

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 794

Introduced by Harr, 8.

Read first time January 07, 2016

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to corporations; to amend sections 21-201,
2 21-214, 21-216, 21-227, 21-250, 21-253, 21-256, 21-2,110, 21-2,117,
3 21-2,172, and 21-303, Revised Statutes Cumulative Supplement, 2014;
4 to change provisions relating to the Nebraska Model Business
5 Corporation Act and corporate occupation taxes; to provide an
6 operative date; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 21-201, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 21-201 (MBCA 1.01) Sections 21-201 to 21-2,232 and sections 11 to 14
4 of this act shall be known and may be cited as the Nebraska Model
5 Business Corporation Act.

6 Sec. 2. Section 21-214, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 21-214 (MBCA 1.40) In the Nebraska Model Business Corporation Act:

9 (1) Articles of incorporation means the original articles of
10 incorporation, all amendments thereof, and any other documents permitted
11 or required to be filed by a domestic business corporation with the
12 Secretary of State under any provision of the act except section
13 21-2,228. If an amendment of the articles or any other document filed
14 under the act restates the articles in their entirety, thenceforth the
15 articles shall not include any prior documents.

16 (2) Authorized shares means the shares of all classes a domestic or
17 foreign corporation is authorized to issue.

18 (3) Conspicuous means so written, displayed, or presented that a
19 reasonable person against whom the writing is to operate should have
20 noticed it. For example, text in italics, boldface, contrasting color,
21 capitals, or underlined, is conspicuous.

22 (4) Corporation, domestic corporation, or domestic business
23 corporation means a corporation for profit, which is not a foreign
24 corporation, incorporated under or subject to the provisions of the act.

25 (5) Deliver or delivery means any method of delivery used in
26 conventional commercial practice, including delivery by hand, mail,
27 commercial delivery, and, if authorized in accordance with section
28 21-215, by electronic transmission.

29 (6) Distribution means a direct or indirect transfer of money or
30 other property, except its own shares, or incurrence of indebtedness by a
31 corporation to or for the benefit of its shareholders in respect of any

1 of its shares. A distribution may be in the form of a declaration or
2 payment of a dividend; a purchase, redemption, or other acquisition of
3 shares; a distribution of indebtedness; or otherwise.

4 (7) Document means (i) any tangible medium on which information is
5 inscribed, and includes any writing or written instrument, or (ii) an
6 electronic record.

7 (8) Domestic unincorporated entity means an unincorporated entity
8 whose internal affairs are governed by the laws of this state.

9 (9) Effective date of notice is defined in section 21-215.

10 (10) Electronic means relating to technology having electrical,
11 digital, magnetic, wireless, optical, electromagnetic, or similar
12 capabilities.

13 (11) Electronic record means information that is stored in an
14 electronic or other medium and is retrievable in paper form through an
15 automated process used in conventional commercial practice, unless
16 otherwise authorized in accordance with subsection (k) of section 21-215.

17 (12) Electronic transmission or electronically transmitted means any
18 form or process of communication not directly involving the physical
19 transfer of paper or another tangible medium, which (i) is suitable for
20 the retention, retrieval, and reproduction of information by the
21 recipient and (ii) is retrievable in paper form by the recipient through
22 an automated process used in conventional commercial practice, unless
23 otherwise authorized in accordance with subsection (k) of section 21-215.

24 (13) Eligible entity means a domestic or foreign unincorporated
25 entity or a domestic or foreign nonprofit corporation.

26 (14) Eligible interests means interests or memberships.

27 (15) Employee includes an officer but not a director. A director may
28 accept duties that make the director also an employee.

29 (16) Entity includes domestic and foreign business corporation;
30 domestic and foreign nonprofit corporation; limited liability company;
31 estate; trust; domestic and foreign unincorporated entity; and state,

1 United States, and foreign government.

2 (17) The phrase facts objectively ascertainable outside of a filed
3 document or plan is defined in subsection (k) of section 21-203.

4 (18) Expenses means reasonable expenses of any kind that are
5 incurred in connection with a matter.

6 (19) Filing entity means an unincorporated entity that is of a type
7 that is created by filing a public organic document.

8 (20) Foreign corporation means a corporation incorporated under a
9 law other than the law of this state which would be a business
10 corporation if incorporated under the laws of this state.

11 (21) Foreign nonprofit corporation means a corporation incorporated
12 under a law other than the law of this state which would be a nonprofit
13 corporation if incorporated under the laws of this state.

14 (22) Foreign unincorporated entity means an unincorporated entity
15 whose internal affairs are governed by an organic law of a jurisdiction
16 other than this state.

17 (23) Governmental subdivision includes authority, county, district,
18 and municipality.

19 (24) Includes denotes a partial definition.

20 (25) Individual means a natural person.

21 (26) Interest means either or both of the following rights under the
22 organic law of an unincorporated entity:

23 (i) The right to receive distributions from the entity either in the
24 ordinary course or upon liquidation; or

25 (ii) The right to receive notice or vote on issues involving its
26 internal affairs, other than as an agent, assignee, proxy, or person
27 responsible for managing its business and affairs.

