1	HOUSE BILL NO. 27
2	INTRODUCED BY KVAALEN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5	REVISION AND CLARIFICATION OF LAWS RELATING TO CORPORATIONS,
6	PARTMERSHIPS, AND ASSOCIATIONS: AMENDING SECTIONS 9-107,
7	9-119, 9-804, 9-1003, 9-1004, 9-1006, 9-1013, 14-312,
8	15-2105, 15-2212, 15-2274, 15-2352, 15-2504, 63-504, 63-702,
9	63-803, 63-901, AND 63-905; AND REPEALING SECTIONS 14-221,
10	14-222, 93-4336, AND 93-5811, R.C.E. 1947."
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12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF BONTAWA:
13	Section 1. Section 9-107, R.C.M. 1947, is amended to
14	read as follows:
15	*9-107. Powers and duties of trustees — officers. The
16	affairs and property of $\frac{the}{t}$ association shall be
17	managed by the trustees, a majority of whom chall form forms
18	a board quorum for the transaction of business. The trustees
19	shall annually appoint from among their number a president,
20	vice-president, secretary, and treasurer, who shall hold
21	their offices during the pleasure of the board of trustees $oldsymbol{+}_{\boldsymbol{z}}$
22	and the $\underline{\text{The}}$ trustees may require the treasurer to give
23	security for the faithful performance of the duties of his
24	office.**
25	Section 2. Section 9-119, R.C.B. 1947, is amended to

*9-119. Transfer of lots. (1) Whenever the lands of 2 3 any such an association are laid out in lots, and such the lots or any of them are transferred to individual proprietors, and after there has been an interment in any a lot so transferred, such that lot from the time of such 7 interment shall forever thoroafter be inalienable, and shall, upon the death of the proprietor, descend to the his heirs of such proprietor, forever, but However, any one or 9 10 more of sach those heirs may release to any other of the said heirs his or their interest in the same loty, a h copy 11 12 of such the release shall be filed with the secretary of 13 said the association, or with the county clerk and recorder 14 of the county within which said the lot shall be is 15 situated. The Except by consent of all persons having an 16 interest in the lot, the body of any a deceased person shall 17 may not be interred in such that lot unless it is the body 18 of: 19 (a) a person having, an interest in that lot at the

read as follows:

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- 20 time of such his deceaser:
- 21 (b) an interest in such lot, or of a relative of some 22 person having such interest;
- 23 (c) or the wife or husband of such a person; or
- 24 (d) the husband of such person, or the a relative of such husband or wife, except by consent of all persons

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having an interest in such loty

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- 2 (2) provided, that However, the person or persons who in whom chall be invested with the title to any such lot or 3 lots, or part thereof, is vested may, at any time, sell, convey, and release any such the lots or parts thereof to the cemetery association maintaining the cemetery in which such the lots are situate situated, a h copy of the 7 instruments of such conveyance to shall be filed as above in 9 the same manner provided in case of releases for release 10 from one heir to another. And such The cemetery association 11 shall have power to may use any funds under its control for 12 such purposes, and shall hold and shall have power to may 13 convey any such lots or parts thereof to other purchases, purchasers in the same manner and with the same effect as it 14 15 holds and can-center conveys any other of its cemetery lots. But this This provise shall does not allow or authorize the 16 conveyance by persons invested with the title thereto, to 17 18 such the cemetery association, of any a piece of ground in which the body of any a deceased person theretofore there 19 lawfully interred shall actually remains interred at 20 21 the time of such the attempted conveyance."
- 22 Section 3. Section 9-804, R.C.M. 1947, is amended to read as follows:
- 24 "9-804. Amended map or plat. Any part of or 25 subdivision of the property so mapped and plotted may, by

- order of the directors, be resurveyed and altered in shape
 and size and an amended map or plat filed, so long as such
 the change does not disturb the interred remains of any
 deceased person."
- 5 Section 4. Section 9-1003, R.C.M. 1947, is amended to 6 read as follows:
- 7 **9-1003. Attachment of remains misdemeanor. **Every A **
 8 person who arrests, attaches, detains, or claims to detain
 9 any human remains for any debt or demand, or upon any
 10 pretended liem or charge, is guilty of a **High** misdemeanor.**
 11 Section 5. Section 9-1004, R.C.H. 1947, is amended to
 - Section 5. Section 9-1004, R.C.M. 1947, is amended to read as follows:
- 13 *9-100*. Destruction or mutilation of mausoleum or
 14 columbatium interference with interment misdemeanor.
 15 (1) **Svery A** person is guilty of **a high misdemeanor criminal
 16 mischief and is punishable as provided in 94-6-102 who
 17 unlawfully or without right willfully knowingly does any of
 18 the following:
 - (a) Destroys destroys, cuts, mutilates, effaces, or otherwise injures, tears down, or removes any a crypt, niche, monument, memorial, or marker in a mausoleum or columbarium, or any a gate, door, fence, wall, post, or railing, or any an inclosure for the protection of a crypt or niche or any other property in a mausoleum or columbarium.

