BUSINESS ORGANIZATIONS CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 3. FORMATION AND GOVERNANCE

SUBCHAPTER A. FORMATION, EXISTENCE, AND CERTIFICATE OF FORMATION

Sec. 3.001. FORMATION AND EXISTENCE OF FILING ENTITIES. (a) Subject to the other provisions of this code, to form a filing entity, a certificate of formation complying with Sections 3.003, 3.004, and 3.005 must be filed in accordance with Chapter 4.

(b) The filing of a certificate of formation described by Subsection (a) may be included in a filing under Chapter 10.

(c) The existence of a filing entity commences when the filing of the certificate of formation takes effect as provided by Chapter 4.

(d) Except in a proceeding by the state to terminate the existence of a filing entity, an acknowledgment of the filing of a certificate of formation issued by the filing officer is conclusive evidence of:

(1) the formation and existence of the filing entity;

(2) the satisfaction of all conditions precedent to the formation of the filing entity; and

(3) the authority of the filing entity to transact business in this state.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.002. FORMATION AND EXISTENCE OF NONFILING ENTITIES. The requirements for the formation of and the determination of the existence of a nonfiling entity are governed by the title of this code that applies to that entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.003. DURATION. A domestic entity exists perpetually unless otherwise provided in the governing documents of the entity. A domestic entity may be terminated in accordance with this code or the Tax Code.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.004. ORGANIZERS. (a) Any person having the capacity to contract for the person or for another may be an organizer of a filing entity.

(b) Each organizer of a filing entity must sign the certificate of formation of the filing entity, except that:

(1) each general partner must sign the certificate of formation of a domestic limited partnership; and

(2) each trust manager must sign and acknowledge before an officer who is authorized by law to take acknowledgment of a deed the certificate of formation of a domestic real estate investment trust.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.005. CERTIFICATE OF FORMATION. (a) The certificate of formation must state:

(1) the name of the filing entity being formed;

(2) the type of filing entity being formed;

(3) for filing entities other than limited partnerships, the purpose or purposes for which the filing entity is formed, which may be stated to be or include any lawful purpose for that type of entity;

(4) for filing entities other than limited partnerships, the period of duration, if the entity is not formed to exist perpetually and is intended to have a specific period of duration;

(5) the street address of the initial registered office of the filing entity and the name of the initial registered agent of the filing entity at the office;

(6) the initial mailing address of the filing entity;

(7) the name and address of each:

(A) organizer for the filing entity, unless the entity is formed under a plan of conversion or merger;

(B) general partner, if the filing entity is a limited partnership; or

(C) trust manager, if the filing entity is a real estate investment trust;

(8) if the filing entity is formed under a plan of conversion or merger, a statement to that effect and, if formed under a plan of conversion, the name, address, date of formation, prior form of organization, and jurisdiction of formation of the converting entity; and

(9) any other information required by this code to be included in the certificate of formation for the filing entity.

(b) The certificate of formation may contain other provisions not inconsistent with law relating to the organization, ownership, governance, business, or affairs of the filing entity.

(c) Except as provided by Section 3.004, Chapter 4 governs the signing and filing of a certificate of formation for a domestic entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 9, eff. September 1, 2007.

Acts 2021, 87th Leg., R.S., Ch. 894 (H.B. 3131), Sec. 1, eff. January 1, 2022.

Sec. 3.006. FILINGS IN CASE OF MERGER OR CONVERSION. (a) If a new domestic filing entity is formed under a plan of conversion or merger, the certificate of formation of the entity must be filed with the certificate of conversion or merger under Section 10.155(a) or 10.153(a). The certificate of formation is not required to be filed separately under Section 3.001.

(b) The formation and existence of a domestic filing entity that is a converted entity in a conversion or that is to be created under a plan of merger takes effect and commences on the effectiveness of the conversion or merger, as appropriate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.007. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF FOR-PROFIT OR PROFESSIONAL CORPORATION. (a) In addition to the information required by Section 3.005, the certificate of formation of a for-profit or professional corporation must state:

(1) the aggregate number of shares the corporation is authorized to issue;

(2) if the shares the corporation is authorized to issue consist of one class of shares only, the par value of each share or a statement that each share is without par value;

(3) if the corporation is to be managed by a board of directors, the number of directors constituting the initial board of directors and the name and address of each individual who will serve as director until the first annual meeting of shareholders and until a successor is elected and qualified; and

(4) if the corporation is to be managed pursuant to a shareholders' agreement in a manner other than by a board of directors, the name and address of each person who will perform the functions required by this code to be performed by the initial board of directors.

