

CHAPTER 617
CORPORATIONS NOT FOR PROFIT

- 617.01011 Short title.
- 617.0102 Reservation of power to amend or repeal.
- 617.01201 Filing requirements.
- 617.0121 Forms.
- 617.0122 Fees for filing documents and issuing certificates.
- 617.0123 Effective date of document.
- 617.0124 Correcting filed document.
- 617.0125 Filing duties of Department of State.
- 617.0126 Appeal from Department of State's refusal to file document.
- 617.0127 Evidentiary effect of copy of filed document.
- 617.0128 Certificate of status.
- 617.01301 Powers of Department of State.
- 617.01401 Definitions.
- 617.0141 Notice.
- 617.02011 Incorporators.
- 617.0202 Articles of incorporation; content.
- 617.0203 Incorporation.
- 617.0204 Liability for preincorporation transactions.
- 617.0205 Organizational meeting of directors.
- 617.0206 Bylaws.
- 617.0207 Emergency bylaws.
- 617.0301 Purposes and application.
- 617.0302 Corporate powers.
- 617.0303 Emergency powers.
- 617.0304 Ultra vires.
- 617.0401 Corporate name.
- 617.0403 Registered name; application; renewal; revocation.
- 617.0501 Registered office and registered agent.
- 617.05015 Reserved name.
- 617.0502 Change of registered office or registered agent; resignation of registered agent.
- 617.0503 Registered agent; duties; confidentiality of investigation records.
- 617.0504 Service of process, notice, or demand on a corporation.
- 617.0505 Distributions; exceptions.
- 617.0601 Members, generally.
- 617.0604 Liability of members.

617.0605 Transfer of membership interests.
617.0606 Resignation of members.
617.0607 Termination, expulsion, and suspension.
617.0608 Purchase of memberships.
617.0701 Meetings of members, generally; failure to hold annual meeting; special meeting; consent to corporate actions without meetings; waiver of notice of meetings.
617.0721 Voting by members.
617.0725 Quorum.
617.07401 Members' derivative actions.
617.0801 Duties of board of directors.
617.0802 Qualifications of directors.
617.0803 Number of directors.
617.0806 Staggered terms for directors.
617.0807 Resignation of directors.
617.0808 Removal of directors.
617.0809 Board vacancy.
617.08101 Compensation of directors.
617.0820 Meetings.
617.0821 Action by directors without a meeting.
617.0822 Notice of meetings.
617.0823 Waiver of notice.
617.0824 Quorum and voting.
617.0825 Board committees and advisory committees.
617.0830 General standards for directors.
617.0831 Indemnification and liability of officers, directors, employees, and agents.
617.0832 Director conflicts of interest.
617.0833 Loans to directors or officers.
617.0834 Officers and directors of certain corporations and associations not for profit; immunity from civil liability.
617.0835 Prohibited activities by private foundations.
617.0840 Required officers.
617.0841 Duties of officers.
617.0842 Resignation and removal of officers.
617.0843 Contract rights of officers.
617.0901 Reincorporation.
617.1001 Authority to amend the articles of incorporation.
617.1002 Procedure for amending articles of incorporation.
617.1006 Contents of articles of amendment.
617.1007 Restated articles of incorporation.
617.1008 Amendment pursuant to reorganization.
617.1009 Effect of amendment.
617.1101 Plan of merger.
617.1102 Limitation on merger.
617.1103 Approval of plan of merger; abandonment of plan thereafter.
617.1105 Articles of merger.
617.1106 Effect of merger.
617.1107 Merger of domestic and foreign corporations.
617.1108 Merger of domestic corporation and other eligible entities.

- 617.1201 Secured transactions and other dispositions of corporate property and assets not requiring member approval.
- 617.1202 Sale, lease, exchange, or other disposition of corporate property and assets requiring member approval.
- 617.1301 Prohibited distributions.
- 617.1302 Authorized distributions.
- 617.1401 Voluntary dissolution of corporation prior to conducting its affairs.
- 617.1402 Dissolution of corporation.
- 617.1403 Articles of dissolution.
- 617.1404 Revocation of dissolution.
- 617.1405 Effect of dissolution.
- 617.1406 Plan of distribution of assets.
- 617.1407 Unknown claims against dissolved corporation.
- 617.1408 Known claims against dissolved corporation.
- 617.1420 Grounds for administrative dissolution.
- 617.1421 Procedure for and effect of administrative dissolution.
- 617.1422 Reinstatement following administrative dissolution.
- 617.1423 Appeal from denial of reinstatement.
- 617.1430 Grounds for judicial dissolution.
- 617.1431 Procedure for judicial dissolution.
- 617.1432 Receivership or custodianship.
- 617.1433 Judgment of dissolution.
- 617.1440 Deposit with Department of Financial Services.
- 617.1501 Authority of foreign corporation to conduct affairs required.
- 617.1502 Consequences of conducting affairs without authority.
- 617.1503 Application for certificate of authority.
- 617.1504 Amended certificate of authority.
- 617.1505 Effect of certificate of authority.
- 617.1506 Corporate name of foreign corporation.
- 617.1507 Registered office and registered agent of foreign corporation.
- 617.1508 Change of registered office and registered agent of foreign corporation.
- 617.1509 Resignation of registered agent of foreign corporation.
- 617.1510 Service of process, notice, or demand on a foreign corporation.
- 617.1520 Withdrawal of foreign corporation.
- 617.1530 Grounds for revocation of authority to conduct affairs.
- 617.1531 Procedure for and effect of revocation.
- 617.1532 Appeal from revocation.
- 617.1533 Reinstatement following revocation.
- 617.1601 Corporate records.
- 617.1602 Inspection of records by members.
- 617.1603 Scope of inspection right.
- 617.1604 Court-ordered inspection.
- 617.1605 Financial reports for members.
- 617.1606 Access to records.
- 617.1622 Annual report for Department of State.
- 617.1623 Corporate information available to the public; application to corporations incorporated by circuit courts and by special act of the Legislature.
- 617.1701 Application to existing domestic corporation.
- 617.1702 Application to qualified foreign corporations.
- 617.1703 Application of chapter.

- 617.1711 Application to foreign and interstate commerce.
- 617.1803 Domestication of foreign not-for-profit corporations.
- 617.1805 Corporations for profit; when may become corporations not for profit.
- 617.1806 Conversion to corporation not for profit; petition and contents.
- 617.1807 Conversion to corporation not for profit; authority of circuit judge.
- 617.1808 Application of act to corporation converted to corporation not for profit.
- 617.1809 Limited agricultural association; conversion to a domestic corporation not for profit.
- 617.1904 Estoppel.
- 617.1907 Effect of repeal or amendment of prior acts.
- 617.1908 Applicability of Florida Business Corporation Act.
- 617.2001 Corporations which may be incorporated hereunder; incorporation of certain medical services corporations.
- 617.2002 Corporation not for profit organized pursuant to s. 2, ch. 87-296; requirements.
- 617.2003 Proceedings to revoke articles of incorporation or charter or prevent its use.
- 617.2004 Extinct churches and religious societies; property.
- 617.2005 Extinct churches and religious societies; dissolution.
- 617.2006 Incorporation of labor unions or bodies.
- 617.2007 Sponge packing and marketing corporations.
- 617.2101 Corporation authorized to act as trustee.
- 617.2102 Fines and penalties against members.
- 617.2104 Florida Uniform Prudent Management of Institutional Funds Act.
- 617.2105 Corporation issued a deed to real property.
- 617.221 Membership associations.