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- 1 (b) Destroys destroys, cuts, breaks, removes, or
 2 injures any a building, statuary, ornamentation, tree,
 3 shrub, flower, or plant within a mausoleum or columbarium or
 4 within the limits of any grounds within which such a
 5 mausoleum or columbarium is located.
- 6 (c) (2) Disturbs A person is quilty of a misdemeanor
 7 who without right knowingly disturbs, obstructs, detains, or
 8 interferes with any a person carrying or accompanying human
 9 remains to a mausoleum, or columbatium, or funeral
 10 establishment, or a person who is engaged in a funeral
 11 service, or an interment."
- 12 Section 6. Section 9-1006, R.C.H. 1947, is amended to 13 read as follows:

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- *9-1006. Exceptions free violation of preceding sections. (1) The provisions of costion 9-1004 do not apply to the removal or unavoidable breakage or injury, by a mausoleum-columbarium authority, of anything placed in or upon any portion of its mausoleum or columbarium, or the grounds within which the same are situated, in violation of any of the rules or regulations of the mausoleum-columbarium authority.
- (2) nor The provisions of 9-1004 do not apply to the removal or of anything placed in said a mansoleum or columbarium or the grounds within which the same are it is situated, by or with the consent of the

- mansoleum-columbarium authority, which has become in a wrecked, unsightly, or dilapidated condition.
- 3 Section 7. Section 9-1013, R.C.B. 1947, is amended to 4 read as follows:
- 5 "9-1013. Construction in violation of act a public nuisance -- penalty. Svery An owner or operator of a 7 mausoleum or columbarium erected in violation of this act is Я quilty of maintaining a public nuisance and upon conviction is punishable by a fine of not less than five handred 10 dellars (\$500,00) nor or more than five thousand dellars 11 (\$5,000,00) or in the case of a corporation, or as provided 12 in 94-8-107 is the case of an individual, by imprisonment in 13 a sounty fail for not loss than one (1) south nor nore than 14 six (6) souths, or by both; and, in In addition, the owner 15 or operator is liable for all costs, expenses, and 16 disbursements paid or incurred in prosecuting the case. The 17 costs, expenses, and disbursements shall be fixed by the court having jurisdiction of the case."
- 21 "14-312. Bylaws, recording and amending. (1) The
 22 bylaws and all amendments and additions thereto shall be
 23 recorded, and may be amended as provided in section 15-303

Section 8. Section 14-312, R.C.M. 1947, is amended to

24 of this code.

read as follows:

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25 (2) The bylaws may be repealed or amended or new

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bylaws may be adopted at the annual meeting, or at any other 1 meeting of the members called for that purpose by the 2 3 directors, by a vote representing two-thirds of the stock or other evidences of membership or by two-thirds of the 5 members. The written assent of the holders of two-thirds of 6 the stock or other evidences of membership or of two-thirds 7 of the members is effective to repeal or amend a bylaw or to 8 adopt additional bylaws. The power to repeal and amend the bylaws and to adopt new bylaws may, by a similar vote at any 9 10 such meeting or by similar written assent, be delegated to 11 the board of directors or trustees, That power, when 12 delegated, may be revoked by a similar vote at any such 13 meeting of the members." 14 Section 9. Section 15-2105, R.C.H. 1947, is amended to 15 read as follows: 16 "15-2105. Purpose-for-which-incorporated Permissible 17 purposes for incorporation. An individual or group of 18 individuals duly licensed or otherwise legally authorized to 19 render the same professional services within this state may organize and become a shareholder or shareholders of a 20 21 professional corporation for pecuniary profit under the

to read as follows:

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- agent. (1) a corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:
 - (a) The the name of the corporation-;
 - (b) The the address of its then registered officer;
- 8 (c) If if the address of its registered office be is
 9 changed, the address to which the registered office is to be
 10 changed-:
 - (d) The the name of its then registered agent-:
- 12 (e) If its registered agent be is changed, the name
 13 of its successor registered agent;
- 14 (f) That that the address of its registered office and
 15 the address of the business office of its registered agent,
 16 as changed, will be identical.
- 17 (g) That that such change was authorized by resolution
 18 duly adopted by its board of directors.
 - (2) Such statement shall be executed for the corporation by any officer thereof, verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed, file such statement in his officer, and upon Upon filing, the change of address of the registered

provisions of the Corporation Act of Soutant Title 15,

chapter 22, for the sole and specific purpose of rendering

Section 10. Section 15-2212, R.C.M. 1947, is amended

the same and specific professional service."

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office, or the appointment of a new registered agent, or both, as the case may be, shall become is effective.