(b) If the shares a for-profit or professional corporation is authorized to issue consist of more than one class of shares, the certificate of formation of the corporation must, with respect to each class, state:

(1) the designation of the class;

(2) the aggregate number of shares in the class;

(3) the par value of each share or a statement that each share is without par value;

(4) the preferences, limitations, and relative rights of the shares; and

(5) if the shares in a class the corporation is authorized to issue consist of more than one series, the following with respect to each series:

(A) the designation of the series;

(B) the aggregate number of shares in the series;

(C) any preferences, limitations, and relative rights of the shares to the extent provided in the certificate of formation; and

(D) any authority vested in the board of directors to establish the series and set and determine the preferences, limitations, and relative rights of the series.

(c) If the shareholders of a for-profit or professional

corporation are to have a preemptive right or cumulative voting right, the certificate of formation of the corporation must comply with Section 21.203 or 21.360, as appropriate.

(d) Notwithstanding Section 2.008, a for-profit corporation may include one or more social purposes in addition to the purpose or purposes required to be stated in the corporation's certificate of formation by Section 3.005(a)(3). The corporation may also include in the certificate of formation a provision that the board of directors and officers of the corporation shall consider any social purpose specified in the certificate of formation in discharging the duties of directors or officers under this code or otherwise.

(e) Notwithstanding Section 2.008, instead of including in its certificate of formation or amending its certificate of formation to include one or more social purposes as provided by Subsection (d), a for-profit corporation may elect to be a public benefit corporation governed by Subchapter S, Chapter 21, by including in its initially filed certificate of formation, or, subject to Section 21.954, by amending its certificate of formation to include:

(1) one or more specific public benefits, as defined by Section 21.952, to be promoted by the corporation; and

(2) instead of the statement required by Section 3.005(a)(2), a statement that the filing entity is a for-profit corporation electing to be a public benefit corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 10, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 100 (S.B. 849), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 776 (H.B. 3488), Sec. 1, eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 3, eff. September 1, 2025.

Sec. 3.008. SUPPLEMENTAL PROVISIONS REQUIRED IN

CERTIFICATE OF FORMATION OF CLOSE CORPORATION. (a) In addition to a provision required or permitted to be stated in the certificate of formation of a for-profit or professional corporation under Section 3.007, the certificate of formation of a close corporation, whether original, amended, or restated, must include the sentence, "This corporation is a close corporation."

(b) The certificate of formation of the close corporation may contain:

(1) a provision contained or permitted to be contained in a shareholders' agreement conforming to Subchapter O, Chapter 21, that the organizers elect to include in the certificate of formation; or

(2) a copy of a shareholders' agreement that conforms to Subchapter O, Chapter 21, and that may be filed in the manner provided by Section 21.212.

(c) A provision contained in the certificate of formation under Subsection (b) must be preceded by a statement that the provision is subject to the corporation remaining a close corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 11, eff. September 1, 2007.

Sec. 3.009. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF NONPROFIT CORPORATION. In addition to the information required by Section 3.005, the certificate of formation of a nonprofit corporation must include:

(1) if the nonprofit corporation is to have no members, a statement to that effect;

(2) if management of the nonprofit corporation's affairs is to be vested in the nonprofit corporation's members, a statement to that effect;

(3) the number of directors constituting the initial board of directors and the names and addresses of those directors or, if the management of the nonprofit corporation is vested solely in the nonprofit corporation's members, a statement to that effect;

and

(4) if the nonprofit corporation is to be authorized on its winding up to distribute the nonprofit corporation's assets in a manner other than as provided by Section 22.304, a statement describing the manner of distribution.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.010. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF LIMITED LIABILITY COMPANY. In addition to the information required by Section 3.005, the certificate of formation of a limited liability company must state:

(1) whether the limited liability company initially has or does not have managers;

(2) if the limited liability company initially has managers, the name and address of each initial manager of the limited liability company; and

(3) if the limited liability company does not initially have managers, the name and address of each initial member of the limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 3, eff. September 1, 2021.

Sec. 3.011. SUPPLEMENTAL PROVISIONS REGARDING CERTIFICATE OF FORMATION OF LIMITED PARTNERSHIP. (a) To form a limited partnership, the partners must enter into a partnership agreement and file a certificate of formation.

(b) The partners of a limited partnership formed under Section 10.001 or 10.101 may include the partnership agreement required under Subsection (a) in the plan of merger or conversion.