28 (27) Interest holder means a person who holds of record an interest.

29 (28) Means denotes an exhaustive definition.

30 (29) Membership means the rights of a member in a domestic or
31 foreign nonprofit corporation.

1 (30) Nonfiling entity means an unincorporated entity that is of a
2 type that is not created by filing a public organic document.

3 (31) Nonprofit corporation or domestic nonprofit corporation means a
4 corporation incorporated under the laws of this state and subject to the
5 provisions of the Nebraska Nonprofit Corporation Act.

6 (32) Notice is defined in section 21-215.

7 (33) Organic document means a public organic document or a private
8 organic document.

9 (34) Organic law means the statute governing the internal affairs of
10 a domestic or foreign business or nonprofit corporation or unincorporated
11 entity.

12 (35) Owner liability means personal liability for a debt,
13 obligation, or liability of a domestic or foreign business or nonprofit
14 corporation or unincorporated entity that is imposed on a person:

15 (i) Solely by reason of the person's status as a shareholder,
16 member, or interest holder; or

17 (ii) By the articles of incorporation, bylaws, or an organic
18 document under a provision of the organic law of an entity authorizing
19 the articles of incorporation, bylaws, or an organic document to make one
20 or more specified shareholders, members, or interest holders liable in
21 their capacity as shareholders, members, or interest holders for all or
22 specified debts, obligations, or liabilities of the entity.

23 (36) Person includes an individual and an entity.

24 (37) Principal office means the office, in or out of this state, so
25 designated in the biennial report where the principal executive offices
26 of a domestic or foreign corporation are located.

27 (38) Private organic document means any document, other than the
28 public organic document, if any, that determines the internal governance
29 of an unincorporated entity. Where a private organic document has been
30 amended or restated, the term means the private organic document as last
31 amended or restated.

1 (39) Public organic document means the document, if any, that is
2 filed of public record to create an unincorporated entity. Where a public
3 organic document has been amended or restated, the term means the public
4 organic document as last amended or restated.

5 (40) Proceeding includes civil suit and criminal, administrative,
6 and investigatory action.

7 (41) Public corporation means a corporation that has shares listed
8 on a national securities exchange or regularly traded in a market
9 maintained by one or more members of a national securities association.

10 (42) Qualified director is defined in section 21-217.

11 (43) Record date means the date established under sections 21-237 to
12 21-252 or 21-253 to 21-283 on which a corporation determines the identity
13 of its shareholders and their shareholdings for purposes of the Nebraska
14 Model Business Corporation Act. The determinations shall be made as of
15 the close of business on the record date unless another time for doing so
16 is specified when the record date is fixed.

17 (44) Secretary means the corporate officer to whom the board of
18 directors has delegated responsibility under subsection (c) of section
19 21-2,105 for custody of the minutes of the meetings of the board of
20 directors and of the shareholders and for authenticating records of the
21 corporation.

22 (45) Shareholder means the person in whose name shares are
23 registered in the records of a corporation or the beneficial owner of
24 shares to the extent of the rights granted by a nominee certificate on
25 file with a corporation.

26 (46) Shares means the units into which the proprietary interests in
27 a corporation are divided.

28 (47) Sign or signature means, with present intent to authenticate or
29 adopt a document:

30 (i) To execute or adopt a tangible symbol to a document, and
31 includes any manual, facsimile, or conformed signature; or

1 (ii) To attach to or logically associate with an electronic
2 transmission an electronic sound, symbol, or process, and includes an
3 electronic signature in an electronic transmission.

4 (48) State, when referring to a part of the United States, includes
5 a state and commonwealth, and their agencies and governmental
6 subdivisions, and a territory and insular possession, and their agencies
7 and governmental subdivisions, of the United States.

8 (49) Subscriber means a person who subscribes for shares in a
9 corporation, whether before or after incorporation.

10 (50) Unincorporated entity means an organization or artificial legal
11 person that either has a separate legal existence or has the power to
12 acquire an estate in real property in its own name and that is not any of
13 the following: A domestic or foreign business or nonprofit corporation,
14 an estate, a trust, a state, the United States, or a foreign government.
15 The term includes a general partnership, limited liability company,
16 limited partnership, business trust, joint stock association, and
17 unincorporated nonprofit association.

18 (51) United States includes district, authority, bureau, commission,
19 department, and any other agency of the United States.

20 (52) Voting group means all shares of one or more classes or series
21 that under the articles of incorporation or the act are entitled to vote
22 and be counted together collectively on a matter at a meeting of
23 shareholders. All shares entitled by the articles of incorporation or the
24 act to vote generally on the matter are for that purpose a single voting
25 group.

26 (53) Voting power means the current power to vote in the election of
27 directors.

28 (54) Writing or written means any information in the form of a
29 document.

