

2003 DRAFTING REQUEST

Bill

Received: **02/27/2003**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Cathy Stepp (608) 266-1832**

By/Representing: **scott**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Bus. Assn. - corporations
Bus. Assn. - partnerships
Bus. Assn. - LLCs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Stepp@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Corporate law changes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 02/28/2003	kgilfoy 03/07/2003		_____			
/P1	rmarchan 04/16/2003	kgilfoy 04/16/2003	rschluet 03/10/2003	_____	sbasford 03/10/2003		

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/2			pgreensl 04/22/2003	_____	amentkow 04/22/2003	amentkow 07/03/2003	
				_____	mbarman 06/17/2003		

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*None
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mbarman
06/17/2003

resubmitted
(e-mail only)
requested by
Scott

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4/22 pc

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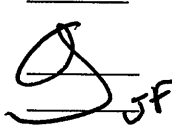
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/?	rmarchan	/pl - 3/6 Kmg		 JF			
			3-7-3				

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Rjm

**WISCONSIN STATE BAR
BUSINESS LAW SECTION
DRAFT OF PROPOSED AMENDMENTS**

SECTION 1. 180.0502(3) of the statutes is amended to read:

180.0502(3) If the name of a registered agent changes or if the street address of ~~his or her~~ a registered agent's business office changes, ~~he or she~~ the registered agent may change the name of the registered agent or street address of the registered office of any corporation for which he, she or it is the registered agent ~~by notifying~~. To make a change under this subsection, the registered agent shall notify the corporation in writing of the change and ~~by signing, either manually or in facsimile, and~~ deliver to the department for filing a signed statement that complies with sub. (2) and recites that the corporation has been notified of the change.

✓

History

The amendment to s. 180.0502(3) was proposed to address the situation where the name of the registered agent changes as a result of a merger or consolidation of the registered agent with or into another person or corporation that succeeds to the registered agent's assets by operation of law. If the registered agent has changed its name as a result of the merger or consolidation, the registered agent must comply with the requirements of s. 180.0502(3).

SECTION 2. 180.0602(3) of the statutes is amended to read:

180.0602(3) After the articles of amendment are filed under sub. (2) and before the corporation issues any shares of the class or series that is the subject of the articles of amendment, the board of directors may alter or revoke ~~any~~ the number of shares of the class or series, the distinguishing designation and the preferences, limitations or relative rights, in whole or in part, described in the articles of amendment, by adopting another resolution appropriate for that purpose. The corporation shall file with the department revised articles of amendment that comply with sub. (2). A preference, limitation or relative right may not be altered or revoked after the issuance of any shares of the class or series that are subject to the preference, limitation or relative right, except by amendment of the articles of incorporation under s. 180.1003,

✓

provided, however, that unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such class or series to which such articles of amendment apply may be decreased (but not below the number of shares thereof then outstanding) by adoption by the board of directors of another resolution appropriate for that purpose. In case the number of such shares of such class or series shall be decreased the number of shares so specified in the resolution shall resume that status which they had prior to the adoption of the first resolution or resolutions. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors stating that none of the authorized shares of such class or series are outstanding, and that none will be issued subject to the articles of amendment previously filed with respect to such class or series, may be executed, acknowledged and filed and, when such certificate becomes accepted for filing, it shall have the effect of eliminating from the articles of incorporation all matters set forth in the articles of amendment with respect to such class or series of stock.

History

Consistent with Delaware General Corporation Law as well as the Model Business Corporation Act, the proposed amendments to s.180.0602(3) would allow the board of directors to increase (but not above the total number of authorized shares of the class or series) or decrease (but not below the number of shares thereof then outstanding) the number of shares of any class or series of capital stock. In addition, the proposed amendment provides that shares eliminated from a series shall resume that status which they had prior to the adoption of the resolutions ~~including changing their status.~~

SECTION 3. 180.0706 (Waiver of and Exemption From Notice) of the statutes is amended to read:

180.0706 Waiver of and exemption from notice.

SECTION 4. 180.0706(3) of the statutes is created to read:

180.0706(3)(a) Except as provided in par. (b), any notice required to be given by a corporation to a shareholder under this chapter is not required to be given if either of the following apply:

1. Notice of two consecutive annual meetings, and all notices of meetings during the period between these consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned as undeliverable.

2. All, but not less than two, payments of dividends on securities during a one-year period, or two consecutive payments of dividends on securities during a period of more than one year, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned as undeliverable.

(b) If a shareholder to whom par. (a) applies delivers to the corporation a written notice setting forth the shareholder's current address then beginning 30 days after receipt of such written notice concerning the current address, the requirement that notice be given to such shareholder is reinstated, until such time as par. (a) may again apply.

History

As proposed, newly created s. 180.0706(3) would permit a corporation to not provide any notice to a shareholder required by Chapter 180, the corporation's bylaws or articles of incorporation, if the corporation has received returned as undeliverable previous notices of certain meetings or payments or dividends sent to the shareholder.

SECTION 5. 180.0708 (Conduct of shareholder meeting) of the statutes is created to read:

180.0708 Conduct of shareholder meeting.

SECTION 6. 180.0708 of the statutes is created to read:

180.0708 Unless the articles of incorporation or bylaws otherwise provide:

(1) At each meeting of shareholders, whether annual or special, a chairperson shall preside. The chairperson, who may or may not be the chairperson of the board of directors, shall be appointed as provided in the articles or bylaws or, in the absence or failure of such provision, by the board.

(2) The chairperson shall determine the order of business, including whether to adjourn the meeting, and shall have the authority to establish rules for the conduct of the meeting which such chairperson believes to be fair to the interests of all shareholders. ✓

(3) The chairperson of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes nor any revocations or changes thereto may be accepted.

History

As proposed, newly created s. 180.0708 would provide that, unless otherwise provided by the corporation's articles of incorporation or bylaws, at any meeting of the shareholders, there shall be a chairperson who shall preside over the meeting. The chairperson would be appointed in accordance with the articles or bylaws. Generally, the chairperson of the board of directors would preside over the meeting. ~~However~~ By way of example, the bylaws could provide that the chief executive officer, if different than the chairperson of the board, preside over the meeting and they should provide a means of designating an alternate if that individual is for any reason unable to preside.

Section 180.0708 would give the chairperson, unless the articles of incorporation or bylaws provide otherwise, the authority to determine in what order items of business should be discussed and decided. Inherent in the chairperson's power to establish rules for the conduct of the meeting is the authority to require that the order of business be observed and that any discussion or comments from shareholders or their proxies be confined to the business item under discussion.