(c) A certificate of formation for a limited partnership must include the address of the principal office of the partnership in the United States where records are to be kept or made available under Section 153.551.

(d) The fact that a certificate of formation is on file with the secretary of state is notice that the partnership is a limited

partnership and of all other facts contained in the certificate as required by Section 3.005.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.012. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF REAL ESTATE INVESTMENT TRUST. In addition to the information required by Section 3.005, the certificate of formation of a real estate investment trust must state:

(1) that an assumed name certificate stating the name of the real estate investment trust has been filed in the manner provided by law;

(2) that the purpose of the real estate investment trust is to:

(A) purchase, hold, lease, manage, sell, exchange, develop, subdivide, and improve real property and interests in real property, other than severed mineral, oil, or gas royalty interests, and carry on any other business and perform any other action in connection with a purpose described by this paragraph;

(B) exercise powers conferred by the laws of this state on a real estate investment trust; and

(C) perform any action described by Chapter 200 or Title 1 to the same extent as an individual;

(3) the post office address of the initial principal office and place of business of the real estate investment trust;

(4) the aggregate number of shares of beneficial interest the real estate investment trust is authorized to issue and the par value to be received by the real estate investment trust for the issuance of each share;

(5) if shares described by Subdivision (4) are divided into classes as authorized by Section 200.102 or 200.103, a description of each class of shares, including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption; and

(6) that the trust managers shall manage the money or

property received for the issuance of shares for the benefit of the shareholders of the real estate investment trust.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.013. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF COOPERATIVE ASSOCIATION. In addition to the information required by Section 3.005, the certificate of formation of a cooperative association must state:

(1) whether the cooperative association is organized with or without shares;

(2) the number of shares or memberships subscribed for the cooperative association;

(3) if the cooperative association is organized with shares:

(A) the amount of authorized capital;

(B) the number and type of shares;

(C) par value of the shares, if any; and

(D) the rights, preferences, and restrictions of each type of share;

(4) the method of distribution on winding up and termination of any surplus of the cooperative association in accordance with Section 251.403; and

(5) the names and street addresses of the directors who will manage the affairs of the cooperative association for the initial year, unless sooner changed by the members.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.014. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ENTITY. In addition to the information required by Section 3.005, the certificate of formation of a professional entity must state:

(1) the type of professional service to be provided by the professional entity as the purpose of the entity; and

(2) that the professional entity is a:

(A) professional association;

(B) professional corporation; or

(C) professional limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.015. SUPPLEMENTAL PROVISIONS REQUIRED IN CERTIFICATE OF FORMATION OF PROFESSIONAL ASSOCIATION. (a) In addition to containing the information required under Sections 3.005 and 3.014, the certificate of formation of a professional association must:

(1) be signed by each member of the association; and

(2) state:

(A) the name and address of each original member of the association;

(B) whether the association is to be governed by a board of directors or by an executive committee; and

(C) the name and address of each individual serving as an initial member of the board of directors or executive committee of the association.

(b) The certificate of formation of a professional association may contain:

(1) provisions regarding shares or units of ownership in the association;

(2) provisions governing the winding up and termination of the association's business; and

(3) any other provision consistent with state law regulating the internal affairs of a professional association.

(c) If the certificate of formation of a professional association contains provisions regarding shares in the association, the certificate of formation must also comply with Section 3.007.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 12, eff. September 1, 2007.

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 4, eff. September 1, 2025.

SUBCHAPTER B. AMENDMENTS AND RESTATEMENTS OF CERTIFICATE OF FORMATION

Sec. 3.051. RIGHT TO AMEND CERTIFICATE OF FORMATION. (a) A filing entity may amend its certificate of formation.

(b) An amended certificate of formation may contain only provisions that:

(1) would be permitted at the time of the amendment if the amended certificate of formation were a newly filed original certificate of formation; or

(2) effect a change, exchange, reclassification, subdivision, combination, or cancellation in the membership or ownership interests or the rights of owners or members of the filing entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. 1319), Sec. 6, eff. January 1, 2006.

Sec. 3.052. PROCEDURES TO AMEND CERTIFICATE OF FORMATION. (a) The procedure to adopt an amendment to the certificate of formation is as provided by the title of this code that applies to the entity.

