

## RÉSUMÉ DIGEST

**ACT 442 (HB 714)**

**2016 Regular Session**

**Foil**

Existing law provides for the Business Corporation Act, modeled after the Model Business Corporation Act, as enacted in 2014.

New law incorporates revisions to the Business Corporation Act since the enactment of existing law and provides for other technical corrections.

Existing law (R.S. 12:1-143) provides criteria for qualified directors.

New law adds criteria for qualifications to existing law and recognizes a director as a "qualified director" when certain limitations, concerning the offer of potential business opportunities to the corporation, and certain relationships, do not apply to the director.

Existing law (R.S. 12:1-202(A)) requires for articles of incorporation to set forth certain provisions.

Prior law required the articles of incorporation to state whether the corporation accepts, rejects, or limits the protection of existing law.

New law requires the corporation to include a statement of rejection or limitation of the protection against liability.

Existing law (R.S. 12:1-202(B)) provides for permissive inclusions in the articles of incorporation.

New law adds to existing law to generally provide that a prospective limitation or elimination of the duty to offer business opportunities to the corporation may be included in the articles of incorporation.

New law (R.S. 12:1-709) provides for remote participation in annual and special shareholders' meetings, including guidelines and procedures for such participation.

Prior law (R.S. 12:1-727) provided that greater quorum or voting requirements for shareholders may be included in the articles of incorporation.

New law provides that greater voting requirements or greater or lesser quorum requirements for shareholders may be included in the articles of incorporation.

Prior law (R.S. 12:1-802) provided that qualifications for directors may be included in the articles of incorporation or bylaws.

New law adds the specific qualifications for directors or nominees for directors that may be included and the applicability of such qualifications.

Prior law (R.S. 12:1-820) provided that board of directors' meeting may be called by the board chair, by the chief executive officer, or by a majority of the directors.

New law allows meetings of the board of directors to also be called in accordance with the bylaws.

Existing law (R.S. 12:1-831) provides standards of liability for directors and instances in which a director shall not be liable to the corporation or its shareholders.

Prior law provided that a director is not liable unless the party asserting liability establishes that there is no defense for the director based on certain provisions of existing law.

New law adds that certain authorized provisions in the articles of incorporation do not preclude liability.

Existing law (R.S. 12:1-832) provides for protection against monetary liability for directors and officers of all La. business corporations, including those formed under former law.

New law provides a transitional rule for corporations whose articles of incorporation contain "opt in" exculpation provisions under former law.

Existing law (R.S. 12:1-870) provides for directors who take advantage of certain business opportunities.

New law makes existing law applicable to directors, officers, and persons who have relationships with directors or officers (related persons). Requires a director or officer to bring a business opportunity to the attention of the board prior to the director, officer, or related person becoming legally obligated to such opportunity.

Existing law (R.S. 12:1-955) provides for the effects of entity conversion.

New law adds to existing law that a foreign entity may be served in accordance with the service of process rules for foreign corporations when certain conditions would apply.

Existing law (R.S. 12:1-1022) provides for the election of directors and provides a set of rules concerning public corporation bylaw provisions relating to the election of directors. Provides that a public corporation may elect in its bylaws to provide for certain shareholder voting rights.

New law repeals certain election provisions, replacing them with a more general statement of authority. Provides for a shareholder's means to vote against the election of an individual to serve as a director, and regardless of a director's election by plurality vote, to limit the term or require the resignation of any director who receives more votes against than for his election.

Existing law (R.S. 12:1-1106(A)) requires the articles of merger or share exchange to be signed on behalf of each party to the transaction.

New law adds an exception for any subsidiary that is a party to a merger authorized without the approval of its board of directors or shareholders.

Existing law (R.S. 12:1-1435) allows an oppressed shareholder to deliver an affidavit with respect to any lost, stolen, or destroyed share certificates.

New law additionally allows an oppressed shareholder to deliver an affidavit with respect to any share certificates that were previously delivered to the corporation.

New law (R.S. 12:1-1705) provides a transition rule for reinstatement of a corporation whose charter was revoked before Jan. 1, 2015. Generally provides for such a corporation seeking reinstatement to file with the secretary of state a current annual report along with articles of charter-revocation reinstatement.

Effective August 1, 2016.

(Amends R.S. 12:1-124(B), 1-128(B)(intro. para.) and (2), 1-140(15C), 1-141(I)(1)(intro. para.) and (3) and (J)(intro. para.), 1-202(A)(5) and (B)(6) and (E), 1-302(intro. para.), 1-303(A)(intro. para.) and (D), 1-401(D)(intro. para.) and (2), 1-601(C)(intro. para.) and (1), 1-621(F)(2)(a)(intro. para.), 1-622(D)(intro. para.), 1-623(B)(intro. para.), 1-624(B)(intro. para.), 1-703(A)(intro. para.), 1-721(E)(2)(intro. para.), 1-725(A), (C), and (D), 1-727, 1-802, 1-805(B) and (E), 1-820(C), 1-831(A)(1), 1-833(C)(1)(intro. para.), 1-842(C)(intro. para.), 1-851(A)(intro. para.) and (1), 1-854(A)(intro. para.) and (3), 1-860(5), 1-870(A), 1-1022, 1-1106(A)(intro. para.), 1-1107(A)(9) and (F)(intro. para.) and (2), 1-1301(5.1)(intro. para.), 1-1432(C)(intro. para.), 1-1435(F), 1-1436(D)(2)(b), 1-1444(A), and 1-1602(F)(intro. para.); Adds R.S. 12:1-143(A)(5), 1-202(B)(7) and (F), 1-709, 1-832(D), 1-870(C), 1-955(F), and 1-1705)