30 Sec. 3. Section 21-216, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 21-216 (MBCA 1.42) (a) For purposes of the Nebraska Model Business
2 Corporation Act, the following identified as a shareholder in a
3 corporation's current record of shareholders constitutes one shareholder:

4 (1) Three or fewer co-owners;

5 (2) A corporation, partnership, limited liability company, trust,
6 estate, or other entity; or

7 (3) The trustees, guardians, custodians, or other fiduciaries of a
8 single trust, estate, or account.

9 (b) For purposes of the act, shareholdings registered in
10 substantially similar names constitute one shareholder if it is
11 reasonable to believe that the names represent the same person.

12 Sec. 4. Section 21-227, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 21-227 (MBCA 3.02) Unless its articles of incorporation provide
15 otherwise, every corporation has perpetual duration and succession in its
16 corporate name and has the same powers as an individual to do all things
17 necessary or convenient to carry out its business and affairs, including
18 without limitation power:

19 (1) To sue and be sued, complain, and defend in its corporate name;

20 (2) To have a corporate seal, which may be altered at will, and to
21 use it, or a facsimile of it, by impressing or affixing it or in any
22 other manner reproducing it;

23 (3) To make and amend bylaws, not inconsistent with its articles of
24 incorporation or with the laws of this state, for managing the business
25 and regulating the affairs of the corporation;

26 (4) To purchase, receive, lease, or otherwise acquire and own, hold,
27 improve, use, and otherwise deal with real or personal property or any
28 legal or equitable interest in property, wherever located;

29 (5) To sell, convey, mortgage, pledge, lease, exchange, and
30 otherwise dispose of all or any part of its property. A corporation may
31 transfer any interest in real estate by instrument, with or without a

1 corporate seal, signed by the president, a vice president, or the
2 presiding officer of the board of directors of the corporation. Such
3 instrument, when acknowledged by such officer to be an act of the
4 corporation, is presumed to be valid and may be recorded in the proper
5 office of the county in which the real estate is located in the same
6 manner as other such instruments;

7 (6) To purchase, receive, subscribe for, or otherwise acquire; own,
8 hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of;
9 and deal in and with shares or other interests in, or obligations of, any
10 other entity;

11 (7) To make contracts and guarantees, incur liabilities, borrow
12 money, issue its notes, bonds, and other obligations, which may be
13 convertible into or include the option to purchase other securities of
14 the corporation, and secure any of its obligations by mortgage or pledge
15 of any of its property, franchises, or income;

16 (8) To lend money, invest and reinvest its funds, and receive and
17 hold real and personal property as security for repayment;

18 (9) To be a promoter, partner, member, associate, or manager of any
19 limited liability company, partnership, joint venture, trust, or other
20 entity;

21 (10) To conduct its business, locate offices, and exercise the
22 powers granted by the Nebraska Model Business Corporation Act within or
23 without this state;

24 (11) To elect directors and appoint officers, employees, and agents
25 of the corporation, define their duties, fix their compensation, and lend
26 them money and credit;

27 (12) To pay pensions and establish pension plans, pension trusts,
28 profit-sharing plans, share bonus plans, share option plans, and benefit
29 or incentive plans for any or all of its current or former directors,
30 officers, employees, and agents;

31 (13) To make donations for the public welfare or for charitable,

1 scientific, or educational purposes;

2 (14) To transact any lawful business that will aid governmental
3 policy; and

4 (15) To make payments or donations, or do any other act, not
5 inconsistent with law, that furthers the business and affairs of the
6 corporation.

7 Sec. 5. Section 21-250, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 21-250 (MBCA 6.30) (a) The shareholders of a corporation do not have
10 a preemptive right to acquire the corporation's unissued shares except to
11 the extent the articles of incorporation so provide. The shareholders of
12 a corporation organized prior to January 1, 1996, shall continue to have
13 a preemptive right to acquire the corporation's unissued shares in the
14 manner provided in this section if the articles of incorporation of the
15 corporation did not on or after January 1, 1996, expressly eliminate such
16 preemptive rights to its shareholders.

17 (b) A statement included in the articles of incorporation that the
18 corporation elects to have preemptive rights, or words of similar import,
19 means that the following principles apply except to the extent the
20 articles of incorporation expressly provide otherwise:

21 (1) The shareholders of the corporation have a preemptive right,
22 granted on uniform terms and conditions prescribed by the board of
23 directors to provide a fair and reasonable opportunity to exercise the
24 right, to acquire proportional amounts of the corporation's unissued
25 shares upon the decision of the board of directors to issue them;

26 (2) A shareholder may waive his or her preemptive right. A waiver
27 evidenced by a writing is irrevocable even though it is not supported by
28 consideration;

29 (3) There is no preemptive right with respect to:

30 (i) Shares issued as compensation to directors, officers, agents, or
31 employees of the corporation, its subsidiaries or affiliates;

1 (ii) Shares issued to satisfy conversion or option rights created to
2 provide compensation to directors, officers, agents, or employees of the
3 corporation, its subsidiaries or affiliates;