617.01011 Short title.—This act may be cited as the “Florida Not For Profit Corporation Act.”

History.—s. 1, ch. 90-179.

617.0102 Reservation of power to amend or repeal.—The Legislature has the power to amend or repeal all or part of this act at any time, and all domestic and foreign corporations subject to this act shall be governed by the amendment or repeal.

History.—s. 2, ch. 90-179.

617.01201 Filing requirements.—

- (1) A document must satisfy the requirements of this section and of any other section that adds to or varies these requirements to be entitled to filing by the Department of State.
- (2) This act must require or permit filing the document in the office of the Department of State.
- (3) The document must contain the information required by this act. It may contain other information as well.
- (4) The document must be typewritten or printed and must be legible. If electronically transmitted, the document must be in a format that may be retrieved or reproduced in typewritten or printed form.
- (5) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of authority required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.
- (6) The document must be executed:
 - (a) By a director of a domestic or foreign corporation, or by its president or by another of its officers;
 - (b) If directors or officers have not been selected or the corporation has not been formed, by an incorporator;or
 - (c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by the fiduciary.
- (7) The person executing the document shall sign it and state beneath or opposite his or her signature his or her name and the capacity in which he or she signs. The document may, but need not, contain:
 - (a) The corporate seal,

- (b) An attestation by the secretary or an assistant secretary,
- (c) An acknowledgment, verification, or proof.
- (8) If the Department of State has prescribed a mandatory form for the document under s. 617.0121, the document must be in or on the prescribed form.
- (9) The document must be delivered to the department for filing. Delivery may be made by electronic transmission if and to the extent allowed by the department. If the document is filed in typewritten or printed form and not transmitted electronically, the department may require that one exact or conformed copy be delivered with the document, except as provided in s. 617.1508. The document must be accompanied by the correct filing fee and any other tax or penalty required by law.

History.—s. 3, ch. 90-179; s. 44, ch. 93-281; s. 76, ch. 97-102; s. 7, ch. 2009-205.

617.0121 Forms.—

- (1) The Department of State may prescribe and furnish on request forms for:
 - (a) An application for certificate of status,
 - (b) A foreign corporation's application for certificate of authority to conduct its affairs in the state,
 - (c) A foreign corporation's application for certificate of withdrawal, and
 - (d) The annual report, for which the department may prescribe the use of the uniform business report, pursuant to s. 606.06.

If the Department of State so requires, the use of these forms shall be mandatory.

- (2) The Department of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this act, but their use shall not be mandatory.

History.—s. 4, ch. 90-179; s. 8, ch. 99-218.

617.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees on documents delivered to the department for filing:

- (1) Articles of incorporation: \$35.
- (2) Application for registered name: \$87.50.
- (3) Application for renewal of registered name: \$87.50.
- (4) Corporation's statement of change of registered agent or registered office or both if not included on the annual report: \$35.
- (5) Designation of and acceptance by registered agent: \$35.
- (6) Agent's statement of resignation from active corporation: \$87.50.
- (7) Agent's statement of resignation from inactive corporation: \$35.
- (8) Amendment of articles of incorporation: \$35.
- (9) Restatement of articles of incorporation with amendment of articles: \$35.
- (10) Articles of merger for each party thereto: \$35.
- (11) Articles of dissolution: \$35.
- (12) Articles of revocation of dissolution: \$35.
- (13) Application for reinstatement following administrative dissolution: \$175.
- (14) Application for certificate of authority to transact business in this state by a foreign corporation: \$35.
- (15) Application for amended certificate of authority: \$35.
- (16) Application for certificate of withdrawal by a foreign corporation: \$35.
- (17) Annual report: \$61.25.
- (18) Articles of correction: \$35.
- (19) Application for certificate of status: \$8.75.
- (20) Certified copy of document: \$52.50.
- (21) Serving as agent for substitute service of process: \$87.50.
- (22) Certificate of conversion of a limited agricultural association to a domestic corporation: \$35.
- (23) Any other document required or permitted to be filed by this chapter: \$35.

Any citizen support organization that is required by rule of the Department of Environmental Protection to be formed as a nonprofit organization and is under contract with the department is exempt from any fees required for incorporation as a nonprofit organization, and the Secretary of State may not assess any such fees if the citizen support organization is certified by the Department of Environmental Protection to the Secretary of State as being under contract with the Department of Environmental Protection.

History.—s. 5, ch. 90-179; s. 45, ch. 93-281; ss. 25, 27, ch. 94-314; s. 469, ch. 94-356; s. 13, ch. 97-94; s. 15, ch. 98-101; s. 8, ch. 2009-205; s. 2, ch. 2012-71.

617.0123 Effective date of document.—

(1) Except as provided in subsection (2) and in s. 617.0124(3), a document accepted for filing is effective at the time of filing on the date it is filed, as evidenced by the Department of State's date and time endorsement on the original document.

(2) A document may specify a delayed effective date, and if it does the document shall become effective on the date specified. Unless otherwise permitted by this act, a delayed effective date for a document may not be later than the 90th day after the date on which it is filed.

(3) If a document is determined by the Department of State to be incomplete and inappropriate for filing, the Department of State may return the document to the person or corporation filing it, together with a brief written explanation of the reason for the refusal to file, in accordance with s. 617.0125(3). If the applicant returns the document with corrections in accordance with the rules of the department within 60 days after it was mailed to the applicant by the department, and if at the time of return the applicant so requests in writing, the filing date of the document will be the filing date that would have been applied had the original document not been deficient, except as to persons who relied on the record before correction and were adversely affected thereby.

(4) Corporate existence may predate the filing date, pursuant to s. 617.0203(1).

History.—s. 6, ch. 90-179; s. 47, ch. 93-281.

617.0124 Correcting filed document.—

(1) A domestic or foreign corporation may correct a document filed by the department within 30 days after filing if:

- (a) The document contains an incorrect statement;
- (b) The document contains false, misleading, or fraudulent information;
- (c) The document was defectively executed, attested, sealed, verified, or acknowledged; or
- (d) The electronic transmission of the document was defective.

(2) A document is corrected:

(a) By preparing articles of correction that:

1. Describe the document, including its filing date;
2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(b) By delivering the executed articles of correction to the department for filing.

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

(4) Articles of correction that are filed to correct false, misleading, or fraudulent information are not subject to a fee of the department if the articles of correction are delivered to the department within 15 days after the notification of filing sent pursuant to s. 617.0125(2).

History.—s. 7, ch. 90-179; s. 48, ch. 93-281; s. 9, ch. 2009-205; s. 5, ch. 2018-58.

617.0125 Filing duties of Department of State.—

(1) If a document delivered to the department for filing satisfies the requirements of s. 617.01201, the department shall file it.

(2) The department files a document by stamping or otherwise endorsing “filed,” together with the Secretary of State’s official title and the date and time of receipt. After filing a document, the department shall send a notice of the filing to the electronic mail address on file for the domestic or foreign corporation or its representative or send a copy of the document to the mailing address of such corporation or its representative. If the record changes the electronic mail address of the domestic or foreign corporation, the department must send such notice to the new electronic mail address and to the most recent prior electronic mail address. If the record changes the mailing address of the domestic or foreign corporation, the department must send such notice to the new mailing address and to the most recent prior mailing address.

(3) If the department refuses to file a document, it shall return it to the domestic or foreign corporation or its representative within 15 days after the document was received for filing, together with a brief, written explanation of the reason for refusal.