Section 180.0708 would also provide that the chair shall have the authority to establish rules for the conduct of the meeting. Complicated parliamentary rules (such as Roberts Rules of Order) ordinarily are not appropriate for shareholder meetings. The rules may cover such subjects as the proper means for obtaining the floor, who shall have the right to address the meeting, the manner in which shareholders will be recognized to speak, time limits per speaker, the number of times a shareholder may address the meeting, the person to whom questions should be addressed, and whether or not shareholders will be allowed to ask questions at the meeting. The substance of the rules should be communicated to shareholders prior to or at the beginning of the meeting. The chair is entitled to wide latitude in conducting the meeting and, unless inconsistent with a previously prescribed rule, may set requirements, observe practices, and follow customs that facilitate a fair and orderly meeting. Since, absent a modifying bylaw provision, the chair has exclusive authority with respect to the rules for and the conduct of the meeting, rulings by the chair may not be overruled by shareholders.

Section 180.0708(3) would require that an announcement be made at the meeting of shareholders specifying when the polls will close for each matter voted upon. It would also provide that, once the polls close, no ballots, proxies, or votes and no changes thereto may be accepted. This statutory provision eliminates any issues concerning the effect of closing the polls.

SECTION 7. 180.0825(1) of the statutes is amended to read:

180.0825 Committees. (1) Unless the articles of incorporation or bylaws provide otherwise, a board of directors may create one or more committees, appoint members of the board of directors to serve on the committees and designate other members of the board of directors to serve as alternates. Each committee shall have ~~2~~ one or more members. Unless otherwise provided by the board of directors, members of the committee shall serve at the pleasure of the board of directors.

History

The proposed change to s. 180.0825(1) would allow committees to consist of a minimum of one director instead of two.

SECTION 8. 180.0825(2)(a) of the statutes is amended to read:

180.0825(a) A majority of a quorum of the board.

History

The proposed change to s. 180.0825(2)(a) would allow committees to be created by a majority of a quorum of the board instead of a majority of the entire board.

SECTION 9. 180.0825(5) of the statutes is amended to read:

180.0825(5) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors, except that no committee shall have the power or authority in reference to the following matters:

(a) approving or adopting, or recommending to the shareholders, any action or matter expressly required by this chapter to be submitted to shareholders for approval or (b) adopting, amending or repealing any bylaw of the corporation. ~~a committee may not do any of the following:~~

~~(a) Authorize distributions.~~

~~(b) Approve or propose to shareholders action that this chapter requires be approved by shareholders.~~

~~Fill vacancies on the board of directors or, except as provided in sub. (3), on any of its committees.~~

~~(d) Amend articles of incorporation under s. 180.1002.~~

~~(e) Adopt, amend or repeal bylaws.~~

~~(f) Approve a plan of merger not requiring shareholder approval.~~

~~(g) Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors.~~

~~(h) Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences and limitations of a class or series of shares, except that the board of directors may authorize a committee or a senior executive officer of the corporation to do so within limits prescribed by the board of directors.~~

History

The proposed amendment to s. 180.0825(5) would eliminate the specific enumeration of items that are beyond the power of the board committees in s. 180.0825(5). 180.0825(5), as amended, would simply provide that committees may not (1) approve, adopt or recommend to shareholders, any action or matter that expressly required shareholder action, or (2) adopt, amend or repeal the bylaws of the corporation. Accordingly, all matters beyond basic organic changes, such as merger or charter amendments, that require shareholder approval, may be placed in the hands of a committee of directors. Perhaps the most significant result of this change will be to permit committees to establish the voting rights of series of common or preferred stock created pursuant to "blank check" provisions. Also eliminated is the requirement that the authorization or approval of the issuance or sale or contract for the sale of shares may only be authorized by a committee or a senior executive officer within limits prescribed by the board of directors. These provisions follow similar changes made in 1996 to the Delaware General Corporation Law.

SECTION 10. 180.1105(1)(a) through (f) of the statutes are amended to read:

180.1105(1)(a) The name and state of incorporation of each corporation that is party to the merger or share exchange.

(b) That a plan of merger or share exchange has been approved and adopted by each corporation that is a party to the merger or share exchange as required under ss. 180.1103 or 180.1104, as applicable.

(c) The name of the surviving or acquiring corporation.

(d) In the case of a merger, any amendments or changes in the articles of the surviving corporation that are intended to take effect upon the merger, or, if there are no such amendments, a statement that the articles of incorporation of the surviving corporation or another corporation that is party to the merger will be the articles of incorporation of the surviving corporation.

(e) That the executed plan of merger or share exchange is on file at the principal place of business of the surviving or acquiring corporation.

(f) That the surviving or acquiring corporation will provide a copy of the plan of merger or share exchange, upon request and without cost, to any shareholder of a corporation that was party to the merger or share exchange or, upon payment to the surviving or acquiring corporation of an amount equal to the cost of producing the copy, to any other interested person.

History

Consistent with Delaware General Corporation Law, the proposed amendment to s. 180.1105(1) would allow a corporation to file a short form certificate of merger that includes information about the plan of merger but does not require that a copy of the plan of merger itself be included with the certificate of merger. In lieu of filing the plan of merger, the corporation must provide (i) the name of the surviving or acquiring corporation, (ii) any amendments to the articles of incorporation of the surviving corporation, and (iii) statements that the plan of merger or share exchange is on file at the corporation's principal place of business and can be obtained upon request as specified in proposed 180.1105(1)(f).

SECTION 11. 180.1130(14) of the statutes is amended to read:

180.1130(14) "Valuation date" means ~~later of the day before the date the shareholders' vote under s. 180.1131 or the day 20 days before the consummation of the business combination~~ the closing price on the day before the first public announcement of the proposed business combination.

History

The proposed amendment to s. 180.1130(14) would provide for a fixed date upon which valuation of the fair price would occur. Previously, if the transaction did not otherwise require a shareholder vote, the valuation date occurred on the day 20 days before the consummation of the merger. Having the valuation date tied to the consummation of the

merger is problematic in mergers wherein shareholders are paid out in cash. In such a merger, the valuation date is not finalized at any particular point and could be manipulated upon a party's decision not to consummate the merger until a time when the stock price is more favorable.

SECTION 12. 180.1140(11) of the statutes is amended to read:

180.1140(11) "Stock acquisition date," with respect to any person, means the ~~date that~~ time the person first becomes an interested stockholder of that resident domestic corporation.