(b) A filing entity that amends its certificate of formation shall sign and file, in the manner required by Chapter 4, a certificate of amendment complying with Section 3.053 or a restated certificate of formation complying with Section 3.059.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.053. CERTIFICATE OF AMENDMENT. A certificate of amendment for a filing entity must state:

(1) the name of the filing entity;

(2) the type of the filing entity;

(3) for each provision of the certificate of formation that is added, altered, or deleted, an identification by reference or description of the added, altered, or deleted provision and, if the provision is added or altered, a statement of the text of the amended or added provision;

(4) that the amendment or amendments have been

approved in the manner required by this code and the governing documents of the entity; and

(5) any other matter required by the provisions of this code applicable to the filing entity to be in the certificate of amendment.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.054. EXECUTION OF CERTIFICATE OF AMENDMENT OF FOR-PROFIT CORPORATION. Except as provided by Title 2 or this section, an officer shall sign the certificate of amendment on behalf of the for-profit corporation. If shares of the for-profit corporation have not been issued and the certificate of amendment is adopted by the board of directors, one or more of the directors may sign the certificate of amendment on behalf of the for-profit corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. 1319), Sec. 7, eff. January 1, 2006.

Acts 2015, 84th Leg., R.S., Ch. 32 (S.B. 860), Sec. 2, eff. September 1, 2015.

Sec. 3.055. SUPPLEMENTAL PROVISIONS FOR CERTIFICATE OF AMENDMENT OF REAL ESTATE INVESTMENT TRUST. (a) In addition to the statements required by Section 3.053, a certificate of amendment for a real estate investment trust must state:

(1) if the amendment provides for an exchange, reclassification, or cancellation of issued shares, the manner in which the exchange, reclassification, or cancellation of the issued shares will be effected if the manner is not specified in the amendment; and

(2) if the amendment effects a change in the amount of stated capital, the manner in which the change in the amount of stated capital is effected and the amount of stated capital expressed in dollar terms as changed by the amendment.

(b) If shares of the real estate investment trust have not been issued and the certificate of amendment is adopted by the trust

managers, a majority of the trust managers may execute the certificate of amendment on behalf of the real estate investment trust.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.056. EFFECT OF FILING OF CERTIFICATE OF AMENDMENT. (a) An amendment to a certificate of formation takes effect when the filing of the certificate of amendment takes effect as provided by Chapter 4.

(b) An amendment to a certificate of formation does not affect:

(1) an existing cause of action in favor of or against the entity for which the certificate of amendment is sought;

(2) a pending suit to which the entity is a party; or

(3) an existing right of a person other than an existing owner.

(c) If the name of an entity is changed by amendment, an action brought by or against the entity in the former name of the entity does not abate because of the name change.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.057. RIGHT TO RESTATE CERTIFICATE OF FORMATION. (a) A filing entity may restate its certificate of formation.

(b) An amendment effected by a restated certificate of formation must comply with Section 3.051(b).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.058. PROCEDURES TO RESTATE CERTIFICATE OF FORMATION. (a) The procedure to adopt a restated certificate of formation is governed by the title of this code that applies to the entity.

(b) A filing entity that restates its certificate of formation shall sign and file, in the manner required by Chapter 4, a restated certificate of formation and accompanying statements complying with Section 3.059.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.059. RESTATED CERTIFICATE OF FORMATION. (a) A

restated certificate of formation must accurately state the text of the previous certificate of formation, regardless of whether the certificate of formation is an original, corrected, or restated certificate, and include:

(1) each previous amendment to the certificate being restated that is carried forward; and

(2) each new amendment to the certificate being restated.

(b) A restated certificate of formation may omit:

(1) the name and address of each organizer other than the name and address of each general partner of a limited partnership or trust manager of a real estate investment trust;

(2) the initial mailing address of the filing entity; and

(3) any other information that may be omitted under the provisions of this code applicable to the filing entity.

(c) A restated certificate of formation that does not make new amendments to the certificate of formation being restated must be accompanied by:

(1) a statement that the restated certificate of formation accurately states the text of the certificate of formation being restated, as amended, restated, and corrected, except for information omitted under Subsection (b); and

(2) any other information required by other provisions of this code applicable to the filing entity.

(d) A restated certificate of formation that makes new amendments to the certificate of formation being restated must:

(1) be accompanied by a statement that each new amendment has been made in accordance with this code;

(2) be accompanied by a statement that each amendment has been approved in the manner required by this code and the governing documents of the entity;

(3) be accompanied by a statement that the restated certificate of formation:

(A) accurately states the text of the certificate of formation being restated and each amendment to the certificate of formation being restated that is in effect, as further amended by

the restated certificate of formation; and

(B) does not contain any other change in the certificate of formation being restated except for information omitted under Subsection (b); and

(4) include any other information required by the title of this code applicable to the entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 9 (S.B. 847), Sec. 1, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 27 (S.B. 1514), Sec. 3, eff. September 1, 2023.