4 (iii) Shares authorized in articles of incorporation that are issued
5 within six months from the effective date of incorporation; and

6 (iv) Shares sold otherwise than for money;

7 (4) Holders of shares of any class without general voting rights but
8 with preferential rights to distributions or assets have no preemptive
9 rights with respect to shares of any class;

10 (5) Holders of shares of any class with general voting rights but
11 without preferential rights to distributions or assets have no preemptive
12 rights with respect to shares of any class with preferential rights to
13 distributions or assets unless the shares with preferential rights are
14 convertible into or carry a right to subscribe for or acquire shares
15 without preferential rights; and

16 (6) Shares subject to preemptive rights that are not acquired by
17 shareholders may be issued to any person for a period of one year after
18 being offered to shareholders at a consideration set by the board of
19 directors that is not lower than the consideration set for the exercise
20 of preemptive rights. An offer at a lower consideration or after the
21 expiration of one year is subject to the shareholders' preemptive rights.

22 (c) For purposes of this section, shares includes a security
23 convertible into or carrying a right to subscribe for or acquire shares.

24 Sec. 6. Section 21-253, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 21-253 (MBCA 7.01) (a) Unless directors are elected by written
27 consent in lieu of an annual meeting as permitted by section 21-256, a
28 corporation shall hold a meeting of shareholders annually at a time
29 stated in or fixed in accordance with the bylaws, ~~except that directors~~
30 ~~may not be elected by less than unanimous consent.~~

31 (b) Annual shareholders' meetings may be held in or out of this

1 state at the place stated in or fixed in accordance with the bylaws. If
2 no place is stated in or fixed in accordance with the bylaws, annual
3 meetings shall be held at the corporation's principal office.

4 (c) The failure to hold an annual meeting at the time stated in or
5 fixed in accordance with a corporation's bylaws does not affect the
6 validity of any corporate action.

7 (d) Notwithstanding the provisions of this section, a corporation
8 registered as an investment company under the federal Investment Company
9 Act of 1940, as amended, 15 U.S.C. 80a-1 et seq., which, pursuant to
10 section 21-220, has included in its articles of incorporation a provision
11 limiting or eliminating the requirement to hold an annual meeting of the
12 shareholders, is not required to hold an annual meeting of the
13 shareholders except as provided in such articles of incorporation or as
14 otherwise required by such act and the rules and regulations adopted and
15 promulgated under such act.

16 Sec. 7. Section 21-256, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 21-256 (MBCA 7.04) (a) Action required or permitted by the Nebraska
19 Model Business Corporation Act to be taken at a shareholders' meeting may
20 be taken without a meeting if the action is taken by all the shareholders
21 entitled to vote on the action. The action must be evidenced by one or
22 more written consents bearing the date of signature and describing the
23 action taken, signed by all the shareholders entitled to vote on the
24 action and delivered to the corporation for inclusion in the minutes or
25 filing with the corporation records.

26 (b) The articles of incorporation may provide that any action
27 required or permitted by the Nebraska Model Business Corporation Act to
28 be taken at a shareholders' meeting may be taken without a meeting, and
29 without prior notice, if consents in writing setting forth the action so
30 taken are signed by the holders of outstanding shares having not less
31 than the minimum number of votes that would be required to authorize or

1 take the action at a meeting at which all shares entitled to vote on the
2 action were present and voted; provided that the use of written consent
3 to elect directors must be unanimous. The written consent shall bear the
4 date of signature of the shareholder who signs the consent and be
5 delivered to the corporation for inclusion in the minutes or filing with
6 the corporation records.

7 (c) If not otherwise fixed under section 21-259 and if prior board
8 action is not required respecting the action to be taken without a
9 meeting, the record date for determining the shareholders entitled to
10 take action without a meeting shall be the first date on which a signed
11 written consent is delivered to the corporation. If not otherwise fixed
12 under section 21-259 and if prior board action is required respecting the
13 action to be taken without a meeting, the record date shall be the close
14 of business on the day the resolution of the board taking such prior
15 action is adopted. No written consent shall be effective to take the
16 corporate action referred to therein unless, within sixty days of the
17 earliest date on which a consent delivered to the corporation as required
18 by this section was signed, written consents signed by sufficient
19 shareholders to take the action have been delivered to the corporation. A
20 written consent may be revoked by a writing to that effect delivered to
21 the corporation before unrevoked written consents sufficient in number to
22 take the corporate action are delivered to the corporation.

23 (d) A consent signed pursuant to the provisions of this section has
24 the effect of a vote taken at a meeting and may be described as such in
25 any document. Unless the articles of incorporation, bylaws, or a
26 resolution of the board of directors provides for a reasonable delay to
27 permit tabulation of written consents, the action taken by written
28 consent shall be effective when written consents signed by sufficient
29 shareholders to take the action are delivered to the corporation.