History

Section 180.1140 sets forth definitions applicable to the Wisconsin Business Corporation Law's business combination provisions. The proposed amendment would amend the definition of "stock acquisition date" under s. 180.1140(11) so that the "date" on which a stockholder becomes "interested" as defined in the business combination statute s. 180.1141 is interpreted as the specific "time" when such person first becomes an interested stockholder. This result has significant practical effect and follows recent amendments made to §203(a) of the Delaware General Corporation Law to codify the holding in Siegman v. Columbia Pictures Entertainment Inc., 576 A.2d 625 (Del. Ch. 1989). It is not uncommon for a board of directors to want to approve a share acquisition which makes a shareholder "interested" in a business combination involving that shareholder at the same meeting of the board. The suggestion that these board actions could not be taken seriatim, but rather had to be separated by one day, which the use of the word "date" in s. 180.1141 perhaps could have intimated, poses an unnecessary burden on, and technical trap for, corporate boards.

SECTION 13. 180.1150(2) of the statutes is amended to read:


180.1150(2) Unless otherwise provided in the articles of incorporation of a resident domestic corporation or approved by a majority of the board of directors of the resident domestic corporation and except as provided in sub. (3) or as restored under sub. (5), the voting power of shares of a resident domestic corporation held by any person, including shares issuable upon conversion of convertible securities or upon exercise of options or warrants, in excess of 20% of the voting power in the election of directors shall be limited to 10% of the full voting power of those shares.

History


The proposed amendment would allow a corporation's board of directors to opt-out of the control share statute s. 180.1150 on the theory that requiring a shareholder vote to restore full voting power is expensive, disruptive and time consuming. In addition, because s. 180.1150 was designed as an anti-takeover protection for Wisconsin corporations, if the corporation does not want it, there is no reason to force the corporation to accept it. This proposed amendment would be consistent with a board of director's ability to opt-out of the


business combination statute s. 180.1141. Without the ability to opt-out of s. 180.1150, a tender offer for the shares of a resident domestic corporation must succeed in having at least 75% of the corporation's voting shares tendered and not withdrawn before the offeror can acquire majority voting control of the corporation's shares. If the corporation's board of directors has determined that such a tender offer is in the best interests of the corporation and its shareholders, there should not be imposed such a supermajority minimum tender condition since it only increases the likelihood that the tender offer will not be successful. In such a circumstance, this supermajority minimum tender condition disadvantages the corporation's shareholders compared to shareholders of similarly situated corporations incorporated in Delaware or most other states.

SECTION 14. 180.1201 (title) of the statutes is amended to read:

180.1201 (title) Sale of assets in the regular course of business; mortgage of assets; 
transfer of assets to subsidiary.

SECTION 15. 180.1201(1)(d) of the statutes is created to read:

180.1201(1)(d) Transfer any or all of its assets to one or more corporations or 
other entities all of the shares or interests of which are owned by the corporation, unless the transfer is in connection with a plan or action involving the sale, exchange, or disposal of all or substantially all of the assets of the corporation and requires shareholder approval under s. 180.1202.

SECTION 16. 180.1201(2) of the statutes is amended to read: 

180.1201(2) Unless required by the articles of incorporation, approval by the shareholders of a transaction ~~described~~ permitted in sub. (1) is not required.

History

Newly created s. 180.1201(1)(d) permits the corporation to transfer any or all of its assets to a wholly-owned subsidiary without shareholder approval, unless such approval is otherwise required by s. 180.1202. Section 180.1201(1)(d) is intended to allow corporations to form a holding company structure for the corporation without having to obtain shareholder approval.

SECTION 17. 180.1302 of the statutes is amended to read:

180.1302 ~~Except in a business combination or~~ Unless the articles of incorporation provide otherwise, subs. (1) and (2) do not apply to the holders of shares of the class or series that are registered on a national securities exchange or quoted on the National Association of

Securities Dealers Inc., automated quotations system on the record date fixed to determine the shareholders entitled to notice of a shareholders meeting at which shareholders are to vote on the proposed corporate action.

History

The proposed change would change the law so that, where a corporation's shares are traded on a national securities exchange or on the Nasdaq market, dissenting shareholders should look only to the trading markets themselves to receive "fair value" for their shares. Like Delaware and many other states, the cost and expense of a court ordered appraisal process should not be allowed when the public trading markets afford the shareholder a true "market test" of the fair value of the corporation's stock price.

SECTION 18. 179.02(1) of the statutes is amended to read:

179.02 Name. The name of a limited partnership:

(1) Shall contain with or without abbreviation the words "limited partnership".

History

To allow more flexibility in naming limited partnerships.

SECTION 19. 179.76(4)(c) of the statutes is amended to read:

179.76(4)(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment. ~~, provided that, if the converting business entity has an interest in real estate in Wisconsin on the date of the conversion, the converting business entity shall transfer that interest to the business entity surviving the conversion and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the conversion shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 20. 179.77(6)(c) of the statutes is amended to read:

179.77(6)(c) The title to all property owned by each business entity that is a party to the merger is vested in the surviving business entity without reversion or impairment. ~~, provided~~

~~that, if a merging business entity has an interest in real estate in Wisconsin on the date of the merger, the merging business entity shall transfer that interest to the business entity surviving the merger and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the merger shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 21. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 180.1106(1)(b) of the statutes is amended to read:

180.1106(1)(b) The title to all property owned by each business entity that is party to the merger is vested in the surviving business entity without reversion or impairment. ~~; provided that, if a merging business entity has an interest in real estate in Wisconsin on the date of the merger, the merging business entity shall transfer that interest to the business entity surviving the merger and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the merger shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 22. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 180.1161(4)(c) of the statutes is amended to read:

180.1161(4)(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment. ~~; provided that, if the converting business entity has an interest in real estate in Wisconsin on the date of the conversion, the converting business entity shall transfer that interest to the business entity surviving the conversion and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the conversion shall promptly record the instrument of conveyance~~

~~under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 23. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 181.1106(2) of the statutes is amended to read:

181.1106(2) Title to Property. The title to all real estate and other property owned by each business entity that is a party to the merger is vested in the surviving business entity without reversion or impairment subject to any conditions to which the property was subject before the merger. ~~, provided that, if the merging business entity has an interest in real estate in Wisconsin on the date of the merger, the merging business entity shall transfer that interest to the business entity surviving the merger and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the merger shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 24. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 181.1161(4)(c) of the statutes is amended to read:

181.1161(4)(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment. ~~, provided that, if the converting business entity has an interest in real estate in Wisconsin on the date of the conversion, the converting business entity shall transfer that interest to the business entity surviving the conversion and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the conversion shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 25. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 183.1205(2) of the statutes is amended to read:

183.1205(2) The title to all property owned by each business entity that is a party to the merger is vested in the surviving business entity without reversion or impairment. ~~provided that, if the merging business entity has an interest in real estate in Wisconsin on the date of the merger, the merging business entity shall transfer that interest to the business entity surviving the merger and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the merger shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

SECTION 26. Effective as if it was included in the provisions of 2000 Wisconsin Act 44, 183.1207(4)(c) of the statutes is amended to read:

183.1207(4)(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment. ~~provided that, if the converting business entity has an interest in real estate in Wisconsin on the date of the conversion, the converting business entity shall transfer that interest to the business entity surviving the conversion and shall execute any real estate transfer return required under s. 77.22. The business entity surviving the conversion shall promptly record the instrument of conveyance under s. 59.43 in the office of the register of deeds for each county in which the real estate is located.~~

History

In 2002, when the provisions for cross-species mergers and conversions were adopted, a new and burdensome obligation to prepare and record real estate deeds and real estate transfer returns was added which did not previously exist under Wisconsin law. These changes are to eliminate these requirements and thereby facilitate conversions and mergers.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2166/P1

RJM: /...

King
Pm NR

Due
3-14-03

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DRAFT

Sen. Cost.

1 AN ACT ...; relating to: the authority of the board of directors of business
2 corporations and corporate committees; corporate shareholder notices and
3 meetings; mergers, conversions, and other business combinations; the transfer
4 of corporate property to certain affiliates; and naming limited partnerships.

Numerous

Analysis by the Legislative Reference Bureau

This bill makes ~~several~~ numerous changes to the laws governing business corporations. It also makes changes to the laws governing limited partnerships, nonstock corporations, and limited liability companies. Significant changes include:

BUSINESS CORPORATIONS

Classes or series of stock

Under current law, a corporation's articles of incorporation may authorize the board of directors of the corporation to determine the preferences, limitations, and relative rights of a class or series of shares of stock. Generally, the board must set the terms of a class or series in an amendment to the articles of incorporation, which need not be approved by the shareholders. Current law permits the board to revise the terms by resolution, as long as no shares have been issued. After shares are issued, any such revision must be by amendment to the articles of incorporation.

This bill similarly permits the board to set and revise the distinguishing designation of a class or series. The bill also permits the board, at any time after the required articles of amendment are filed, to decrease the number shares of the applicable class or series (but not below the number of such shares that are

-2-
A (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z) ***
LPS: end of B/C (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z)
LRB-2166/?
RJM:.....

outstanding), to eliminate the class or series (if no shares are outstanding), or to increase the number of shares of the class or series (but not beyond the number of such shares that are ~~1/4~~ need to complete after obtaining comments concerning proposed s. 180.0602 (3)(b) 3.) → (3)

Shareholder notices and meetings

Current law contains several requirements pursuant to which a corporation must provide notice to a shareholder. In addition, a corporation's articles of incorporation and bylaws may also contain such requirements. This bill provides an exemption from any such requirement if a specified number of notices or dividend payments are returned to the corporation as undeliverable. The bill permits a shareholder to reinstate the notice requirements by delivering to the corporation a written statement setting forth the shareholder's current address. Current law does not have any similar exemption, although current law does permit a shareholder to waive any notice required under the corporate laws or the corporation's articles of incorporation or bylaws.

This bill permits a corporation's articles of incorporation or bylaws to specify the manner in which shareholder meetings will be conducted. The bill also sets default rules for the conduct of these meetings if the articles of incorporation or bylaws do not so specify. Under these default rules, a chairperson appointed by the board of directors must preside over the meeting. The chairperson must determine the order of business and time of adjournment and may establish rules for the conduct of the meeting which the chairperson believes are fair to the interests of all shareholders. In addition, the chairperson must provide notice of when the polls close for each item voted upon at the meeting, except that if no such notice is provided, the polls close upon final adjournment of the meeting.

Committees

Current law permits the board of directors to create committees, unless the articles of incorporation or bylaws provide otherwise. Currently, a committee must have at least two members. This bill allows a committee to have only one member.

With certain exceptions, the creation of a committee, appointment of members to it, and designation of alternative members currently must be approved by the greater of: (A) a majority of all directors currently in office; or (B) the number of directors required by the articles of incorporation or bylaws to take action (typically, a majority of directors present, if a quorum is present). This bill deletes the possible necessity for a majority vote of all directors currently in office, unless that requirement is specified in the articles of incorporation or bylaws.

Current law prohibits a committee from doing any of the following: (A) authorizing distributions; (B) approving or proposing to shareholders action that this chapter requires be approved by shareholders; (C) filling vacancies on the board of directors or, with certain exceptions, on any of its committees; (D) amending articles of incorporation without shareholder action; (E) adopting, amending, or repealing bylaws; (F) approving a plan of merger not requiring shareholder approval; (G) authorizing or approving reacquisition of shares, except according to a formula or method prescribed by the board of directors; or (H) authorizing or approving the issuance or sale or contract for sale of shares, or determining the designation and

relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee or a senior executive officer of the corporation to do so within limits prescribed by the board of directors. This bill deletes all of these restrictions, except items (1) and (2).

Mergers, share exchanges, and business combinations

Currently, when a corporation approves a merger or share exchange, it must file articles of merger or share exchange with the department of financial institutions. Among other things, the articles of merger or share exchange must include the plan of merger or share exchange. This bill deletes this requirement and, instead, requires the articles of merger to state that a plan of merger or share exchange has been approved and adopted as required by law, that the plan is to file at the principle place of business of the surviving corporation, and that the surviving corporation will provide a copy of the plan, upon request and without cost, to any shareholder or, upon payment of the cost of producing the copy, to any other interested person. The bill also specifies other information that must be included in the articles of merger or share exchange.

Currently, a corporation may not engage in a business combination (including certain mergers) unless a specified supermajority of shareholders vote to approve the combination. However, this requirement does not apply if the shareholders receive a price for their shares that satisfies a specified formula. One factor in applying this formula is to determine the valuation date of the shares. Currently, the valuation date is defined as the later of the day before the date the shareholders' vote concerning the combination or the day 20 days before the consummation of the combination. This bill specifies, instead, that the valuation date is the day before the first public announcement of the proposed business combination.

