2015 Regular Session

HOUSE BILL NO. 743

BY REPRESENTATIVE FOIL

1	AN ACT
2	To amend and reenact R.S. 12:1-202(B)(5)(introductory paragraph), 1-143(A)(3), 1-
3	501(2)(b), 1-502(A)(5), 1-504(A), 1-1435(C), 1-1436(D), (E)(introductory
4	paragraph), (1)(introductory paragraph), and (2), and 1-1442(A)(2) and (C) and to
5	enact R.S. 12:1-140(25B), and 1-502(A)(7), relative to corporations; to provide with
6	respect to articles of incorporation; to provide for qualified directors; to provide with
7	respect to registered agents and service of process; to provide with respect to judicial
8	determinations relative to withdrawing shareholders; to provide with respect to
9	withdrawal rights; to provide for definitions; to provide for retroactivity; to provide
10	for technical corrections; and to provide for related matters.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. R.S. 12:1-202(B)(5)(introductory paragraph), 1-143(A)(3), 1-501(2)(b),
13	1-502(A)(5), 1-504(A), 1-1435(C), 1-1436(D), (E)(introductory paragraph), (1)(introductory
14	paragraph), and (2), and 1-1442(A)(2) and (C) are hereby amended and reenacted and R.S.
15	12:1-140(25B), and 1-502(A)(7) are hereby enacted to read as follows:
16	§1-140. Definitions
17	In this Chapter:
18	* * *
19	(25B) "Votes entitled to be cast", when used in specifying the proportion of
20	votes required to provide shareholder approval of an action, means the number of

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1	votes in a voting group that would be east at a meeting at which an shares in the
2	voting group were present and voting.
3	* * *
4	§1-143. Qualified director
5	A. A "qualified director" is a director who meets the following criteria:
6	* * *
7	(3) At the time action is to be taken under R.S. 12:1-862, a director who <u>is</u>
8	neither of the following:
9	(a) A director as to whom the transaction is a director's conflicting interest
10	transaction.
11	(b) A director who has does not have a material relationship with another
12	director as to whom the transaction is a director's conflicting interest transaction.
13	* * *
14	§1-202. Articles of incorporation and signed consent by agent to appointment
15	* * *
16	B. The articles of incorporation may set forth any of the following:
17	* * *
18	(5) A provision permitting or making obligatory indemnification of a
19	director or officer for liability, as defined in R.S. 12:1-850(3), to any person for any
20	action taken, or any failure to take any action, as a director or officer, except liability
21	for any of the following:
22	* * *
23	§1-501. Registered office and registered agent
24	Each corporation must continuously maintain in this state both of the
25	following:
26	* * *
27	(2) A registered agent, who may be either of the following:
28	* * *
29	(b) A domestic or foreign corporation or other eligible entity that <u>does all of</u>
30	the following:

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1	(i) continuously Continuously maintains an office in this state and, in the case
2	of a foreign corporation or foreign eligible entity, is authorized to transact business
3	in this state.
4	(ii) Files with the secretary of state a statement setting forth the name of at
5	least two individuals at its address in this state, each of whom is authorized to
6	receive any process served on it as such agent.
7	* * *
8	§1-502. Change of registered office or registered agent
9	A. A corporation may change its registered office or the identity or address
10	of its registered agent by delivering to the secretary of state for filing a statement of
11	change that sets forth all of the following information:
12	* * *
13	(5) If the identity of the current registered agent is to be changed, the name
14	of the new registered agent, and the new agent's signed written consent to the
15	appointment, either on the statement or attached to it, to the appointment.
16	* * *
17	(7) If the registered agent is a corporation or eligible entity, the name of at
18	least two individuals at its address in this state, each of whom is authorized to
19	receive any process served on it as such agent.
20	* * *
21	§1-504. Service on corporation
22	A. A corporation's registered agent is the corporation's agent for service of
23	process, notice, or demand required or permitted by law to be served on the
24	corporation. If the registered agent is a corporation or eligible entity, service of
25	process may be made on an individual who is identified as authorized to receive
26	service for the registered agent in a statement on file with the secretary of state.

§1-1435. Oppressed shareholder's right to withdraw

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1	C.(1) The term fair value has the same meaning in this Section and in R.S.
2	12:1-1436 as it does in R.S. 12:1-1301(4) concerning appraisal rights, except that the
3	value of a withdrawing shareholder's shares under this Section and R.S. 12:1-1436
4	is to be determined as of the effective date of the notice of withdrawal under
5	pursuant to Subsection D of this Section.
6	(2) The context of the transaction requiring appraisal, as described in R.S.
7	12:1-1301(4), is a sale of the entire corporation in an arm's-length transaction by a
8	person who owns all of the shares in the corporation.
9	* * *
10	§1-1436. Judicial determination of fair value and payment terms for withdrawing
11	shareholder's shares
12	* * *
13	D. Except as provided in Subsection E of this Section, at the conclusion of
14	the trial the court shall render final judgment as described in Paragraphs (1) and (2)
15	of this Subsection as follows:
16	(1) In favor of the shareholder and against the corporation for the fair value
17	of the shareholder's shares.
18	(2) In favor of the corporation and against the shareholder that does both of
19	the following and against the shareholder for the following:
20	(a) Terminating Terminates the shareholder's ownership of shares in the
21	corporation.
22	(b) Ordering Orders the shareholder to deliver to the corporation within
23	thirty days of the date of the judgment any certificate issued by the corporation for
24	the shares or an affidavit by the shareholder that the certificate has been lost, stolen,
25	or destroyed.
26	E. If at the conclusion of the trial the court finds that the corporation has
27	proved that a full payment in cash of the fair value of the withdrawing shareholder's
28	shares would violate the provisions of R.S. 12:1-640 or cause undue harm to the
29	corporation or its creditors, the court shall not render the judgment specified in

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1	Subsection D of this Section, but shall instead render final judgment which provide
2	for that does both of the following:
3	(1) Ordering Orders the corporation to issue and deliver to the shareholde
4	within thirty days of the date of the judgment an unsecured negotiable promissor
5	note of the corporation which is all of the following:
6	* * *
7	(2) Terminating Terminates the shareholder's ownership of shares in th
8	corporation upon delivery to the shareholder of the note required by the judgmen
9	under issued pursuant to Paragraph (E)(1) of this Section Paragraph (1) of this
10	Subsection, and ordering orders the shareholder to deliver to the corporation, within
11	ten days of the delivery of the note, any certificate issued by the corporation for th
12	shares or an affidavit by the shareholder that the certificate has been lost, stolen, e
13	destroyed, or previously delivered to the corporation.
14	* * *
15	§1-1442. Administrative termination
16	A. Subject to Subsection B of this Section, the secretary of state shall
17	terminate the existence of a corporation if, according to the records of the secretar
18	of state, the corporation has failed for ninety consecutive days to do either of th
19	following:
20	* * *
21	(2) To file File an annual report as required by R.S. 12:1-1621.
22	* * *

C. The secretary of state terminates the existence of a corporation under this Section by filing a certificate of termination that states the grounds for termination. The secretary shall serve a copy of the certificate of termination on the corporation in accordance with R.S. 12:1-504.

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1	Section 2. This Act is declared to be remedial and curative and therefore is to be
2	applied retroactively to January 1, 2015, as well as prospectively.
	SPEAKER OF THE HOUSE OF REPRESENTATIVES
	PRESIDENT OF THE SENATE
	GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: _____