(4) The department’s duty to file documents under this section is ministerial. The filing or refusing to file a document does not:

- (a) Affect the validity or invalidity of the document in whole or part;
- (b) Relate to the correctness or incorrectness of information contained in the document; or
- (c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(5) If not otherwise provided by law and the provisions of this act, the department shall determine, by rule, the appropriate format for, number of copies of, manner of execution of, method of electronic transmission of, and amount of and method of payment of fees for, any document placed under its jurisdiction.

History.—s. 8, ch. 90-179; s. 6, ch. 2018-58.

617.0126 Appeal from Department of State’s refusal to file document.—If the Department of State refuses to file a document delivered to its office for filing, within 30 days after return of the document by the department by mail, as evidenced by the postmark, the domestic or foreign corporation may:

- (1) Appeal the refusal pursuant to s. 120.68; or
- (2) Appeal the refusal to the circuit court of the county where the corporation’s principal office (or, if none in this state, its registered office) is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Department of State’s explanation of its refusal to file. The matter shall promptly be tried de novo by the court without a jury. The court may summarily order the Department of State to file the document or take other action the court considers appropriate. The court’s final decision may be appealed as in other civil proceedings.

History.—s. 9, ch. 90-179.

617.0127 Evidentiary effect of copy of filed document.—A certificate attached to a copy of a document filed by the Department of State, bearing the signature of the Secretary of State (which may be in facsimile) and the seal of this state, is conclusive evidence that the original document is on file with the department.

History.—s. 10, ch. 90-179.

617.0128 Certificate of status.—

- (1) Anyone may apply to the Department of State to furnish a certificate of status for a domestic corporation or a certificate of authorization for a foreign corporation.
- (2) A certificate of status or authorization sets forth:
 - (a) The domestic corporation’s corporate name or the foreign corporation’s corporate name used in this state;
 - (b)1. That the domestic corporation is duly incorporated under the law of this state and the date of its incorporation, or
 - 2. That the foreign corporation is authorized to conduct its affairs in this state;
 - (c) That all fees and penalties owed to the department have been paid, if:
 - 1. Payment is reflected in the records of the department, and
 - 2. Nonpayment affects the existence or authorization of the domestic or foreign corporation;

(d) That its most recent annual report required by s. 617.1622 has been delivered to the department; and

(e) That articles of dissolution have not been filed.

(3) Subject to any qualification stated in the certificate, a certificate of status or authorization issued by the department may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to conduct its affairs in this state.

History.—s. 11, ch. 90-179; s. 3, ch. 95-211.

617.01301 Powers of Department of State.—

(1) The Department of State may propound to any corporation subject to the provisions of this act, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable it to ascertain whether the corporation has complied with all applicable filing provisions of this act. Such interrogatories must be answered within 30 days after mailing or within such additional time as fixed by the department. Answers to interrogatories must be full and complete, in writing, and under oath. Interrogatories directed to an individual must be answered by him or her, and interrogatories directed to a corporation must be answered by the president, vice president, secretary, or assistant secretary.

(2) The Department of State is not required to file any document:

(a) To which interrogatories, as propounded pursuant to subsection (1) relate, until the interrogatories are answered in full;

(b) When interrogatories or other relevant evidence discloses that such document is not in conformity with the provisions of this act; or

(c) When the department has determined that the parties to such document have not paid all fees, taxes, and penalties due and owing this state.

(3) The Department of State may, based upon its findings hereunder or as provided in s. 213.053(15), bring an action in circuit court to collect any penalties, fees, or taxes determined to be due and owing the state and to compel any filing, qualification, or registration required by law. In connection with such proceeding the department may, without prior approval by the court, file a lis pendens against any property owned by the corporation and may further certify any findings to the Department of Legal Affairs for the initiation of any action permitted pursuant to s. 617.0503 which the Department of Legal Affairs may deem appropriate.

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties herein imposed upon it, and to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act conferring duties upon it.

History.—s. 13, ch. 90-179; s. 49, ch. 93-281; s. 78, ch. 97-102; s. 198, ch. 98-200; s. 7, ch. 2006-85; s. 74, ch. 2016-10.

617.01401 Definitions.—As used in this chapter, the term:

(1) “Articles of incorporation” includes original, amended, and restated articles of incorporation, articles of consolidation, and articles of merger, and all amendments thereto, including documents designated by the laws of this state as charters, and, in the case of a foreign corporation, documents equivalent to articles of incorporation in the jurisdiction of incorporation.

(2) “Board of directors” means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated, including, but not limited to, managers or trustees.

(3) “Bylaws” means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(4) “Corporation” or “domestic corporation” means a corporation not for profit, subject to the provisions of this chapter, except a foreign corporation.

(5) “Corporation not for profit” means a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.

(6) “Department” means the Department of State.

(7) “Distribution” means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers.

(a) A donation or transfer of corporate assets or income to or from another not-for-profit corporation qualified as tax-exempt under s. 501(c) of the Internal Revenue Code or a governmental organization exempt from federal and state income taxes, if such corporation or governmental organization is a member of the corporation making such donation or transfer, is not a distribution for purposes of this chapter.

(b) A dividend or distribution by a not-for-profit insurance company subsidiary to its mutual insurance holding company organized under part III of chapter 628, directly or indirectly through one or more intermediate holding companies authorized under that part, is not a distribution for the purposes of this chapter.

(8) “Electronic transmission” means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmissions of images, and text that is sent via electronic mail between computers.

(9) “Foreign corporation” means a corporation not for profit organized under laws other than the laws of this state.

(10) “Insolvent” means the inability of a corporation to pay its debts as they become due in the usual course of its affairs.

(11) “Mail” means the United States mail, facsimile transmissions, and private mail carriers handling nationwide mail services.

(12) “Member” means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws or the provisions of this chapter.

(13) “Mutual benefit corporation” means a domestic corporation that is not organized primarily or exclusively for religious purposes; is not recognized as exempt under s. 501(c)(3) of the Internal Revenue Code; and is not organized for a public or charitable purpose that is required upon its dissolution to distribute its assets to the United States, a state, a local subdivision thereof, or a person that is recognized as exempt under s. 501(c)(3) of the Internal Revenue Code. The term does not include an association organized under chapter 718, chapter 719, chapter 720, or chapter 721, or any corporation where membership in the corporation is required pursuant to a document recorded in county property records.

(14) “Person” includes individual and entity.

(15) “Successor entity” means any trust, receivership, or other legal entity that is governed by the laws of this state to which the remaining assets and liabilities of a dissolved corporation are transferred and that exists solely for the purposes of prosecuting and defending suits by or against the dissolved corporation and enabling the dissolved corporation to settle and close the business of the dissolved corporation, to dispose of and convey the property of the dissolved corporation, to discharge the liabilities of the dissolved corporation, and to distribute to the dissolved corporation’s members any remaining assets, but not for the purpose of continuing the business for which the dissolved corporation was organized.

(16) “Voting power” means the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote that is contingent upon the happening of a condition or event that has not yet occurred. If the members of a class are entitled to vote as a class to elect directors, the determination of the voting power of the class is based on the percentage of the number of directors the class is entitled to elect relative to the total number of authorized directors. If the corporation’s directors are not elected by the members, voting power shall, unless otherwise provided in the articles of incorporation or bylaws, be on a one-member, one-vote basis.

History.—s. 14, ch. 90-179; s. 1, ch. 2003-14; s. 10, ch. 2009-205; s. 3, ch. 2013-125.

617.0141 Notice.—

(1) Notice under this act must be in writing, unless oral notice is:

- (a) Expressly authorized by the articles of incorporation or the bylaws; and
- (b) Reasonable under the circumstances.

(2) Notice may be communicated in person; by telephone (where oral notice is permitted), telegraph, teletype, or other form of electronic transmission; or by mail.