Current law restricts the ability of a corporation to engage in a business combination (including certain mergers) for three years following the "stock acquisition date," which is defined as the date on which any person first acquires at least 10% of the corporation's stock. Under this bill, the "stock acquisition date" is the time at which a person first acquires at least 10% of the corporation's stock.

With certain exceptions, the voting power of any person owning greater than 20% of a corporation's stock is currently limited to 10% of the full voting power of those shares, unless the articles of incorporation provide otherwise or unless regular voting power is restored by vote of the shareholders. This also (bill) permits the board of directors to specify that regular voting power will apply.

Under current law, if a shareholder dissents from certain mergers, share exchanges, or other business combinations, the shareholder may obtain payment of the fair value of his or her shares. Currently, the fair value is determined pursuant to several specified criteria. With limited exceptions, this bill provides an exemption from these dissenter's rights if the applicable shares are registered on a national securities exchange or quoted in the National Association of Securities Dealers, Inc. This exemption is identical to the exemption that applies generally to other dissenter's rights provisions.

Transfer of property to certain affiliates

Current law authorizes the board of directors of a corporation to sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business; to sell, lease, exchange, or otherwise dispose of less than substantially all of its property whether or not in the usual and regular course of business; and to encumber any or all of its property whether or not in the usual and regular course of business. Unless the articles of incorporation require otherwise, the board may take these actions without shareholder approval. This bill, similarly permits the board to transfer any or all of its assets to one or more corporations or other entities, all of the shares or interests of which are owned by the corporation, unless the transfer is in connection with a plan or action involving the sale, exchange, or disposal of all or substantially all of the assets of the corporation and requires shareholder approval.

OTHER CHANGES

Currently, the name of a limited partnership must contain the words "limited partnership" without abbreviation. This bill allows the name to include abbreviated versions of those words.

Under current law, when a limited partnership, business corporation, nonstock corporation, or limited liability company merges with or converts to another entity (or when a business corporation enters into a share exchange), title to all personal property transfers, by operation of law, to the surviving entity. Title to real estate generally must be transferred by deed, which must be recorded in the appropriate office of the register of deeds. This bill deletes this special treatment for real estate. As a result, under this bill, title to all property transfers, by operation of law, to the surviving entity.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 179.02 (1) of the statutes is amended to read:

2 179.02 (1) Shall contain, with or without abbreviation, the words "limited
3 partnership".

History: 1983 a. 173; 1989 a. 232; 1993 a. 112.

4 **SECTION 2.** 179.76 (4) (c) of the statutes is amended to read:

5 179.76 (4) (c) The business entity continues to be vested with title to all
6 property owned by the business entity that was converted without reversion or
7 impairment, ~~provided that, if the converting business entity has an interest in real~~
8 ~~estate in Wisconsin on the date of the conversion, the converting business entity shall~~

1 ~~transfer that interest to the business entity surviving the conversion and shall~~
2 ~~execute any real estate transfer return required under s. 77.22. The business entity~~
3 ~~surviving the conversion shall promptly record the instrument of conveyance under~~
4 ~~s. 59.43 in the office of the register of deeds for each county in which the real estate~~
5 ~~is located.~~

History: 2001 a. 44.

6 **SECTION 3.** 179.77 (6) (c) of the statutes is amended to read:

7 179.77 (6) (c) The title to all property owned by each business entity that is a
8 party to the merger is vested in the surviving business entity without reversion or
9 impairment, ~~provided that, if a merging business entity has an interest in real estate~~
10 ~~in Wisconsin on the date of the merger, the merging business entity shall transfer~~
11 ~~that interest to the business entity surviving the merger and shall execute any real~~
12 ~~estate transfer return required under s. 77.22. The business entity surviving the~~
13 ~~merger shall promptly record the instrument of conveyance under s. 59.43 in the~~
14 ~~office of the register of deeds for each county in which the real estate is located.~~

History: 2001 a. 44, 105.

15 **SECTION 4.** 180.0502 (3) of the statutes is amended to read:

16 180.0502 (3) If the name of a registered agent changes or if the street address
17 of his or her a registered agent's business office, he or she changes, the registered
18 agent may change the name of the registered agent or street address of the registered
19 office of any corporation for which he or, she, or it is the registered agent by notifying.
20 To make a change under this subsection, the registered agent shall notify the
21 corporation in writing of the change and by signing, either manually or in facsimile,
22 and delivering deliver to the department for filing a signed statement that complies
23 with sub. (2) and recites that the corporation has been notified of the change.

1 **SECTION 5.** 180.0602 (3) of the statutes is renumbered 180.0602 (3) (a) and
2 amended to read:

3 180.0602 (3) (a) After the articles of amendment are filed under sub. (2) and
4 before the corporation issues any shares of the class or series that is the subject of
5 the articles of amendment, the board of directors may alter or revoke ~~any the~~
6 distinguishing designation of the class or series and the preferences, limitations, or
7 relative rights described in the articles of amendment, by adopting another
8 resolution appropriate for that purpose. The corporation shall file with the
9 department revised articles of amendment that comply with sub. (2). ~~Except as~~
10 provided in par. (b), a distinguishing designation, preference, limitation, or relative
11 right may not be altered or revoked after the issuance of any shares of the class or
12 series that are subject to the distinguishing designation, preference, limitation, or
13 relative right, except by amendment of the articles of incorporation under s.
14 180.1003.

History: 1989 a. 303; 1995 a. 27, 271.

****NOTE: (A) I did not add the proposed language “the number of shares of the class or series” in this paragraph because it is governed more specifically by proposed par. (b) below. Please let me know if I have misunderstood your intent. It wasn’t clear to me whether you intend to treat changes in the number of shares similarly to changes currently permitted under s. 180.0602 (3), stats. (B) Please let me know if you think the language “Except as provided in par. (b)” in the last sentence is unnecessary.

15 **SECTION 6.** 180.0602 (3) (b) of the statutes is created to read:

16 180.0602 (3) (b) 1. Except as otherwise provided in this subdivision, after the
17 articles of amendment are filed under sub. (2), the board of directors may decrease
18 the number of shares of the class or series that is the subject of the articles of
19 amendment by adopting another resolution appropriate for that purpose. The
20 shares specified in the resolution shall resume their prior status. The board of

*strike
space*

1 directors may not decrease the number of shares under this subdivision below the
 2 number of such [✓]shares that are then outstanding.

****NOTE: (A) I did not add "unless otherwise provided in any such resolution or resolutions" because, as drafted, I don't think resolutions under par. (a) deal with changes in the number of shares. Please let me know if you disagree. (B) Please let me know if you intend any additional provisions from par. (a) to apply under this subdivision. (C) I broke out the elimination of a class or series into its own subdivision. See subd. 2. below.