Sec. 3.060. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR FOR-PROFIT CORPORATION OR PROFESSIONAL CORPORATION. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a for-profit corporation or professional corporation may omit:

(1) any prior statements regarding the number of directors and the names and addresses of the individuals serving as directors and, at the corporation's election, may insert a statement regarding the current number of directors and the names and addresses of the individuals currently serving as directors; and

(2) any provisions that were necessary to effect a change, exchange, reclassification, subdivision, combination, or cancellation of shares, if the change, exchange, reclassification, subdivision, combination, or cancellation has become effective.

(b) Except as provided by Title 2 or this subsection, an officer shall sign the restated certificate of formation on behalf of the corporation. If shares of the corporation have not been issued and the restated certificate of formation is adopted by the board of directors, one or more of the directors may sign the restated certificate of formation on behalf of the corporation.

(c) Any omission or insertion under Subsection (a) or omission under Section 3.059(b) is not considered an amendment that

requires shareholder approval.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 13, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 14, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 32 (S.B. 860), Sec. 3, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 4, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 5, eff. September 1, 2025.

Sec. 3.061. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR NONPROFIT CORPORATION. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a nonprofit corporation may omit any prior statements regarding the number of directors and the names and addresses of the individuals serving as directors and, at the corporation's election, may insert a statement regarding the current number of directors and the names and addresses of the individuals currently serving as directors.

(b) If the nonprofit corporation is a church in which management is vested in the church's members under Section 22.202, and the original certificate of formation is not required to contain a statement to that effect, any restated certificate of formation for the church must contain a statement to that effect in addition to the information required by Section 3.059.

(c) Any omission or insertion under Subsection (a) or omission under Section 3.059(b) is not considered an amendment that requires member approval.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 5, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 6, eff.

September 1, 2025.

Sec. 3.0611. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR LIMITED LIABILITY COMPANY. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a limited liability company may omit any prior statements regarding whether the company has or does not have managers and the names and addresses of managers or members and, at the company's election, may insert a statement:

(1) regarding whether the company currently has or does not have managers;

(2) that the company currently has managers and the names and addresses of the persons currently serving as managers; or

(3) that the company currently does not have managers and the names and addresses of the current members of the company.

(b) Any omission or insertion under Subsection (a) or omission under Section 3.059(b) is not considered an amendment that requires member approval.

Added by Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 15, eff. September 1, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 6, eff. September 1, 2021.

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 7, eff. September 1, 2025.

Sec. 3.062. SUPPLEMENTAL PROVISIONS FOR RESTATED CERTIFICATE OF FORMATION FOR REAL ESTATE INVESTMENT TRUST. (a) In addition to the provisions authorized or required by Section 3.059, a restated certificate of formation for a real estate investment trust may update the current number of trust managers and the names and addresses of the individuals serving as trust managers.

(b) Any update under Subsection (a) or Section 3.059(b) is not considered an amendment that requires shareholder approval.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 8, eff. September 1, 2025.

Sec. 3.063. EFFECT OF FILING OF RESTATED CERTIFICATE OF FORMATION. (a) A restated certificate of formation takes effect when the filing of the restated certificate of formation takes effect as provided by Chapter 4.

(b) On the date the restated certificate of formation takes effect, the original certificate of formation and each prior amendment or restatement of the certificate of formation is superseded and the restated certificate of formation is the effective certificate of formation.

(c) Sections 3.056(b) and (c) apply to an amendment effected by a restated certificate of formation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER C. GOVERNING PERSONS AND OFFICERS

Sec. 3.101. GOVERNING AUTHORITY. Subject to the title of this code that governs the domestic entity and the governing documents of the domestic entity, the governing authority of a domestic entity manages and directs the business and affairs of the domestic entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.102. RIGHTS OF GOVERNING PERSONS IN CERTAIN CASES. (a) In discharging a duty or exercising a power, a governing person, including a governing person who is a member of a committee, may, in good faith and with ordinary care, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning a domestic entity or another person and prepared or presented by:

(1) an officer or employee of the entity;

(2) legal counsel;

(3) a certified public accountant;

(4) an investment banker;

(5) a person who the governing person reasonably

believes possesses professional expertise in the matter; or

(6) a committee of the governing authority of which the governing person is not a member.