(3) Written notice by a domestic or foreign corporation authorized to conduct its affairs in this state to its member, if in a comprehensible form, is effective:

(a) When mailed, if mailed postpaid and correctly addressed to the member's address shown in the corporation's current record of members;

(b) When actually transmitted by facsimile telecommunication, if correctly directed to a number at which the member has consented to receive notice;

(c) When actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the member has consented to receive notice;

(d) When posted on an electronic network that the member has consented to consult, upon the later of:

1. Such correct posting; or

2. The giving of a separate notice to the member of the fact of such specific posting; or

(e) When correctly transmitted to the member, if by any other form of electronic transmission consented to by the member to whom notice is given.

(4) Consent by a member to receive notice by electronic transmission shall be revocable by the member by written notice to the corporation. Any such consent shall be deemed revoked if:

(a) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and

(b) Such inability becomes known to the secretary or an assistant secretary of the corporation, or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action.

(5) Written notice to a domestic or foreign corporation authorized to conduct its affairs in this state may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a corporation that has not yet delivered an annual report, in a domestic corporation's articles of incorporation or in a foreign corporation's application for certificate of authority.

(6) Except as provided in subsection (3) or elsewhere in this act, written notice, if in a comprehensible form, is effective at the earliest date of the following:

(a) When received;

(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed; or

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

(7) Oral notice is effective when communicated if communicated directly to the person to be notified in a comprehensible manner.

(8) An affidavit of the secretary, an assistant secretary, the transfer agent, or other authorized agent of the corporation that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice.

(9) If this act prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not less stringent than the requirements of this section or other provisions of this act, those requirements govern.

History.—s. 15, ch. 90-179; s. 2, ch. 2003-14.

617.02011 Incorporators.—One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Department of State for filing.

History.—s. 16, ch. 90-179.

617.0202 Articles of incorporation; content.—

(1) The articles of incorporation must set forth:

- (a) A corporate name for the corporation that satisfies the requirements of s. 617.0401.
- (b) The street address of the initial principal office and, if different, the mailing address of the corporation;
- (c) The purpose or purposes for which the corporation is organized;
- (d) A statement of the manner in which the directors are to be elected or appointed. In lieu thereof, the articles of incorporation may provide that the method of election of directors be stated in the bylaws;
- (e) Any provision, not inconsistent with this act or with any other law, which limits in any manner the corporate powers authorized under this act;
- (f) The street address of the corporation's initial registered office and the name of its initial registered agent at that address together with a written acceptance of appointment as a registered agent as required by s. 617.0501; and
 - (g) The name and address of each incorporator.
- (2) The articles of incorporation may set forth:
 - (a) The names and addresses of the individuals who are to serve as the initial directors;
 - (b) Any provision not inconsistent with law, regarding the regulation of the internal affairs of the corporation, including, without limitation, any provision with respect to the relative rights or interests of the members as among themselves or in the property of the corporation;
 - (c) The manner of termination of membership in the corporation;
 - (d) The rights, upon termination of membership, of the corporation, the terminated members, and the remaining members;
 - (e) The transferability or nontransferability of membership;
 - (f) The distribution of assets upon dissolution or final liquidation or, if otherwise permitted by law, upon partial liquidation;
 - (g) If the corporation is to have one or more classes of members, any provision designating the class or classes of members and stating the qualifications and rights of the members of each class;
 - (h) The names of any persons or the designations of any groups of persons who are to be the initial members;
 - (i) A provision to the effect that the corporation will be subordinate to and subject to the authority of any head or national association, lodge, order, beneficial association, fraternal or beneficial society, foundation, federation, or other corporation, society, organization, or association not for profit; and
 - (j) Any provision that under this act is required or permitted to be set forth in the bylaws. Any such provision set forth in the articles of incorporation need not be set forth in the bylaws.
- (3) The articles of incorporation need not set forth any of the corporate powers enumerated in this act.

History.—s. 17, ch. 90-179; s. 50, ch. 93-281; s. 1, ch. 96-343.

617.0203 Incorporation.—

- (1) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed or on a date specified in the articles of incorporation, if such date is within 5 business days prior to the date of filing.
- (2) The Department of State's filing of the articles of incorporation, and the original recorded charter or certified copy of the charter of a corporation which has not been reincorporated under s. 617.0901, is conclusive proof that the incorporators satisfied all conditions precedent to incorporation and that the corporation has been incorporated under this act, except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

History.—s. 18, ch. 90-179.

- 617.0204 Liability for preincorporation transactions.—**All persons purporting to act as or on behalf of a corporation, having actual knowledge that there was no incorporation under this act, are jointly and severally liable for all liabilities created while so acting except for any liability to any person who also had actual knowledge that there was no incorporation.

History.—s. 19, ch. 90-179.

617.0205 Organizational meeting of directors.—

(1) After incorporation:

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

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

1. To elect directors and complete the organization of the corporation; or
2. To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this act to be taken by incorporators or directors at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator or director.

(3) The directors or incorporators calling the organizational meeting shall give at least 3 days' notice thereof to each director or incorporator so named, stating the time and place of the meeting.

(4) An organizational meeting may be held in or out of this state.

History.—s. 20, ch. 90-179; s. 11, ch. 2009-205.

617.0206 Bylaws.—The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

History.—s. 21, ch. 90-179.

617.0207 Emergency bylaws.—

(1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (5). The emergency bylaws may make all provisions necessary for managing the corporation during an emergency, including:

- (a) Procedures for calling a meeting of the board of directors;
- (b) Quorum requirements for the meeting; and
- (c) Designation of additional or substitute directors.

(2) The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession if during such emergency any or all officers or agents of the corporation are for any reason rendered incapable of discharging their duties.

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

(4) Corporate action taken in good faith in accordance with the emergency bylaws:

- (a) Binds the corporation; and
- (b) May not be used to impose liability on a corporate director, officer, employee, or agent.

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

History.—s. 22, ch. 90-179.

617.0301 Purposes and application.—Corporations may be organized under this act for any lawful purpose or purposes not for pecuniary profit and not specifically prohibited to corporations under other laws of this state. Such purposes include, without limitation, charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes. If special provisions are made, by law, for the organization of designated classes of corporations not for profit, such corporations shall be formed under such provisions and not under this act.

617.0302 Corporate powers.—Every corporation not for profit organized under this chapter, unless otherwise provided in its articles of incorporation or bylaws, shall have power to:

- (1) Have succession by its corporate name for the period set forth in its articles of incorporation.
- (2) Sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.
- (3) Adopt, use, and alter a common corporate seal. However, such seal must always contain the words “corporation not for profit.”
- (4) Elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation.
- (5) Adopt, change, amend, and repeal bylaws, not inconsistent with law or its articles of incorporation, for the administration of the affairs of the corporation and the exercise of its corporate powers.
- (6) Increase, by a vote of its members cast as the bylaws may direct, the number of its directors so that the number shall not be less than three but may be any number in excess thereof.
- (7) Make contracts and guaranties, incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure its obligations by mortgage and pledge of all or any of its property, franchises, or income.
- (8) Conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States or any foreign country.
- (9) Purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with real or personal property, or any interest therein, wherever situated.
- (10) Acquire, enjoy, utilize, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein.
- (11) Sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets.
- (12) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and otherwise use and deal in and with, shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, municipality, or of any instrumentality thereof.
- (13) Lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds loaned or invested except as prohibited by s. 617.0833.
- (14) Make donations for the public welfare or for religious, charitable, scientific, educational, or other similar purposes.
- (15) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.
- (16) Merge with other corporations or other eligible entities identified in s. 607.1101, both for profit and not for profit, domestic and foreign, if the surviving corporation or other surviving eligible entity is a corporation not for profit or other eligible entity that has been organized as a not-for-profit entity under a governing statute or other applicable law that permits such a merger.