3 2. After the articles of amendment are filed under sub. (2), if no shares of the
 4 class or series that is the subject of the articles of amendment are then outstanding,
 5 the board of directors may eliminate from the articles of incorporation all matters set
 6 forth in the articles of amendment with respect to that class or series by adopting
 7 another resolution for that purpose. The board of directors shall prepare a certificate
 8 setting forth the content of any resolution under this subdivision, stating that none
 9 of the authorized shares of the class or series ~~are~~ ^{is} outstanding, and stating that no
 10 such shares will be issued under the articles of amendment and shall deliver the
 11 signed certificate to the department for filing. A resolution under this subdivision
 12 takes effect upon filing of the certificate by the department and has the effect of
 13 eliminating from the articles of incorporation all matters set forth in the articles of
 14 amendment with respect to the applicable class or series.

****NOTE: (A) Please let me know if this subdivision does not accomplish your intent. I tried to stay very close to the language provided to me. (B) See notes "A" and "B" under subd. 1. above.

15 3. Except as otherwise provided in this subdivision, after the articles of
 16 amendment are filed under sub. (2), the board of directors may increase the number
 17 of shares of the class or series that is the subject of the articles of amendment by
 18 adopting another resolution appropriate for that purpose. The board of directors
 19 may not increase the number of shares under this subdivision to be greater than

20 [must complete per note "B" below].

Δ (B) 16 pt. ***** Δ LPS: end of (B) 16 pt.

****NOTE: (A) See notes "A" and "B" to subd. 1. above. (B) Your instructions noted that any increase in the number of shares may not be above "the total number of authorized shares of the class or series." I don't understand your intent. The articles of amendment set the number of shares of a series or class that are created. I assume this subdivision is intended to allow the board to increase that number, but subject to what limits? The limits under s. 180.0601, stats.? Please let me know.

1 SECTION 7. 180.0706 (title) of the statutes is amended to read:

2 180.0706 (title) **Waiver of and exemption from notice.**

3 SECTION 8. 180.0706 (3) of the statutes is created to read:

4 180.0706 (3) (a) Except as provided in par. (b), any notice required to be given
5 by a corporation to a shareholder under this chapter is not required to be given if any
6 of the following apply: *applies*

7 1. Notice of 2 consecutive annual meetings, and all notices of meetings during
8 the period between these annual meetings, ~~have~~ *have* been sent to the shareholder at the
9 shareholder's address as shown on the records of the corporation and have been
10 returned as undeliverable.

11 2. All, but not less than 2, payments of dividends on securities during a
12 one-year period, or 2 consecutive payments of dividends on securities during a period
13 of more than one year, *have* been sent to the shareholder at the shareholder's address
14 as shown on the records of the corporation and have been returned as undeliverable.

15 (b) If a shareholder to whom par. (a) applies delivers to the corporation a
16 written notice containing the shareholder's current address, then, beginning 30 days
17 after receipt of the notice by the corporation, the requirement that notice be given
18 to the shareholder is reinstated, until such time as par. (a) may again apply.

19 SECTION 9. 180.0708 of the statutes is created to read:

20 180.0708 **Conduct of meeting.** Unless the articles of incorporation or bylaws
21 provide otherwise, every meeting of the shareholders shall be conducted as follows:

1 (1) A chairperson shall preside over the meeting. The chairperson shall be
2 appointed by the board of directors.

 ****NOTE: Shortened by relying on the (intro.) .

3 (2) The chairperson shall determine the order of business and the time of
4 adjournment and may establish rules for the conduct of the meeting which the
5 chairperson believes are fair to the interests of all shareholders.

6 (3) The chairperson shall announce at the meeting the time at which the polls
7 will close for each matter voted upon at the meeting. The polls close at the announced
8 time, except that, if no such announcement is made, the polls close upon final
9 adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or
10 revocations or changes thereto, may be accepted.

 ****NOTE: Please review this subsection. It was unclear from the proposed
language whether the chairperson was to announce the closing of the polls or provide
notice as to when the polls will close. From the additional information you provided, I
gathered that the intent was to provide notice. Please let me know if I was mistaken.

11 **SECTION 10.** 180.0824 (3) of the statutes is amended to read:

12 180.0824 (3) Except as provided in ss. 180.0825 (2) and (3), 180.0831 (4) and
13 180.0855 (1) and (2), if a quorum is present when a vote is taken, the affirmative vote
14 of a majority of directors present is the act of the board of directors or a committee
15 of the board of directors created under s. 180.0825, unless the articles of
16 incorporation or bylaws require the vote of a greater number of directors.

History: 1989 a. 303; 1991 a. 16.

 ****NOTE: Treatment of this section was necessitated by proposed s. 180.0825 (2)
below. If the treatment of that section is changed, then this treatment may also need to
be changed or deleted.

17 **SECTION 11.** 180.0825 (1) of the statutes is amended to read:

18 180.0825 (1) Unless the articles of incorporation or bylaws provide otherwise,
19 a board of directors may create one or more committees, appoint members of the
20 board of directors to serve on the committees and designate other members of the

1 board of directors to serve as alternates. Each committee shall have ~~2 or more~~
 2 members at least one member. Unless otherwise provided by the board of directors,
 3 members of the committee shall serve at the pleasure of the board of directors.

History: 1989 a. 303.

****NOTE: Using the term "committee" to refer to a single individual is not standard English usage. As result, it makes certain provisions where the term "committee" is used, such as s. 180.0824 (1) (b), (2) (b), and (3), unusual to apply. They still work, they are just odd. To some extent, this problem currently exists in the case of a committee with two members. However, if you would like to call a committee of one something other than a committee (for example, a "special designee"), please let me know and I will adjust this provision and other affected statutes accordingly.

4 **SECTION 12.** 180.0825 (2) ^{(intro.) and (b)} of the statutes ^{are} consolidated, renumbered 180.0825
 5 (2) and amended to read:

6 180.0825 (2) Except as provided in sub. (3), the creation of a committee,
 7 appointment of members to it and designation of alternate members, if any, shall be
 8 approved by ^{plain} ~~the~~ greater of the following: ^A

- 9 ~~(a) A majority of all the directors in office when the action is taken.~~
- 10 ~~(b) The ~~the~~ number of directors required by the articles of incorporation or~~

11 bylaws to take action under s. 180.0824 (3).
 SEC. #. 180.0825 (2) (a) ^{of the statutes is repealed.}

History: 1989 a. 303.