(b) A governing person may not in good faith rely on the information described by Subsection (a) if the governing person has knowledge of a matter that makes the reliance unwarranted.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.103. OFFICERS. (a) Officers of a domestic entity may be elected or appointed in accordance with the governing documents of the entity or by the governing authority of the entity unless prohibited by the governing documents.

(b) An officer of an entity shall perform the duties in the management of the entity and has the authority as provided by the governing documents of the entity or the governing authority that elects or appoints the officer.

(c) A person may simultaneously hold any two or more offices of an entity unless prohibited by this code or the governing documents of the entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.104. REMOVAL OF OFFICERS. (a) Unless otherwise provided by the governing documents of a domestic entity, an officer may be removed for or without cause by the governing authority or as provided by the governing documents of the entity. The removal of an officer does not prejudice any contract rights of the person removed.

(b) Election or appointment of an officer does not by itself create contract rights.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.105. RIGHTS OF OFFICERS IN CERTAIN CASES. (a) In discharging a duty or exercising a power, an officer of a domestic entity may, in good faith and ordinary care, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the entity or another person and prepared or presented by:

(1) another officer or an employee of the entity;

(2) legal counsel;

(3) a certified public accountant;

(4) an investment banker; or

(5) a person who the officer reasonably believes possesses professional expertise in the matter.

(b) An officer may not in good faith rely on the information described by Subsection (a) if the officer has knowledge of a matter that makes the reliance unwarranted.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.106. AUTHORIZATION OF PLANS, AGREEMENTS, INSTRUMENTS, AND OTHER DOCUMENTS. (a) If this code expressly requires the governing authority to approve or take other action with respect to any plan, agreement, instrument, or other document, the plan, agreement, instrument, or other document may be approved by the governing authority in final form or in substantially final form.

(b) If the governing authority has acted to approve or take other action with respect to a plan, agreement, instrument, or other document that is required by this code to be filed with the secretary of state or referenced in any certificate to be filed with the secretary of state, the governing authority may, at any time after acting to approve or taking that other action and before the effectiveness of the filing with the secretary of state, act to ratify the plan, agreement, instrument, or other document. That ratification is considered:

(1) to be effective as of the time of the original act to approve or the original taking of other action by the governing authority; and

(2) to satisfy any requirement under this code that the governing authority approve or take other action with respect to the plan, agreement, instrument, or other document in a specific manner or sequence.

Added by Acts 2025, 89th Leg., R.S., Ch. 199 (S.B. 2411), Sec. 9, eff. September 1, 2025.

Sec. 3.151. BOOKS AND RECORDS FOR ALL FILING ENTITIES. (a) Each filing entity shall keep:

(1) books and records of accounts;

(2) minutes of the proceedings of the owners or members or governing authority of the filing entity and committees of the owners or members or governing authority of the filing entity;

(3) a current record of the name and mailing address of each owner or member of the filing entity; and

(4) other books and records as required by the title of this code governing the entity.

(b) The books, records, minutes, and ownership or membership records of any filing entity may be:

(1) in written paper form; or

(2) maintained by or on behalf of the filing entity on, or by means of, an information storage device or method or one or more electronic data systems, provided that any books, records, minutes, and ownership or membership records so maintained can be converted into written paper form within a reasonable time.

(c) The records required by Subsection (a)(2) need not be maintained by a limited partnership or a limited liability company except to the extent required by its governing documents.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. 1319), Sec. 8, eff. January 1, 2006.

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. 1859), Sec. 2, eff. September 1, 2019.

Sec. 3.152. GOVERNING PERSON'S RIGHT OF INSPECTION. (a) A governing person of a filing entity may examine the entity's books and records maintained under Section 3.151 and other books and records of the entity for a purpose reasonably related to the governing person's service as a governing person.

(b) A court may require a filing entity to open the books and

records of the filing entity, including the books and records maintained under Section 3.151, to permit a governing person to inspect, make copies of, or take extracts from the books and records on a showing by the governing person that:

(1) the person is a governing person of the entity;

(2) the person demanded to inspect the entity's books and records;

(3) the person's purpose for inspecting the entity's books and records is reasonably related to the person's service as a governing person; and

(4) the entity refused the person's good faith demand to inspect the books and records.

(c) A court may award a governing person attorney's fees and any other proper relief in a suit to require a filing entity to open its books and records under Subsection (b).