History.—s. 24, ch. 90-179; s. 14, ch. 2005-267; s. 12, ch. 2009-205; s. 271, ch. 2019-90.

617.0303 Emergency powers.—

- (1) In anticipation of or during any emergency defined in subsection (5), the board of directors of a corporation may:
 - (a) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and
 - (b) Relocate the principal office or designate alternative principal offices or regional offices or authorize the officers to do so.
- (2) During an emergency defined in subsection (5), unless emergency bylaws provide otherwise:

(a) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio;

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

(c) The director or directors in attendance at a meeting, or any greater number affixed by the emergency bylaws, constitute a quorum.

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

(a) Binds the corporation; and

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

(4) An officer, director, or employee acting in accordance with any emergency bylaws is only liable for willful misconduct.

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

(6) To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any emergency, and upon termination of the emergency, the emergency bylaws will cease to be operative.

History.—s. 25, ch. 90-179.

617.0304 Ultra vires.—

(1) Except as provided in subsection (2), the validity of corporate action, including, but not limited to, any conveyance, transfer, or encumbrance of real or personal property to or by a corporation, may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged:

(a) In a proceeding by a member against the corporation to enjoin the act;

(b) In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, or through members in a representative suit, against an incumbent or former officer, employee, or agent of the corporation; or

(c) In a proceeding by the Attorney General, as provided in this act, to dissolve the corporation or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business.

(3) In a member's proceeding under paragraph (2)(a) to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss (other than anticipated profits) suffered by the corporation or another party because of enjoining the unauthorized act.

History.—s. 26, ch. 90-179.

617.0401 Corporate name.—

(1) A corporate name:

(a) Must contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc." or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person, unincorporated association, or partnership. The name of the corporation may not contain the word "company" or its abbreviation "Co."

(b) May contain the word "cooperative" or "co-op" only if the resulting name is distinguishable from the name of any corporation, agricultural cooperative marketing association, or nonprofit cooperative association existing or doing business in this state under part I of chapter 607, chapter 618, or chapter 619.

(c) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted in this act and its articles of incorporation.

(d) May not contain language stating or implying that the corporation is connected with a state or federal government agency or a corporation chartered under the laws of the United States.

(e) Must be distinguishable from the names of all other entities or filings that are on file with the Division of Corporations, except fictitious name registrations pursuant to s. 865.09, general partnership registrations pursuant to s. 620.8105, and limited liability partnership statements pursuant to s. 620.9001 which are organized, registered, or reserved under the laws of this state. A name that is different from a name of another entity or filing due to any of the following is not considered distinguishable:

1. A suffix.
2. A definite or indefinite article.
3. The word “and” and the symbol “&.”
4. The singular, plural, or possessive form of a word.
5. A recognized abbreviation of a root word.
6. A punctuation mark or a symbol.

(2) Any corporation eligible to reincorporate under s. 617.0901, may do so and retain its corporate name, subject to the requirements of paragraphs (1)(a) and (b).

History.—s. 27, ch. 90-179; s. 51, ch. 93-281; s. 34, ch. 2014-209.

617.0403 Registered name; application; renewal; revocation.—

(1) A foreign corporation may register its corporate name, or its corporate name with any addition required by s. 617.1506, if the name is distinguishable upon the records of the Department of State from the corporate names that are not available under s. 617.0401(1)(e).

(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by s. 617.1506, by delivering to the Department of State for filing an application:

(a) Setting forth its corporate name, or its corporate name with any addition required by s. 617.1506, the state or country and date of its incorporation, and a brief description of the nature of its purposes and the affairs in which it is engaged; and

(b) Accompanied by a certificate of existence, or a certificate setting forth that such corporation is in good standing under the laws of the state or country wherein it is organized (or a document of similar import), from the state or country of incorporation.

(3) The name is registered for the applicant’s exclusive use upon the effective date of the application and shall be effective until the close of the calendar year in which the application for registration is filed.

(4) A foreign corporation the registration of which is effective may renew it from year to year by annually filing a renewal application which complies with the requirements of subsection (2) between October 1 and December 31 of the preceding year. The renewal application when filed renews the registration for the following calendar year.

(5) A foreign corporation the registration of which is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this act or by another foreign corporation thereafter authorized to conduct its affairs in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

(6) The Department of State may revoke any registration if, after a hearing, it finds that the application therefor or any renewal thereof was not made in good faith.

History.—s. 29, ch. 90-179.

617.0501 Registered office and registered agent.—

(1) Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be the same as its principal office; and

(b) A registered agent, who may be either:

1. An individual who resides in this state whose business office is identical with such registered office; or

2.a. Another domestic entity that is an authorized entity whose business address is identical to the address of the registered office; or

b. A foreign entity authorized to transact business in this state that is an authorized entity and whose business address is identical to the address of the registered office.

(2) This section does not apply to corporations which are required by law to designate the Chief Financial Officer as their attorney for the service of process.

(3) A registered agent appointed pursuant to this section or a successor registered agent appointed pursuant to s. 617.0502 on whom process may be served shall each file a statement in writing with the Department of State, in such form and manner as shall be prescribed by the department, accepting the appointment as a registered agent simultaneously with his or her being designated. Such statement of acceptance shall state that the registered agent is familiar with, and accepts, the obligations of that position.

(4) The Department of State shall maintain an accurate record of the registered agents and registered offices for the service of process and shall furnish any information disclosed thereby promptly upon request and payment of the required fee.

(5) A corporation may not prosecute or maintain any action in a court in this state until the corporation complies with this section or s. 617.1508, as applicable; pays to the Department of State any amounts required under this chapter; and, to the extent ordered by a court of competent jurisdiction, pays to the Department of State a penalty of \$5 for each day it has failed to so comply or \$500, whichever is less.

(6) For the purposes of this section, the term “authorized entity” means:

- (a) A corporation for profit;
- (b) A limited liability company;
- (c) A limited liability partnership; or
- (d) A limited partnership, including a limited liability limited partnership.

History.—s. 30, ch. 90-179; s. 52, ch. 93-281; s. 79, ch. 97-102; s. 748, ch. 2003-261; s. 13, ch. 2009-205; s. 272, ch. 2019-90; s. 76, ch. 2020-32.

617.05015 Reserved name.—

(1) A person may reserve the exclusive use of the name of a corporation, including an alternate name for a foreign corporation whose name is not available, by delivering an application to the department for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the department finds that the name of the corporation applied for is available, it shall reserve the name for the applicant’s exclusive use for a nonrenewable 120-day period.

(2) The owner of a reserved name of a corporation may transfer the reservation to another person by delivering to the department a signed notice of the transfer that states the name and address of the transferee.

(3) The department may revoke any reservation if, after a hearing, it finds that the application therefor or any transfer thereof was not made in good faith.

History.—s. 273, ch. 2019-90.

617.0502 Change of registered office or registered agent; resignation of registered agent.—

(1) A corporation may change its registered office or its registered agent upon filing with the Department of State a statement of change setting forth:

- (a) The name of the corporation;
- (b) The street address of its current registered office;
- (c) If the current registered office is to be changed, the street address of the new registered office;
- (d) The name of its current registered agent;
- (e) If its current registered agent is to be changed, the name of the new registered agent and the new agent’s written consent (either on the statement or attached to it) to the appointment;
- (f) That the street address of its registered office and the street address of the business office of its registered agent, as changed, will be identical; and
- (g) That such change was authorized by resolution duly adopted by its board of directors or by an officer of the corporation so authorized by the board of directors.