****NOTE: It was unclear what was meant by "A majority of a quorum of the board." I assumed that you intended to require a majority vote of the directors present, as long as there is a quorum. If you meant a majority vote of the number required for a quorum, regardless of the number of directors present, please let me know. Also, if that is what you meant, then I think that number will always be less than the number currently permitted under s. 180.0825 (2) (b), stats.

12 **SECTION 13.** 180.0825 (5) (a) ^{(b) and (c)} to (h) of the statutes are repealed.

13 **SECTION 14.** 180.0825 (5) (am) and (bm) of the statutes are created to read:

14 180.0825 (5) (am) Approve or recommend to shareholders for approval any
 15 action or matter expressly required by this chapter to be submitted to shareholders
 16 for approval.

****NOTE: Deleted "adopt" because it didn't seem to make sense to refer to adopting an action.

LPS: No change

1 (bm) Adopt, amend, or repeal any bylaw of the corporation.

2 **SECTION 15.** 180.1105 (1) (a) and (b) of the statutes are repealed.

3 **SECTION 16.** 180.1105 (1) (am), (bm) and (c) to (f) of the statutes are created to
4 read:

5 180.1105 (1) (am) The name and state of incorporation of each corporation that
6 is a party to the merger or share exchange.

7 (bm) That a plan of merger or share exchange has been approved and adopted
8 by each corporation that is a party to the merger or share exchange as required under
9 s. 180.1103 or 180.1104, as applicable.

10 (c) The name of the surviving or acquiring corporation.

11 (d) In the case of a merger, any amendments in the articles of incorporation of
12 the surviving corporation that are intended to take effect upon the merger or, if there
13 are no such amendments, a statement that the articles of incorporation of the
14 surviving corporation or another corporation that is a party to the merger will be the
15 articles of incorporation of the surviving corporation.

****NOTE: (A) It is unclear how these provisions relate to ss. 180.1001 to 180.1006,
which also deal with amending the articles of incorporation. (B) Due to the use of the
passive voice, it is also unclear who or what "intends" the amendments referred to in this
paragraph (i.e., are the amendments intended by the shareholders, by the board, or by
someone else?). Please let me know if you ^{would} like to clarify either of these issues. ✓

16 (e) That the executed plan of merger or share exchange is on file at the principal
17 place of business of the surviving or acquiring corporation.

18 (f) That the surviving or acquiring corporation will provide a copy of the plan
19 of merger or share exchange, upon request and without cost, to any shareholder of
20 a corporation that was a party to the merger or share exchange or, upon payment to
21 the surviving or acquiring corporation of an amount equal to the cost of producing
22 the copy, to any other interested person.

1 **SECTION 17.** 180.1106 (1) (b) of the statutes is amended to read:

2 180.1106 (1) (b) The title to all property owned by each business entity that is
3 party to the merger is vested in the surviving business entity without reversion or
4 impairment, ~~provided that, if a merging business entity has an interest in real estate~~
5 ~~in Wisconsin on the date of the merger, the merging business entity shall transfer~~
6 ~~that interest to the business entity surviving the merger and shall execute any real~~
7 ~~estate transfer return required under s. 77.22. The business entity surviving the~~
8 ~~merger shall promptly record the instrument of conveyance under s. 59.43 in the~~
9 ~~office of the register of deeds for each county in which the real estate is located.~~

10 History: 1989 a. 303; 2001 a. 44, 105.

11 **SECTION 18.** 180.1130 (14) of the statutes is repealed and recreated to read:

12 180.1130 (14) “Valuation date” means the time at which the closing price is
13 determined on the day before the first public announcement of the proposed business
combination.

 ****NOTE: I specified that the valuation date is the *time* at which the closing price
is determined. It is conceptually problematic to define the valuation date as the closing
price itself. Please let me know if you desire any changes.

14 **SECTION 19.** 180.1140 (11) of the statutes is amended to read:

15 180.1140 (11) “Stock acquisition date”, with respect to any person, means the
16 date time that that person first becomes an interested stockholder of that resident
17 domestic corporation.

18 History: 1989 a. 303; 1991 a. 39; 1993 a. 112.

19 **SECTION 20.** 180.1150 (2) of the statutes is amended to read:

20 180.1150 (2) Unless otherwise provided in the articles of incorporation of a
21 resident domestic corporation or otherwise specified by a majority of the board of
22 directors of the resident domestic corporation and except as provided in sub. (3) or
as restored under sub. (5), the voting power of shares of a resident domestic

1 corporation held by any person, including shares issuable upon conversion of
2 convertible securities or upon exercise of options or warrants, in excess of 20% of the
3 voting power in the election of directors shall be limited to 10% of the full voting
4 power of those shares.

History: 1989 a. 303; 1995 a. 336; 1997 a. 2712001 a. 44.

****NOTE: Replaced “approved” with “specified” to clarify that what’s actually
happening is that the board is *not* approving the effect of the control share statute.

5 **SECTION 21.** 180.1161 (4) (c) of the statutes is amended to read:

6 180.1161 (4) (c) The business entity continues to be vested with title to all
7 property owned by the business entity that was converted without reversion or
8 impairment, ~~provided that, if the converting business entity has an interest in real~~
9 ~~estate in Wisconsin on the date of the conversion, the converting business entity shall~~
10 ~~transfer that interest to the business entity surviving the conversion and shall~~
11 ~~execute any real estate transfer return required under s. 77.22. The business entity~~
12 ~~surviving the conversion shall promptly record the instrument of conveyance under~~
13 ~~s. 59.43 in the office of the register of deeds for each county in which the real estate~~
14 ~~is located.~~

History: 2001 a. 44.

15 **SECTION 22.** 180.1201 (title) of the statutes is amended to read:

16 **180.1201 (title) Sale of assets in regular course of business; mortgage**
17 **of assets; transfer of assets to subsidiary.**

18 **SECTION 23.** 180.1201 (1) (d) of the statutes is created to read:

19 180.1201 (1) (d) Transfer any or all of its assets to one or more corporations or
20 other entities, ² all of the shares or interests of which are owned by the corporation,
21 unless the transfer is in connection with a plan or action involving the sale, exchange,
22 or disposal of all or substantially all of the assets of the corporation and requires
23 shareholder approval under s. 180.1202.

1 SECTION 24. 180.1201 (2) of the statutes is amended to read:

2 180.1201 (2) Unless required by the articles of incorporation, approval by the
3 shareholders of a transaction described permitted in sub. (1) is not required.