30 (e) If the Nebraska Model Business Corporation Act requires that
31 notice of a proposed action be given to nonvoting shareholders and the

1 action is to be taken by written consent of the voting shareholders, the
2 corporation must give its nonvoting shareholders written notice of the
3 action not more than ten days after (1) written consents sufficient to
4 take the action have been delivered to the corporation or (2) such later
5 date that tabulation of consents is completed pursuant to an
6 authorization under subsection (d) of this section. The notice must
7 reasonably describe the action taken and contain or be accompanied by the
8 same material that, under any provision of the act, would have been
9 required to be sent to nonvoting shareholders in a notice of a meeting at
10 which the proposed action would have been submitted to the shareholders
11 for action.

12 (f) If action is taken by less than unanimous written consent of the
13 voting shareholders, the corporation must give its nonconsenting voting
14 shareholders written notice of the action not more than ten days after
15 (1) written consents sufficient to take the action have been delivered to
16 the corporation or (2) such later date that tabulation of consents is
17 completed pursuant to an authorization under subsection (d) of this
18 section. The notice must reasonably describe the action taken and contain
19 or be accompanied by the same material that, under any provision of the
20 Nebraska Model Business Corporation Act, would have been required to be
21 sent to voting shareholders in a notice of a meeting at which the action
22 would have been submitted to the shareholders for action.

23 (g) The notice requirements in subsections (e) and (f) of this
24 section shall not delay the effectiveness of actions taken by written
25 consent, and a failure to comply with such notice requirements shall not
26 invalidate actions taken by written consent, except that this subsection
27 shall not be deemed to limit judicial power to fashion any appropriate
28 remedy in favor of a shareholder adversely affected by a failure to give
29 such notice within the required time period.

30 Sec. 8. Section 21-2,110, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 21-2,110 (MBCA 8.50) In sections 21-2,110 to 21-2,119:

2 (1) Corporation includes any domestic or foreign predecessor entity
3 of a corporation in a merger.

4 (2) Director or officer means an individual who is or was a director
5 or officer, respectively, of a corporation or who, while a director or
6 officer of the corporation, is or was serving at the corporation's
7 request as a director, officer, manager, member of a limited liability
8 company, partner, trustee, employee, or agent of another entity or
9 employee benefit plan. A director or officer is considered to be serving
10 an employee benefit plan at the corporation's request if the individual's
11 duties to the corporation also impose duties on, or otherwise involve
12 services by, the individual to the plan or to participants in or
13 beneficiaries of the plan. Director or officer includes, unless the
14 context requires otherwise, the estate or personal representative of a
15 director or officer.

16 (3) Liability means the obligation to pay a judgment, settlement,
17 penalty, fine, including an excise tax assessed with respect to an
18 employee benefit plan, or reasonable expenses incurred with respect to a
19 proceeding.

20 (4) Official capacity means (i) when used with respect to a
21 director, the office of director in a corporation and (ii) when used with
22 respect to an officer, as contemplated in section 21-2,116, the office in
23 a corporation held by the officer. Official capacity does not include
24 service for any other domestic or foreign corporation or any limited
25 liability company, partnership, joint venture, trust, employee benefit
26 plan, or other entity.

27 (5) Party means an individual who was, is, or is threatened to be
28 made, a defendant or respondent in a proceeding.

29 (6) Proceeding means any threatened, pending, or completed action,
30 suit, or proceeding, whether civil, criminal, administrative,
31 arbitratve, or investigative and whether formal or informal.

1 Sec. 9. Section 21-2,117, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 21-2,117 (MBCA 8.57) A corporation may purchase and maintain
4 insurance on behalf of an individual who is a director or officer of the
5 corporation, or who, while a director or officer of the corporation,
6 serves at the corporation's request as a director, officer, member,
7 partner, trustee, employee, or agent of another domestic or foreign
8 corporation, limited liability company, partnership, joint venture,
9 trust, employee benefit plan, or other entity, against liability asserted
10 against or incurred by the individual in that capacity or arising from
11 his or her status as a director or officer, whether or not the
12 corporation would have power to indemnify or advance expenses to the
13 individual against the same liability under sections 21-2,110 to
14 21-2,119.

15 Sec. 10. Section 21-2,172, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 21-2,172 (MBCA 13.02) (a) A shareholder is entitled to appraisal
18 rights and to obtain payment of the fair value of that shareholder's
19 shares in the event of any of the following corporate actions:

20 (1) Consummation of a merger to which the corporation is a party (i)
21 if shareholder approval is required for the merger by section 21-2,164,
22 except that appraisal rights shall not be available to any shareholder of
23 the corporation with respect to shares of any class or series that remain
24 outstanding after consummation of the merger or (ii) if the corporation
25 is a subsidiary and the merger is governed by section 21-2,165;

26 (2) Consummation of a share exchange to which the corporation is a
27 party as the corporation whose shares will be acquired, except that
28 appraisal rights shall not be available to any shareholder of the
29 corporation with respect to any class or series of shares of the
30 corporation that is not exchanged;