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(3) Any A registered agent of a corporation may resign as such registered agent upon filing a written notice thereof of resignation, executed in duplicate, with the secretary of state, who shall forthwith immediately mail a copy thereof to the corporation at its registered office. The appointment of such the agent shall terminate upon the expiration of thirty 30 days after receipt of such notice by the secretary of state.

[4] If a registered agent changes his or its business address to another place within the same country [county], he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to [1](e) or [1](g) and must recite that a copy of the statement has been mailed to each such corporation."

Section 11. Section 15-2274, B.C.H. 1947, is amended to read as follows:

*15-2274. Rights of dissenting shareholders. (1) has he shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such the proposed corporate action is

submitted to a vote, a written objection to such the proposed corporate action. If such the proposed corporate 3 action be is approved by the required vote and such shareholder shall does not have voted vote in favor thereof, 4 such shareholder he may, within ten-(10) days after the date on which the vote was taken, or if a corporation is to be serged without a vote of its shareholders is to exether 7 corporation, any of its shareholders say, in the case of a merger without shareholder vote within fifteen (15) days 10 after the plan of such merger shall have been is mailed to 11 each -- shareholdere him, make written demand on the corporation, or, in the case of a merger or consolidation, 12 13 on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's his shares, and, if such If the proposed corporate action is 15 effected, such the corporation shall pay to such the 16 shareholder, upon surrender of the certificate or certificates representing such his shares, the fair value 18 thereof as of the day prior to the date on which the wote 19 was taken approving the proposed corporate action, excluding 20 any appreciation or depreciation in anticipation of such 21 22 corporate action. Asy & shareholder failing to make demand within the ten-day prescribed period shall be is bound by 23 the terms of the proposed corporate action. Amy A shareholder making such demand shall is thereafter be

- 1 entitled only to payment as <u>provided</u> in this section
 2 provided and shall is not be entitled to vote or to exercise
 3 any other rights of a shareholder.
- 4 (2) We such demand may be withdrawn unless the
 5 corporation shall sensest consents thereto. If, however, The
 6 right of a shareholder to be paid the fair value of his
 7 shares shall cease and his status as a shareholder shall be
 8 restored, without prejudice to any corporate proceedings
 9 which may have been taken during the interim, if:
- 10 <u>(a) such the shareholder's</u> demand <u>shall be is</u>
 11 withdrawn upon consent_r: es if
- 12 <u>(b)</u> the proposed corporate action shall be <u>is</u>
 13 abandoned or rescinded or the shareholders shall revoke the
 14 authority to effect such action; er if,

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- (c) in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or if
- 20 <u>(d)</u> no demand or petition for the determination of 21 fair value by a court shall—have been is made or filed 22 within the time provided in this section; or
- 23 <u>(e)</u> if a court of competent jurisdiction shall
 24 determines that such the shareholder is not
 25 entitled to the relief provided by this section, then the

- t right of such shareholder to be paid the fair value of his
 shares shall scare and his status as a chareholder shall be
 restored, without projudice to any corporate proceedings
 thick may have been taken during the interim.
- (3) Within ten-(10) days after such the corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein 10 provided, and shall make a written offer to each such 11 shareholder to pay for such his shares at a specified price 12 deexed considered by such the corporation to be the fair 13 value thereof. Such The notice and offer shall be accompanied by a balance sheet of the corporation, the 15 shares of which the dissenting shareholder holds, as of the 16 latest available date and not more than **elve {12} months prior to the making of such offer, and a profit and loss 18 statement of such that corporation for the twelve (12)months: 12-month period ended ending on the date of such 20 balance sheet.
 - (4) If within thirty (30) days after the date on which such the corporate action was effected, the fair value of such shares is agreed upon between the dissenting shareholder and the corporation, payment therefor shall be made within minety (90) days after the date on which such

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the corporate action was effected, upon surrender of the certificate or certificates representing such the shares. Upon payment of the agreed value, the dissenting shareholder shall coase ceases to have any interest in such the shares. [5] If within such 30-day period of-thirty (30)-days a dissenting shareholder and the corporation do not so agree. then the dissenting shareholder may, within 60 days after the date on which the corporate action was effected, make gritten demand on the corporation for the filing of a petition, in the district court for the county in this state where the corporation's registered office is located, to have the fair value of his shares determined. The corporation must file the petition within 30 days after receipt of the written demand or at its election may file the petition at any time within 60 days after the date on which the corporate action was effected, serporation, within thirty (30) days after-receipt of written demand-from any disserting-shareholder-gives within sixty (60) days after the date or which such corporate action was effected, shall, or at its clockion at any time within such posied of sixty (60) days may, file a petition is the district court in the

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foreign corporation without a registered office in this 2 state, such the petition shall be filed in the county where the registered office of the domestic corporation was last 3 located. If the corporation shall fail fails to institute 5 the proceeding as berein provided file the petition, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding fas an faction 9 *gainst on their shares quasi in rem. Each dissenting shareholder shall be served personally or by publication as 10 provided by the Bontana Rules of Civil Procedure. The 12 jurisdiction of the court chall-be is plenary and exclusive. 13 All shareholders who are parties to the proceeding shall be 14 are entitled to judgment against the corporation for the 15 amount of the fair value of their shares.