(2) Any registered agent may resign his or her agency appointment by signing and delivering for filing with the Department of State a statement of resignation and mailing a copy of such statement to the corporation at its principal office address shown in its most recent annual report or, if none, filed in the articles of incorporation or

other most recently filed document. The statement of resignation shall state that a copy of such statement has been mailed to the corporation at the address so stated. The agency is terminated as of the 31st day after the date on which the statement was filed and unless otherwise provided in the statement, termination of the agency acts as a termination of the registered office.

(3) If a registered agent changes his or her business name or business address, he or she may change such name or address and the address of the registered office of any corporation for which he or she is the registered agent by:

(a) Notifying all such corporations in writing of the change;

(b) Signing (either manually or in facsimile) and delivering to the Department of State for filing a statement that substantially complies with the requirements of paragraphs (1)(a)-(f), setting forth the names of all such corporations represented by the registered agent; and

(c) Reciting that each corporation has been notified of the change.

(4) Changes of the registered office or registered agent may be made by a change on the corporation's annual report form filed with the Department of State.

(5) The Department of State shall collect a fee pursuant to s. 15.09(2) for filings authorized by this section.

History.—s. 31, ch. 90-179; s. 53, ch. 93-281; s. 8, ch. 96-212; s. 1716, ch. 97-102.

617.0503 Registered agent; duties; confidentiality of investigation records.—

(1)(a) Each corporation, foreign corporation, or alien business organization that owns real property located in this state, that owns a mortgage on real property located in this state, or that transacts business in this state shall have and continuously maintain in this state a registered office and a registered agent and shall file with the Department of State notice of the registered office and registered agent as provided in ss. 617.0501 and 617.0502. The appointment of a registered agent in compliance with s. 617.0501 or s. 617.0502 is sufficient for purposes of this section if the registered agent so appointed files, in the form and manner prescribed by the Department of State, an acceptance of the obligations provided for in this section.

(b) Each such corporation, foreign corporation, or alien business organization that fails to have and continuously maintain a registered office and a registered agent as required in this section is liable to this state for \$500 for each year, or part of a year, during which the corporation, foreign corporation, or alien business organization fails to comply with these requirements; but this liability is forgiven in full upon the compliance by the corporation, foreign corporation, or alien business organization with the requirements of this subsection, even if that compliance occurs after an action to collect such amount is instituted. The Department of Legal Affairs may file an action in the circuit court for the judicial circuit in which the corporation, foreign corporation, or alien business organization is found or transacts business, or in which real property belonging to the corporation, foreign corporation, or alien business organization is located, to petition the court for an order directing that a registered agent be appointed and that a registered office be designated, and to obtain judgment for the amount owed under this subsection. In connection with such proceeding, the department may, without prior approval by the court, file a lis pendens against real property owned by the corporation, foreign corporation, or alien business organization, which lis pendens shall set forth the legal description of the real property and shall be filed in the public records of the county where the real property is located. If the lis pendens is filed in any county other than the county in which the action is pending, the lis pendens that is filed must be a certified copy of the original lis pendens. The failure to comply timely or fully with an order directing that a registered agent be appointed and that a registered office be designated will result in a civil penalty of not more than \$1,000 for each day of noncompliance. A judgment or an order of payment entered under this subsection becomes a judgment lien against any real property owned by the corporation, foreign corporation, or alien business organization when a certified copy of the judgment or order is recorded as required by s. 55.10. The department may avail itself of, and is entitled to use, any provision of law or of the Florida Rules of Civil Procedure to further the collecting or obtaining of payment pursuant to a judgment or order of payment. The state, through the Attorney General, may bid, at any judicial sale to enforce its judgment lien, any amount up to the amount of the judgment or lien obtained pursuant to this subsection. All moneys recovered under this subsection shall be treated as forfeitures under ss. 895.01-895.09 and

used or distributed in accordance with the procedure set forth in s. 895.09. A corporation, foreign corporation, or alien business organization that fails to have and continuously maintain a registered office and a registered agent as required in this section may not defend itself against any action instituted by the Department of Legal Affairs or by any other agency of this state until the requirements of this subsection have been met.

(2) Each corporation, foreign corporation, or alien business organization that owns real property located in this state, that owns a mortgage on real property located in this state, or that transacts business in this state shall, pursuant to subpoena served upon the registered agent of the corporation, foreign corporation, or alien business organization issued by the Department of Legal Affairs, produce, through its registered agent or through a designated representative within 30 days after service of the subpoena, testimony and records showing the following:

(a) True copies of documents evidencing the legal existence of the entity, including the articles of incorporation and any amendments to the articles of incorporation or the legal equivalent of the articles of incorporation and such amendments.

(b) The names and addresses of each current officer and director of the entity or persons holding equivalent positions.

(c) The names and addresses of all prior officers and directors of the entity or persons holding equivalent positions, for a period not to exceed the 5 years previous to the date of issuance of the subpoena.

(d) The names and addresses of each current shareholder, equivalent equitable owner, and ultimate equitable owner of the entity, the number of which names is limited to the names of the 100 shareholders, equivalent equitable owners, and ultimate equitable owners that, in comparison to all other shareholders, equivalent equitable owners, or ultimate equitable owners, respectively, own the largest number of shares of stock of the corporation, foreign corporation, or alien business organization or the largest percentage of an equivalent form of equitable ownership of the corporation, foreign corporation, or alien business organization.

(e) The names and addresses of all prior shareholders, equivalent equitable owners, and ultimate equitable owners of the entity for the 12-month period preceding the date of issuance of the subpoena, the number of which names is limited to the 100 shareholders, equivalent equitable owners, and ultimate equitable owners that, in comparison to all other shareholders, equivalent equitable owners, or ultimate equitable owners, respectively, own the largest number of shares of stock of the corporation, foreign corporation, or alien business organization or the largest percentage of an equivalent form of equitable ownership of the corporation, foreign corporation, or alien business organization.

(f) The names and addresses of the person or persons who provided the records and information to the registered agent or designated representative of the entity.

(g) The requirements of paragraphs (d) and (e) do not apply to:

1. A financial institution;

2. A corporation, foreign corporation, or alien business organization the securities of which are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, if such corporation, foreign corporation, or alien business organization files with the United States Securities and Exchange Commission the reports required by s. 13 of that act; or

3. A corporation, foreign corporation, or alien business organization, the securities of which are regularly traded on an established securities market located in the United States or on an established securities market located outside the United States, if such non-United States securities market is designated by rule adopted by the Department of Legal Affairs;

upon a showing by the corporation, foreign corporation, or alien business organization that the exception in subparagraph 1., subparagraph 2., or subparagraph 3. applies to the corporation, foreign corporation, or alien business organization. Such exception in subparagraph 1., subparagraph 2., or subparagraph 3. does not, however, exempt the corporation, foreign corporation, or alien business organization from the requirements for producing records, information, or testimony otherwise imposed under this section for any period of time when the requisite conditions for the exception did not exist.

(3) The time limit for producing records and testimony may be extended for good cause shown by the corporation, foreign corporation, or alien business organization.