31 (3) Consummation of a disposition of assets pursuant to section

1 21-2,170 if the shareholder is entitled to vote on the disposition,
2 except that appraisal rights shall not be available to any shareholder of
3 the corporation with respect to shares of any class or series if (i)
4 under the terms of the corporate action approved by the shareholders
5 there is to be distributed to shareholders in cash its net assets, in
6 excess of a reasonable amount reserved to meet claims of the type
7 described in sections 21-2,189 and 21-2,190, (A) within one year after
8 the shareholders' approval of the action and (B) in accordance with their
9 respective interests determined at the time of distribution and (ii) the
10 disposition of assets is not an interested transaction;

11 (4) An amendment of the articles of incorporation with respect to a
12 class or series of shares that reduces the number of shares of a class or
13 series owned by the shareholder to a fraction of a share if the
14 corporation has the obligation or right to repurchase the fractional
15 share so created;

16 (5) Any other amendment to the articles of incorporation, merger,
17 share exchange, or disposition of assets to the extent provided by the
18 articles of incorporation, bylaws, or a resolution of the board of
19 directors;

20 (6) Consummation of a domestication if the shareholder does not
21 receive shares in the foreign corporation resulting from the
22 domestication that have terms as favorable to the shareholder in all
23 material respects and represent at least the same percentage interest of
24 the total voting rights of the outstanding shares of the corporation as
25 the shares held by the shareholder before the domestication;

26 (7) Consummation of a conversion of the corporation to nonprofit
27 status pursuant to sections 21-2,133 to 21-2,138; or

28 (8) Consummation of a conversion of the corporation to an
29 unincorporated entity pursuant to sections 21-2,143 to 21-2,149.

30 (b) Notwithstanding subsection (a) of this section, the availability
31 of appraisal rights under subdivisions (a)(1), (2), (3), (4), (6), and

1 (8) of this section shall be limited in accordance with the following
2 provisions:

3 (1) Appraisal rights shall not be available for the holders of
4 shares of any class or series of shares which is:

5 (i) A covered security under section 18(b)(1)(A) or (B) of the
6 federal Securities Act of 1933, as amended, 15 U.S.C. 77r(b)(1)(A) or
7 (B);

8 (ii) Traded in an organized market and has at least two thousand
9 shareholders and a market value of at least twenty million dollars,
10 exclusive of the value of such shares held by the corporation's
11 subsidiaries, senior executives, directors, and beneficial shareholders
12 owning more than ten percent of such shares; or

13 (iii) Issued by an open-end management investment company registered
14 with the Securities and Exchange Commission under the federal Investment
15 Company Act of 1940, as amended, 15 U.S.C. 80a-1 et seq., and may be
16 redeemed at the option of the holder at net asset value;

17 (2) The applicability of subdivision (b)(1) of this section shall be
18 determined as of:

19 (i) The record date fixed to determine the shareholders entitled to
20 receive notice of the meeting of shareholders to act upon the corporate
21 action requiring appraisal rights; or

22 (ii) The day before the effective date of such corporate action if
23 there is no meeting of shareholders;

24 (3) Subdivision (b)(1) of this section shall not be applicable and
25 appraisal rights shall be available pursuant to subsection (a) of this
26 section for the holders of any class or series of shares (i) who are
27 required by the terms of the corporate action requiring appraisal rights
28 to accept for such shares anything other than cash or shares of any class
29 or any series of shares of any corporation or any other proprietary
30 interest of any other entity that satisfies the standards set forth in
31 subdivision (b)(1) of this section at the time the corporate action

1 becomes effective or (ii) in the case of the consummation of a
2 disposition of assets pursuant to section 21-2,170, unless such cash,
3 shares, or proprietary interests are, under the terms of the corporate
4 action approved by the shareholders as part of a distribution to
5 shareholders of the net assets of the corporation in excess of a
6 reasonable amount to meet claims of the type described in sections
7 21-2,189 and 21-2,190, (A) within one year after the shareholders'
8 approval of the action and (B) in accordance with their respective
9 interests determined at the time of the distribution; and

10 (4) Subdivision (b)(1) of this section shall not be applicable and
11 appraisal rights shall be available pursuant to subsection (a) of this
12 section for the holders of any class or series of shares where the
13 corporate action is an interested transaction.

14 (c) Notwithstanding any other provision of this section, the
15 articles of incorporation as originally filed or any amendment thereto
16 may limit or eliminate appraisal rights for any class or series of
17 preferred shares, except that (1) no such limitation or elimination shall
18 be effective if the class or series does not have the right to vote
19 separately as a voting group, alone or as part of a group, on the action
20 or if the action is a nonprofit conversion under sections 21-2,133 to
21 21-2,138, or a conversion to an unincorporated entity under sections
22 21-2,143 to 21-2,149, or a merger having a similar effect and (2) any
23 such limitation or elimination contained in an amendment to the articles
24 of incorporation that limits or eliminates appraisal rights for any of
25 such shares that are outstanding immediately prior to the effective date
26 of such amendment or that the corporation is or may be required to issue
27 or sell thereafter pursuant to any conversion, exchange, or other right
28 existing immediately before the effective date of such amendment shall
29 not apply to any corporate action that becomes effective within one year
30 after that date if such action would otherwise afford appraisal rights.