(d) This section does not apply to limited partnerships. Section 153.552 applies to limited partnerships.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.153. RIGHT OF EXAMINATION BY OWNER OR MEMBER. Each owner or member of a filing entity may examine the books and records of the filing entity maintained under Section 3.151 and other books and records of the filing entity to the extent provided by the governing documents of the entity and the title of this code governing the filing entity.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER E. CERTIFICATES REPRESENTING OWNERSHIP INTEREST

Sec. 3.201. CERTIFICATED OR UNCERTIFICATED OWNERSHIP INTEREST; APPLICABILITY. (a) Ownership interests in a domestic entity may be certificated or uncertificated.

(b) The ownership interests in a for-profit corporation, real estate investment trust, or professional corporation must be certificated, except to the extent a governing document of the entity or a resolution adopted by the governing authority of the entity provides that some or all of the classes or series of the

ownership interests are uncertificated or that some or all of the ownership interests in any class or series of the ownership interests are uncertificated. The entity may have outstanding both certificated and uncertificated ownership interests of the same class or series. If a domestic entity changes the form of its ownership interests from certificated to uncertificated, a certificated ownership interest subject to the change becomes an uncertificated ownership interest only after the certificate is surrendered to the domestic entity.

(c) Ownership interests in a domestic entity, other than a domestic entity described by Subsection (b), are uncertificated unless this code or the governing documents of the domestic entity state that the interests are certificated.

(d) Sections 3.202-3.205 do not apply to a partnership or a limited liability company except to the extent that the governing documents of the partnership or limited liability company specify.

(e) The governing documents of a partnership or a limited liability company may:

(1) provide that an owner's ownership interest may be evidenced by a certificate of ownership interest issued by the entity;

(2) provide for the assignment or transfer of ownership interests represented by certificates; and

(3) make other provisions with respect to the certificate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 32 (S.B. 860), Sec. 4, eff. September 1, 2015.

Sec. 3.202. FORM AND VALIDITY OF CERTIFICATES; ENFORCEMENT OF ENTITY'S RIGHTS. (a) A certificate representing the ownership interest in a domestic entity may contain an impression of the seal of the entity, if any. A facsimile of the entity's seal may be printed or lithographed on the certificate.

(b) If a domestic entity is authorized to issue ownership interests of more than one class or series, each certificate

representing ownership interests that is issued by the entity must conspicuously state on the front or back of the certificate:

(1) the designations, preferences, limitations, and relative rights of the ownership interests of each class or series to the extent they have been determined and the authority of the governing authority to make those determinations as to subsequent series; or

(2) that the information required by Subdivision (1) is stated in the domestic entity's governing documents and that the domestic entity, on written request to the entity's principal place of business or registered office, will provide a free copy of that information to the record holder of the certificate.

(c) A certificate representing ownership interests must state on the front of the certificate:

(1) that the domestic entity is organized under the laws of this state;

(2) the name of the person to whom the certificate is issued;

(3) the number and class of ownership interests and the designation of the series, if any, represented by the certificate; and

(4) if the ownership interests are shares, the par value of each share represented by the certificate, or a statement that the shares are without par value.

(d) A certificate representing ownership interests that is subject to a restriction, placed by or agreed to by the domestic entity under this code, or otherwise contained in its governing documents, on the transfer or registration of the transfer of the ownership interests must:

(1) conspicuously state or provide a summary of the restriction on the front of the certificate;

(2) state the restriction on the back of the certificate and conspicuously refer to that statement on the front of the certificate; or

(3) conspicuously state on the front or back of the certificate that a restriction exists pursuant to a specified document and:

(A) that the domestic entity, on written request to the entity's principal place of business, will provide a free copy of the document to the certificate record holder; or

(B) if the document has been filed in accordance with this code, that the document:

(i) is on file with the secretary of state or, in the case of a real estate investment trust, with the county clerk of the county in which the real estate investment trust's principal place of business is located; and

(ii) contains a complete statement of the restriction.

(e) A domestic entity that fails to provide to the record holder of a certificate within a reasonable time a document as required by Subsection (d)(3)(A) may not enforce the entity's rights under the restriction imposed on the certificated ownership interests.

(f) A certificate representing ownership interests may not be issued in bearer form.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 3, eff. September 1, 2009.

Sec. 3.203. SIGNATURE REQUIREMENT. (a) A certificate representing an ownership interest in a domestic entity must contain the signature or signatures of each managerial official of the entity that is authorized by the governing documents of the entity to sign certificated ownership interests of the entity.