(4) A person, corporation, foreign corporation, or alien business organization designating an attorney, accountant, or spouse as a registered agent or designated representative shall, with respect to this state or any agency or subdivision of this state, be deemed to have waived any privilege that might otherwise attach to communications with respect to the information required to be produced pursuant to subsection (2), which communications are among such corporation, foreign corporation, or alien business organization; the registered agent or designated representative of such corporation, foreign corporation, or alien business organization; and the beneficial owners of such corporation, foreign corporation, or alien business organization. The duty to comply with the provisions of this section will not be excused by virtue of any privilege or provision of law of this state or any other state or country, which privilege or provision authorizes or directs that the testimony or records required to be produced under subsection (2) are privileged or confidential or otherwise may not be disclosed.

(5) If a corporation, foreign corporation, or alien business organization fails without lawful excuse to comply timely or fully with a subpoena issued pursuant to subsection (2), the Department of Legal Affairs may file an action in the circuit court for the judicial circuit in which the corporation, foreign corporation, or alien business organization is found or transacts business or in which real property belonging to the corporation, foreign corporation, or alien business organization is located, for an order compelling compliance with the subpoena. The failure without a lawful excuse to comply timely or fully with an order compelling compliance with the subpoena will result in a civil penalty of not more than \$1,000 for each day of noncompliance with the order. In connection with such proceeding, the department may, without prior approval by the court, file a lis pendens against real property owned by the corporation, foreign corporation, or alien business organization, which lis pendens shall set forth the legal description of the real property and shall be filed in the public records of the county where the real property is located. If the lis pendens is filed in any county other than the county in which the action is pending, the lis pendens that is filed must be a certified copy of the original lis pendens. A judgment or an order of payment entered pursuant to this subsection will become a judgment lien against any real property owned by the corporation, foreign corporation, or alien business organization when a certified copy of the judgment or order is recorded as required by s. 55.10. The department may avail itself of, and is entitled to use, any provision of law or of the Florida Rules of Civil Procedure to further the collecting or obtaining of payment pursuant to a judgment or order of payment. The state, through the Attorney General, may bid at any judicial sale to enforce its judgment lien, an amount up to the amount of the judgment or lien obtained pursuant to this subsection. All moneys recovered under this subsection shall be treated as forfeitures under ss. 895.01-895.09 and used or distributed in accordance with the procedure set forth in s. 895.09.

(6) Information provided to, and records and transcriptions of testimony obtained by, the Department of Legal Affairs pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution while the investigation is active. For purposes of this section, an investigation shall be considered "active" while such investigation is being conducted with a reasonable, good faith belief that it may lead to the filing of an administrative, civil, or criminal proceeding. An investigation does not cease to be active so long as the department is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the department or other administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information, as defined in s. 119.011, and information which, if disclosed, would reveal a trade secret, as defined in s. 688.002, or would jeopardize the safety of an individual, all information, records, and transcriptions become available to the public when the investigation is completed or ceases to be active. The department shall not disclose confidential information, records, or transcriptions of testimony except pursuant to authorization by the Attorney General in any of the following circumstances:

(a) To a law enforcement agency participating in or conducting a civil investigation under chapter 895, or participating in or conducting a criminal investigation.

(b) In the course of filing, participating in, or conducting a judicial proceeding instituted pursuant to this section or chapter 895.

(c) In the course of filing, participating in, or conducting a judicial proceeding to enforce an order or judgment entered pursuant to this section or chapter 895.

(d) In the course of a criminal proceeding.

A person or law enforcement agency that receives any information, record, or transcription of testimony that has been made confidential by this subsection shall maintain the confidentiality of such material and shall not disclose such information, record, or transcription of testimony except as provided for herein. Any person who willfully discloses any information, record, or transcription of testimony that has been made confidential by this subsection, except as provided for in this subsection, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If any information, record, or testimony obtained pursuant to subsection (2) is offered in evidence in any judicial proceeding, the court may, in its discretion, seal that portion of the record to further the policies of confidentiality set forth in this subsection.

(7) This section is supplemental and shall not be construed to preclude or limit the scope of evidence gathering or other permissible discovery pursuant to any other subpoena or discovery method authorized by law or rule of procedure.

(8) It is unlawful for any person, with respect to any record or testimony produced pursuant to a subpoena issued by the Department of Legal Affairs under subsection (2), to knowingly and willfully falsify, conceal, or cover up a material fact by a trick, scheme, or device; make any false, fictitious, or fraudulent statement or representation; or make or use any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) In the absence of a written agreement to the contrary, a registered agent is not liable for the failure to give notice of the receipt of a subpoena under subsection (2) to the corporation, foreign corporation, or alien business organization that appointed the registered agent if the registered agent timely sends written notice of the receipt of the subpoena by first-class mail or domestic or international air mail, postage fees prepaid, to the last address that has been designated in writing to the registered agent by the appointing corporation, foreign corporation, or alien business organization.

(10) The designation of a registered agent and a registered office as required by subsection (1) for a corporation, foreign corporation, or alien business organization that owns real property in this state or a mortgage on real property in this state is solely for the purposes of this chapter; and, notwithstanding s. 48.181, s. 617.1502, s. 617.1503, or any other relevant section of the Florida Statutes, such designation may not be used in determining whether the corporation, foreign corporation, or alien business organization is actually doing business in this state.

(11) As used in this section, the term:

(a) "Alien business organization" means:

1. Any corporation, association, partnership, trust, joint stock company, or other entity organized under any laws other than the laws of the United States, of any United States territory or possession, or of any state of the United States; or
2. Any corporation, association, partnership, trust, joint stock company, or other entity or device 10 percent or more of which is owned or controlled, directly or indirectly, by an entity described in subparagraph 1. or by a foreign natural person.

(b) "Financial institution" means:

1. A bank, banking organization, or savings association, as defined in s. 220.62;
2. An insurance company, trust company, credit union, or industrial savings bank, any of which is licensed or regulated by an agency of the United States or any state of the United States; or
3. Any person licensed under the provisions of chapter 494.

(c) "Mortgage" means a mortgage on real property situated in this state, except a mortgage owned by a financial institution.

(d) "Real property" means any real property situated in this state or any interest in such real property.

(e) “Ultimate equitable owner” means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such natural person owns or controls such ownership interest through one or other natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(12) Any alien business organization may withdraw its registered agent designation by delivering an application for certificate of withdrawal to the department for filing. The application shall set forth:

(a) The name of the alien business organization and the jurisdiction under the law of which it is incorporated or organized; and

(b) That it is no longer required to maintain a registered agent in this state.

History.—s. 54, ch. 93-281; s. 1, ch. 95-116; s. 361, ch. 96-406; s. 14, ch. 2009-205.

617.0504 Service of process, notice, or demand on a corporation.—

(1) Process against any corporation may be served in accordance with chapter 48 or chapter 49.

(2) Any notice to or demand on a corporation made pursuant to this act may be made to the chair of the board, the president, any vice president, the secretary, the treasurer, the registered agent of the corporation at the registered office of the corporation in this state, or any address in this state that is in fact the principal office of the corporation in this state.

(3) This section does not prescribe the only means, or necessarily the required means, of serving notice or demand on a corporation.

History.—s. 32, ch. 90-179; s. 80, ch. 97-102.

617.0505 Distributions; exceptions.—Except as authorized in s. 617.1302, a corporation may not make distributions to its members, directors, or officers.

(1) A mutual benefit corporation, such as a private club that is established for social, pleasure, or recreational purposes and that is organized as a corporation of which the equity interests are held by the members, may, subject to s. 617.1302, purchase the equity membership interest of any member, and the payment for such interest is not a distribution for purposes of this section.

(2) A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and, upon dissolution or final liquidation, may make distributions to its members as permitted by this chapter.

