, or other property to be
22 received by, or any obligations or restrictions to be imposed on, the
23 holder of that share~~((?))~~.

24 (3) The plan of election must include an amendment to the
25 articles of incorporation to include the matters required to be
26 included in the articles of incorporation in accordance with RCW
27 23B.25.040(1).

28 (4) The plan of election must be approved in the following
29 manner:

30 (a) The plan of election must first be approved by the board of
31 directors.

32 (b) The plan of election must then be approved by the
33 shareholders. In submitting the plan of election to the shareholders
34 for approval, the board of directors ((of the electing corporation))
35 must recommend ((the election to)) that the shareholders approve the
36 plan of election, unless the board of directors determines that
37 because of conflict of interest or other special circumstances it
38 should make no recommendation ((and communicates the basis for its
39 determination to the shareholders with the proposed election; and

1 ~~(c) In addition to any other voting conditions imposed by the~~
2 ~~board of directors under subsection (2) of this section, the)), in~~
3 ~~which case the board of directors must inform the shareholders of the~~
4 ~~basis for so proceeding.~~

5 (c) The board of directors may set conditions for the approval of
6 the plan of election by the shareholders or the effectiveness of the
7 plan.

8 (d) Unless the articles of incorporation, or the board of
9 directors acting in accordance with (c) of this subsection, requires
10 a greater vote, the plan of election must be approved by an
11 affirmative vote of at least two-thirds of the voting group
12 comprising all the votes of the electing corporation's shareholders
13 entitled to be cast on the ((corporate action)) plan, and by
14 two-thirds of the holders of the outstanding shares of each class or
15 series, voting as separate voting groups, and each other voting group
16 entitled under the articles of incorporation to vote separately on
17 the ((corporate action)) plan.

18 ~~((2) The board of directors of a corporation electing to become~~
19 ~~a social purpose corporation may condition its submission of the~~
20 ~~proposed election on any basis, including the affirmative vote of~~
21 ~~holders of a specified percentage of shares held by any group of~~
22 ~~shareholders not otherwise entitled to vote as a separate group on~~
23 ~~the proposed election.~~

24 ~~(3) To elect to become a social purpose corporation, an electing~~
25 ~~corporation must amend its articles of incorporation to include the~~
26 ~~matters required to be set forth in the articles of incorporation~~
27 ~~pursuant to RCW 23B.25.040(1).~~

28 ~~(4))~~ (5) After an election to become a social purpose
29 corporation is approved, and at any time prior to filing the articles
30 of amendment to amend the electing corporation's articles of
31 incorporation ~~((in compliance with subsection (3) of this section)),~~
32 the planned election may be abandoned by the electing corporation,
33 subject to any contractual rights, without further shareholder
34 approval, in the manner determined by the board of directors.

35 ~~((5))~~ (6) The election to become a social purpose corporation
36 shall be effective upon the later of the filing of the articles of
37 amendment with the secretary of state or the effective date or time
38 set forth in the articles of amendment.

39 ~~((6))~~ (7) Upon the effective time of the election to become a
40 social purpose corporation, the electing corporation shall thereafter

1 be a social purpose corporation and shall be subject to all of the
2 provisions of this chapter and the existence of the social purpose
3 corporation shall be deemed to have commenced on the date the
4 electing corporation was incorporated.

5 ~~((7))~~ (8) The election to become a social purpose corporation
6 shall not be deemed to affect any obligations or liabilities of the
7 electing corporation incurred prior to its election to become a
8 social purpose corporation or the personal liability of any person
9 incurred prior to such election.

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