(b) A certificated ownership interest that contains the signature of a person who is no longer a managerial official of a domestic entity when the certificate is issued may be issued by the entity in the same manner and with the same effect as if the person had remained a managerial official.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 27 (S.B. 1514), Sec. 4, eff. September 1, 2023.

Sec. 3.204. DELIVERY REQUIREMENT. A domestic entity shall deliver a certificate representing a certificated ownership interest to which the owner is entitled.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 3.205. NOTICE FOR UNCERTIFICATED OWNERSHIP INTEREST. (a) Except as provided by Subsection (c) and in accordance with Chapter 8, Business & Commerce Code, after an issuance or transfer of an uncertificated ownership interest in a domestic entity, the owner of the ownership interest shall be notified in writing or by electronic transmission of any information required under this subchapter to be stated on a certificate representing the ownership interest.

(b) Except as otherwise expressly provided by law, the rights and obligations of the owner of an uncertificated ownership interest are the same as the rights and obligations of the owner of a certificated ownership interest of the same class and series.

(c) The owner of an uncertificated ownership interest in a domestic entity is not required to be notified under Subsection (a) if:

(1) the required information is included in the governing documents of the entity; and

(2) the owner of the uncertificated ownership interest is provided with a copy of the governing documents.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. 1859), Sec. 3, eff. September 1, 2019.

SUBCHAPTER F. EMERGENCY GOVERNANCE

Sec. 3.251. DEFINITIONS. In this subchapter:

(1) "Emergency" means any of the following:

(A) an attack on the United States, a state, or a political subdivision of a state;

(B) a nuclear or atomic disaster;

(C) the occurrence of a catastrophic event, including:

(i) an epidemic or pandemic;

(ii) a hurricane, tropical storm, tornado, or other weather condition; or

(iii) a riot or civil disturbance;

(D) the declaration of a national emergency by the United States government;

(E) the declaration of an emergency by a state or a political subdivision of a state; or

(F) any other similar emergency situation.

(2) "Emergency action" means an action taken by majority vote of the governing persons present at a meeting of the governing authority of a domestic entity during an emergency period.

(3) "Emergency period" means any period during which the governing authority of a domestic entity, due to a condition that is a part of or results from an emergency, is unable to satisfy one or more requirements of the entity's governing documents or this code necessary for action by vote at a meeting of the governing authority outside of an emergency period.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 7, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 27 (S.B. 1514), Sec. 5, eff. September 1, 2023.

Sec. 3.252. PROVISIONS IN GOVERNING DOCUMENTS. (a) The governing persons and, if applicable, the owners or members of a domestic entity may adopt provisions in the domestic entity's governing documents regarding emergency actions, including provisions that apply only during an emergency period that authorize, limit, or prohibit:

(1) procedures for calling a meeting of the governing persons;

(2) the necessity of a quorum for action by vote at a meeting of the governing persons;

(3) minimum requirements for participation at the meeting of the governing persons; and

(4) the designation of additional or substitute governing persons.

(b) Any provisions in a domestic entity's governing documents that apply only during an emergency period must be adopted in accordance with:

(1) the requirements of the governing documents that apply outside of an emergency period; and

(2) the applicable provisions of this code that apply outside of an emergency period.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 8, eff. September 1, 2021.

Sec. 3.2535. ACTIONS DURING EMERGENCY PERIOD. (a) Except as otherwise limited or prohibited by the domestic entity's governing documents or except as provided by Subsection (b), the governing authority of a domestic entity may take an emergency action during an emergency period without satisfying the requirements of the entity's governing documents or this code that apply outside of an emergency period with respect to:

(1) procedures for calling a meeting of the governing persons;

(2) the necessity of a quorum for action by vote at a meeting of the governing persons;

(3) minimum requirements for participation at a meeting of the governing persons; and

(4) any other procedural requirements for action at a meeting of the governing persons.

(b) Subsection (a) does not apply to an action by the governing authority of a domestic entity:

(1) to amend the entity's governing documents; or

(2) that must be approved by a separate vote of the owners or members of the entity in accordance with the requirements of the entity's governing documents or this code that apply outside of an emergency period.

Added by Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 9, eff. September 1, 2021.

Sec. 3.255. EFFECT OF EMERGENCY ACTION. An emergency action taken by the governing persons of a domestic entity in accordance with the entity's governing documents or Section 3.2535, if taken in good faith and based on the reasonable belief that the emergency action was in the entity's best interest:

(1) is binding on the entity; and

(2) may not be used to impose liability on a managerial official, employee, or agent of the entity.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 10, eff. September 1, 2021.