(3) If expressly permitted by its articles of incorporation, a corporation may make distributions upon partial liquidation to its members, as permitted by this section. Any such payment, benefit, or distribution does not constitute a dividend or a distribution of income or profit for purposes of this section.

(4) A corporation that is a utility exempt from regulation under s. 367.022(7), whose articles of incorporation state that it is exempt from taxation under s. 501(c)(12) of the Internal Revenue Code, may make refunds to its members, prior to a dissolution or liquidation, as its managing board deems necessary to establish or preserve its tax-exempt status. Any such refund does not constitute a dividend or a distribution of income or profit for purposes of this section.

(5) A corporation that is regulated by chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723, or a corporation where membership in such corporation is required pursuant to a document recorded in the county property records, may make refunds to its members, giving credits to its members, disbursing insurance proceeds to its members, or disbursing or paying settlements to its members without violating this section.

History.—s. 33, ch. 90-179; s. 2, ch. 96-343; s. 15, ch. 2005-267; s. 15, ch. 2009-205.

617.0601 Members, generally.—

(1)(a) A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the qualifications and rights of the members of each class, any quorum and voting requirements for meetings and activities of the members, and

notice requirements sufficient to provide notice of meetings and activities of the members must be set forth in the articles of incorporation or in the bylaws.

(b) The articles of incorporation or bylaws of any corporation not for profit that maintains chapters or affiliates may grant representatives of such chapters or affiliates the right to vote in conjunction with the board of directors of the corporation notwithstanding applicable quorum or voting requirements of this chapter if the corporation is registered with the Department of Agriculture and Consumer Services pursuant to ss. 496.401-496.424, the Solicitation of Contributions Act.

(c) This subsection does not apply to any condominium association organized under chapter 718.

(2) A corporation may issue certificates of membership. Stock certificates issued under former s. 617.011(2), Florida Statutes (1989), constitute certificates of membership for purposes of this section.

(3) Corporation members have no voting or other rights except as provided in the articles of incorporation or bylaws. However, members of any corporation existing on July 1, 1991, shall continue to have the same voting and other rights as before such date until changed by amendment of the articles of incorporation or bylaws.

(4) A corporation shall keep a membership book containing, in alphabetical order, the name and address of each member. The corporation shall also keep records in accordance with s. 617.1601.

(5) A resignation, expulsion, suspension, or termination of membership pursuant to s. 617.0606 or s. 617.0607 shall be recorded in the membership book. Unless otherwise provided in the articles of incorporation or the bylaws, all the rights and privileges of a member cease on termination of membership.

(6) Subsections (1), (2), (3), and (4) do not apply to a corporation that is an association as defined in s. 720.301.

(7) Where the articles of incorporation expressly limit membership in the corporation to property owners within specific measurable geographic boundaries and where the corporation has been formed for the benefit of all of those property owners, no such property owner shall be denied membership, provided that such property owner once admitted to membership, shall comply with the terms and conditions of membership. Any bylaws, rules, or other regulations to the contrary are deemed void and any persons excluded from membership by such bylaws, rules, or other regulations are deemed members with full rights, including the right, by the majority, or as otherwise provided in the articles of incorporation, to call for a meeting of the membership.

History.—s. 34, ch. 90-179; s. 4, ch. 95-211; s. 48, ch. 95-274; s. 2, ch. 99-382; s. 52, ch. 2000-258; s. 16, ch. 2009-205; s. 146, ch. 2014-17.

617.0604 Liability of members.—

(1) A member of a corporation is not, as such, personally liable for any act, debt, liability, or obligation of the corporation.

(2) A member may become liable to the corporation for dues, assessments, or fees as provided by law.

History.—s. 55, ch. 93-281.

617.0605 Transfer of membership interests.—

(1) A member of a corporation may not transfer a membership or any right arising from membership except as otherwise allowed in this section.

(2) Except as set forth in the articles of incorporation or bylaws of a mutual benefit corporation, a member of a mutual benefit corporation may not transfer a membership or any right arising from membership.

(3) If transfer rights have been provided for one or more members of a mutual benefit corporation, a restriction on such rights is not binding with respect to a member holding a membership issued before the adoption of the restriction unless the restriction is approved by the members and the affected member.

History.—s. 17, ch. 2009-205.

617.0606 Resignation of members.—

(1) Except as may be provided in the articles of incorporation or bylaws of a corporation, a member of a mutual benefit corporation may not transfer a membership or any right arising from membership.

(2) The resignation of a member does not relieve the member from any obligations that the member may have to the corporation as a result of obligations incurred or commitments made before resignation.

History.—s. 18, ch. 2009-205.

617.0607 Termination, expulsion, and suspension.—

(1) A member of a corporation may not be expelled or suspended, and a membership in the corporation may not be terminated or suspended, except pursuant to a procedure that is fair and reasonable and is carried out in good faith.

(2) Any written notice given by mail must be delivered by certified mail or first-class mail to the last address of the member shown on the records of the corporation.

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

(4) A member who has been expelled or suspended may be liable to the corporation for dues, assessments, or fees as a result of obligations incurred or commitments made before expulsion or suspension.

History.—s. 19, ch. 2009-205.

617.0608 Purchase of memberships.—

(1) A corporation may not purchase any of its memberships or any right arising from membership except as provided in s. 617.0505 or subsection (2).

(2) Subject to s. 617.1302, a mutual benefit corporation may purchase the membership of a member who resigns, or whose membership is terminated, for the amount and pursuant to the conditions set forth in its articles of incorporation or bylaws.

History.—s. 20, ch. 2009-205.

617.0701 Meetings of members, generally; failure to hold annual meeting; special meeting; consent to corporate actions without meetings; waiver of notice of meetings.—

(1) The frequency of all meetings of members, the time and manner of notice of such meetings, the conduct and adjournment of such meetings, the determination of members entitled to notice or to vote at such meetings, and the number or voting power of members necessary to constitute a quorum, shall be determined by or in accordance with the articles of incorporation or the bylaws. The place and time of all meetings may be determined by the board of directors.

(2) Failure to hold an annual meeting does not cause a forfeiture or give cause for dissolution of the corporation, nor does such failure affect otherwise valid corporate acts, except as provided in s. 617.1430 in the case of a deadlock among the directors or the members.

(3) Except as provided in the articles of incorporation or bylaws, special meetings of the members may be called by:

(a) The president;

(b) The chair of the board of directors;

(c) The board of directors;

(d) Other officers or persons as are provided for in the articles of incorporation or the bylaws;

(e) The holders of at least 5 percent of the voting power of a corporation when one or more written demands for the meeting, which describe the purpose for which the meeting is to be held, are signed, dated, and delivered to a corporate officer; or

(f) A person who signs a demand for a special meeting pursuant to paragraph (e) if notice for a special meeting is not given within 30 days after receipt of the demand. The person signing the demand may set the time and place of the meeting and give notice under this subsection.

(4) Unless otherwise provided in the articles of incorporation, action required or permitted by this chapter to be taken at an annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote if the action is taken by the members entitled to vote on such action and having not less than the

minimum number of votes necessary to authorize such action at a meeting at which all members entitled to vote on such action were present and voted.

(a) To be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the corporation to its principal office in this state, its principal place of business, the corporate secretary, or another officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded. Written consent to take the corporate action referred to in the consent is not effective unless the consent is signed by members having the requisite number of votes necessary to authorize the action within 90 days after the date of the earliest dated consent and is delivered in the manner required by this section.

(b) Any written consent may be revoked prior to the date that the corporation receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the corporation at its principal office in this state or its principal place of business, or received