4 SECTION 25. 180.1301 (4) of the statutes is amended to read:

5 180.1301 (4) "Fair value", with respect to a dissenter's shares other than in a
6 business combination, means the value of the shares immediately before the
7 effectuation of the corporate action to which the dissenter objects, excluding any
8 appreciation or depreciation in anticipation of the corporate action unless exclusion
9 would be inequitable. "Fair value", with respect to a dissenter's shares in a business
10 combination, means market value, as defined in s. 180.130 (9) (a) 1. to 4.

History: 1989 a. 30; 1991 a. 16.

***NOTE: This treatment seemed appropriate, given proposed s. 180.1302 (4)
below. Please let me know if you disagree.

*believe this treatment necessitates an amendment
of s. 180.1301(4), stats.*

11 SECTION 26. 180.1302 (4) of the statutes is amended to read:

12 ^{No (B)} 180.1302 ~~Right to Dissent~~ (4) Except in a business combination or unless
13 Unless the articles of incorporation provide otherwise, subs. (1) and (2) do not apply
14 to the holders of shares of any class or series if the shares of the class or series are
15 registered on a national securities exchange or quoted on the National Association
16 of Securities Dealers, Inc., automated quotations system on the record date fixed to
17 determine the shareholders entitled to notice of a shareholders meeting at which
18 shareholders are to vote on the proposed corporate action.

19 SECTION 27. 181.1106 (2) of the statutes is amended to read:

20 181.1106 (2) TITLE TO PROPERTY. The title to all real estate and other property
21 owned by each business entity that is a party to the merger is vested in the surviving
22 business entity without reversion or impairment subject to any conditions to which
23 the property was subject before the merger, ~~provided that, if a merging business~~

1 ~~entity has an interest in real estate in Wisconsin on the date of the merger, the~~
 2 ~~merging business entity shall transfer that interest to the business entity surviving~~
 3 ~~the merger and shall execute any real estate transfer return required under s. 77.22.~~
 4 ~~The business entity surviving the merger shall promptly record the instrument of~~
 5 ~~conveyance under s. 59.43 in the office of the register of deeds for each county in~~
 6 ~~which the real estate is located.~~

History: 1997 a. 79; 2001 a. 44, 105.

7 **SECTION 28.** 181.1161 (4) (c) of the statutes is amended to read:

8 181.1161 (4) (c) The business entity continues to be vested with title to all
 9 property owned by the business entity that was converted without reversion or
 10 impairment, ~~provided that, if the converting business entity has an interest in real~~
 11 ~~estate in Wisconsin on the date of the conversion, the converting business entity shall~~
 12 ~~transfer that interest to the business entity surviving the conversion and shall~~
 13 ~~execute any real estate transfer return required under s. 77.22. The business entity~~
 14 ~~surviving the conversion shall promptly record the instrument of conveyance under~~
 15 ~~s. 59.43 in the office of the register of deeds for each county in which the real estate~~
 16 ~~is located.~~

History: 2001 a. 44.

17 **SECTION 29.** 180.1805 (5) of the statutes is amended to read:

18 180.1805 (5) By merger or share exchange that becomes effective under ss.
 19 180.1101 to 180.1107 ~~(s. 180.1106)~~ ^{le}, or a share exchange of existing shares for other
 20 shares of a different class or series in the corporation.

NOTE: NOTE: The bracketed language indicates the correct cross-reference. 2001 Wis. Act 44 repealed s. 180.1107. Corrective legislation is pending. NOTE:

History: 1989 a. 303; 1991 a. 16.

****NOTE: Corrects erroneous cross-reference in current statutes.

21 **SECTION 30.** 183.1205 (2) of the statutes is amended to read:

22 183.1205 (2) The title to all property owned by each business entity that is a
 23 party to the merger is vested in the surviving business entity without reversion or

not out of order

1 ~~impairment, provided that, if a merging business entity has an interest in real estate~~
2 ~~in Wisconsin on the date of the merger, the merging business entity shall transfer~~
3 ~~that interest to the business entity surviving the merger and shall execute any real~~
4 ~~estate transfer return required under s. 77.22. The business entity surviving the~~
5 ~~merger shall promptly record the instrument of conveyance under s. 59.43 in the~~
6 ~~office of the register of deeds for each county in which the real estate is located.~~

History: 1993 a. 112; 2001 a. 44.

7 **SECTION 31.** 183.1207 (4) (c) of the statutes is amended to read:

8 183.1207 (4) (c) The business entity continues to be vested with title to all
9 property owned by the business entity that was converted without reversion or
10 ~~impairment, provided that, if the converting business entity has an interest in real~~
11 ~~estate in Wisconsin on the date of the conversion, the converting business entity shall~~
12 ~~transfer that interest to the business entity surviving the conversion and shall~~
13 ~~execute any real estate transfer return required under s. 77.22. The business entity~~
14 ~~surviving the conversion shall promptly record the instrument of conveyance under~~
15 ~~s. 59.43 in the office of the register of deeds for each county in which the real estate~~
16 ~~is located.~~

History: 2001 a. 44.

17 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2166/7dn PI
RJM: King

Senator Stepp:

The attached draft is in preliminary form. I have included a few four-star notes in the draft (****Note) to guide your review. If you or the relevant members of the Wisconsin State Bar Association would like to discuss any of these notes, please feel free to call. After the outstanding issues have been addressed and you approve of the content of the draft, I will redraft it in introducible form.

Please feel free to call if you have any questions.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2166/P1dn
RJM:kmg:rs

March 7, 2003

Senator Stepp:

The attached draft is in preliminary form. I have included a few four-star notes in the draft (****Note) to guide your review. If you or the relevant members of the Wisconsin State Bar Association would like to discuss any of these notes, please feel free to call. After the outstanding issues have been addressed and you approve of the content of the draft, I will redraft it in introducible form.

Please feel free to call if you have any questions.

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Marchant, Robert

From: Jenny Boese [jboese@wisbar.org]
Sent: Wednesday, April 16, 2003 9:25 AM
To: robert.marchant@legis.state.wi.us
Cc: Skipper, Walter J.; Manley, Scott
Subject: RE: Draft review: LRB 03-2166/P1 Topic: Corporate law

Hi Rob,

Hope all is well your way.

Attached please find comments to LRB 2166/P1. (Comments are hand-written onto the LRB draft, which we then scanned into the attached PDF.)

Let me know if you would like a conference call with Atty. Skipper and me to further discuss anything.

Take care,
Jenny

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