31 (d) The right to dissent and obtain payment under sections 20-2,171

1 to 20-2,183 shall not apply to shareholders of a bank, trust company,
2 stock-owned savings and loan association, or the holding company of any
3 such bank, trust company, or stock-owned savings and loan association.

4 Sec. 11. In lieu of compliance with section 21-2,203, relating to
5 the authorization of foreign corporations to transact business in this
6 state, any corporation organized under the laws of any other state or
7 states which has heretofore filed, or which may hereafter file, with the
8 Secretary of State of this state a copy, certified by the Secretary of
9 State or other proper officer of the state or country under the laws of
10 which such foreign corporation is formed, of its charter or articles of
11 association or incorporation, together with all amendments to such date,
12 the street address of its registered office in this state and the name
13 and street address and, if one exists, a post office box number, of its
14 current registered agent at that office, on filing with the Secretary of
15 State a certified copy of a resolution adopted by its board of directors,
16 including the date the resolution was adopted, accepting and agreeing to
17 be bound by the provisions of the Nebraska Model Business Corporation Act
18 with respect to its property and business operations within this state
19 shall become and be a body corporate of this state as a foreign
20 domesticated corporation. If the stock is no par, a resolution of the
21 corporation, signed by an officer of the corporation, shall state the
22 book value of the no par stock, which in no event shall be less than one
23 dollar per share.

24 Sec. 12. Any foreign corporation which has domesticated pursuant to
25 section 11 of this act may cease to be a foreign domesticated corporation
26 by filing with the Secretary of State a certified copy of a resolution
27 adopted by its board of directors renouncing its domestication and
28 withdrawing its acceptance and agreement provided for in section 11 of
29 this act.

30 Sec. 13. If a foreign corporation which has domesticated pursuant
31 to section 11 of this act surrenders its foreign corporate charter, and

1 files, records, and publishes notice of amended articles of incorporation
2 in the manner, time, and places required by sections 21-219, 21-220, and
3 21-2,229, such foreign domesticated corporation shall thereupon become
4 and be a domestic corporation organized under the Nebraska Model Business
5 Corporation Act.

6 Sec. 14. Any corporation organized under the laws of any other
7 state which had become, prior to January 1, 2017, a body corporate of
8 this state as a foreign domesticated corporation, shall retain such
9 status for all purposes.

10 Sec. 15. Section 21-303, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

12 21-303 (1) Upon the delivery of the biennial report required under
13 section 21-301 to the Secretary of State, it shall be the duty of every
14 ~~domestic~~ corporation for profit, registered in the office of the
15 Secretary of State on January 1, whether incorporated under the laws of
16 this state or incorporated under the laws of any other state when such
17 corporations have domesticated in this state pursuant to section 11 of
18 this act, to pay to the Secretary of State an occupation tax in each
19 even-numbered calendar year beginning January 1, which occupation tax
20 shall be due and assessable on such date and delinquent if not paid on or
21 before April 15 of each even-numbered year.

22 (2) The occupation tax shall be as follows: When the paid-up capital
23 stock of a corporation does not exceed ten thousand dollars, an
24 occupation tax of twenty-six dollars; when such paid-up capital stock
25 exceeds ten thousand dollars but does not exceed twenty thousand dollars,
26 an occupation tax of forty dollars; when such paid-up capital stock
27 exceeds twenty thousand dollars but does not exceed thirty thousand
28 dollars, an occupation tax of sixty dollars; when such paid-up capital
29 stock exceeds thirty thousand dollars but does not exceed forty thousand
30 dollars, an occupation tax of eighty dollars; when such paid-up capital
31 stock exceeds forty thousand dollars but does not exceed fifty thousand

1 dollars, an occupation tax of one hundred dollars; when such paid-up
2 capital stock exceeds fifty thousand dollars but does not exceed sixty
3 thousand dollars, an occupation tax of one hundred twenty dollars; when
4 such paid-up capital stock exceeds sixty thousand dollars but does not
5 exceed seventy thousand dollars, an occupation tax of one hundred forty
6 dollars; when such paid-up capital stock exceeds seventy thousand dollars
7 but does not exceed eighty thousand dollars, an occupation tax of one
8 hundred sixty dollars; when such paid-up capital stock exceeds eighty
9 thousand dollars but does not exceed ninety thousand dollars, an
10 occupation tax of one hundred eighty dollars; when such paid-up capital
11 stock exceeds ninety thousand dollars but does not exceed one hundred
12 thousand dollars, an occupation tax of two hundred dollars; when such
13 paid-up capital stock exceeds one hundred thousand dollars but does not
14 exceed one hundred twenty-five thousand dollars, an occupation tax of two
15 hundred forty dollars; when such paid-up capital stock exceeds one
16 hundred twenty-five thousand dollars but does not exceed one hundred
17 fifty thousand dollars, an occupation tax of two hundred eighty dollars;
18 when such paid-up capital stock exceeds one hundred fifty thousand
19 dollars but does not exceed one hundred seventy-five thousand dollars, an
20 occupation tax of three hundred twenty dollars; when such paid-up capital
21 stock exceeds one hundred seventy-five thousand dollars but does not
22 exceed two hundred thousand dollars, an occupation tax of three hundred
23 sixty dollars; when such paid-up capital stock exceeds two hundred
24 thousand dollars but does not exceed two hundred twenty-five thousand
25 dollars, an occupation tax of four hundred dollars; when such paid-up
26 capital stock exceeds two hundred twenty-five thousand dollars but does
27 not exceed two hundred fifty thousand dollars, an occupation tax of four
28 hundred forty dollars; when such paid-up capital stock exceeds two
29 hundred fifty thousand dollars but does not exceed two hundred seventy-
30 five thousand dollars, an occupation tax of four hundred eighty dollars;
31 when such paid-up capital stock exceeds two hundred seventy-five thousand

1 dollars but does not exceed three hundred thousand dollars, an occupation
2 tax of five hundred twenty dollars; when such paid-up capital stock
3 exceeds three hundred thousand dollars but does not exceed three hundred
4 twenty-five thousand dollars, an occupation tax of five hundred sixty
5 dollars; when such paid-up capital stock exceeds three hundred twenty-
6 five thousand dollars but does not exceed three hundred fifty thousand
7 dollars, an occupation tax of six hundred dollars; when such paid-up
8 capital stock exceeds three hundred fifty thousand dollars but does not
9 exceed four hundred thousand dollars, an occupation tax of six hundred
10 sixty-six dollars; when such paid-up capital stock exceeds four hundred
11 thousand dollars but does not exceed four hundred fifty thousand dollars,
12 an occupation tax of seven hundred thirty dollars; when such paid-up
13 capital stock exceeds four hundred fifty thousand dollars but does not
14 exceed five hundred thousand dollars, an occupation tax of eight hundred
15 dollars; when such paid-up capital stock exceeds five hundred thousand
16 dollars but does not exceed six hundred thousand dollars, an occupation
17 tax of nine hundred ten dollars; when such paid-up capital stock exceeds
18 six hundred thousand dollars but does not exceed seven hundred thousand
19 dollars, an occupation tax of one thousand ten dollars; when such paid-up
20 capital stock exceeds seven hundred thousand dollars but does not exceed
21 eight hundred thousand dollars, an occupation tax of one thousand one
22 hundred twenty dollars; when such paid-up capital stock exceeds eight
23 hundred thousand dollars but does not exceed nine hundred thousand
24 dollars, an occupation tax of one thousand two hundred thirty dollars;
25 when such paid-up capital stock exceeds nine hundred thousand dollars but
26 does not exceed one million dollars, an occupation tax of one thousand
27 three hundred thirty dollars; when such paid-up capital stock exceeds one
28 million dollars but does not exceed ten million dollars, an occupation
29 tax of one thousand three hundred thirty dollars, and eight hundred
30 dollars additional for each million or fraction thereof over and above
31 one million dollars; when such paid-up capital stock exceeds ten million

1 dollars but does not exceed fifteen million dollars, an occupation tax of
2 twelve thousand dollars; when such paid-up capital stock exceeds fifteen
3 million dollars but does not exceed twenty million dollars, an occupation
4 tax of fourteen thousand six hundred sixty dollars; when such paid-up
5 capital stock exceeds twenty million dollars but does not exceed twenty-
6 five million dollars, an occupation tax of seventeen thousand three
7 hundred thirty dollars; when such paid-up capital stock exceeds twenty-
8 five million dollars but does not exceed fifty million dollars, an
9 occupation tax of twenty thousand six hundred sixty dollars; when such
10 paid-up capital stock exceeds fifty million dollars but does not exceed
11 one hundred million dollars, an occupation tax of twenty-one thousand
12 three hundred thirty dollars; and when such paid-up capital stock exceeds
13 one hundred million dollars, an occupation tax of twenty-three thousand
14 nine hundred ninety dollars. The minimum occupation tax for filing such
15 report shall be twenty-six dollars. For purposes of determining the
16 occupation tax, the stock of corporations incorporated under the laws of
17 any other state, which corporations have domesticated in this state
18 pursuant to section 11 of this act and which stock is without par value,
19 shall be deemed to have a par value of an amount equal to the amount paid
20 in as capital for such shares at the time of the issuance thereof.

21 Sec. 16. This act becomes operative on January 1, 2017.

22 Sec. 17. Original sections 21-201, 21-214, 21-216, 21-227, 21-250,
23 21-253, 21-256, 21-2,110, 21-2,117, 21-2,172, and 21-303, Revised
24 Statutes Cumulative Supplement, 2014, are repealed.