16 (6) The court may, if it so elects, appoint one (1) or 17 more persons as appraiser appraisers to receive evidence and 18 recommend a decision on the question of fair value. The 19 appraisers shall have such power and authority as shall-be is specified in the order of their appointment or in an 20 21 amendment thereof. The judgment shall be is payable only 22 upon and concurrently with the surrender to the corporation of the certificate or certificates representing such the 23 24 shares. Upon payment of the judgment, the dissenting 25 shareholder shall sease <u>cea</u>ses to have any interest in sash

county in this ctate where the registered office of the

corporation is located praying that the fair value of such

shares be found and determined. If, in the case of a merger

or consolidation, the surviving or new corporation is a

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24 25 (7) The judgment shall include an allowance for interest, at such rate as the court may find to be fair and equitable in under all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

(8) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such the costs and expenses may be apportioned and assessed as the court say deem considers equitable against any or all of the dissenting shareholders who are parties to the proceeding and to whom the corporation shall have made an offer to pay for the shares, if the court shall finds that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such The expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but chall exclude do not include the fees and expenses of counsel for and experts employed by any party+, but However, if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine determines to be reasonable compensation

to any expert or experts employed by the shareholder in the proceeding.

3 (9) Within twenty 420 days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise directs. 10 11 If shares represented by a certificate on which notation has been so made shall be are transferred, each new certificate issued therefor shall bear similar notation, together with 13 14 the name of the original dissenting holder of such the shares, and a h transferee of such shares shall acquire 15 acquires by such the transfer no rights in the corporation 16 17 other than those which the original dissenting shareholder had after making demand for payment of the fair value 19 thereof.

(10) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such the corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as

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the plan of merger or consolidation may otherwise provides. The provides. The provides of the plan of merger or consolidation may otherwise provides. The plan of merger or consolidation may otherwise provides. The plan of merger or consolidation may otherwise provides.

- 3 Section 12. Section 15-2352, R.C.E. 1947, is amended to read as follows:
- 5 "15-2352. Notification to attorney general. (1) The 6 secretary of state, on or before the last day of December 31 of each year, shall certify to the attorney general the names of all corporations which have failed to file their 9 annual reports in accordance with the provisions of this 10 act. He shall also certify, from time to time, the names of all corporations which have given other cause for 11 12 dissolution as provided in this act, together with the facts 13 pertinent thereto.
- 14 <u>(2)</u> Whenever the secretary of state shall cortify
 15 <u>certifies</u> the name of a corporation to the attorney general
 16 as having given any cause for dissolution, the secretary of
 17 state shall concurrently mail to the corporation at its
 18 registered office a notice that such the certification has
 19 been made.
- 20 <u>(3)</u> Upon the receipt of such certification, the
 21 attorney general shall file an action in the name of the
 22 state against such corporation for its dissolution. **Every**
 23 **Each such** certificate from the secretary of state to the
 24 attorney general pertaining to the failure of a corporation
 25 to file an annual report shall be taken and received in all

2 (4) If, before the action is filed, the corporation 3 shall—file files its annual report, or chall—appoint 11 appoints or maintain maintains a registered agent as provided in this act, or shall file files with the secretary of state the required statement of change of registered agent, such fact shall be forthwith immediately certified by 7 the secretary of state to the attorney general and he shall may not file an action against such the corporation for such 10 cause. If, after the action is filed, the corporation shall file files its annual report, or shall appoint appoints or paintain maintains a registered agent as provided in this 13 act, or shall file files with the secretary of state the required statement of change of registered agent, and shall

courts as prima facie evidence of the facts therein stated.

17 Section 13. Section 15-2504, R.C.M. 1947, is amended to read as follows:

such cause shall abate."

pay pays the costs of sach the action, the ether action for

- 19 "15-2504. Required filings with the secretary of state
 20 certified copy of trust instrument filing. (a) (1) Any
 21 business trust desiring to transact business in this state
 22 shall file with the secretary of state of Southerna:
- 23 (4)(a) An an executed copy of their its articles,
 24 declarations of trust, or trust agreement by which the trust
 25 was created and all amendments thereto, or a true copy

thereof certified to be such by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory, or country in whose office an executed copy thereof is on file. Such The true copy shall be verified within cirty (60) days before it is filed with the secretary of state of Montana.

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7 (2)(b) * a verified list of the names, residences, and
8 post-office addresses of its trustees.

(3)(c) he am affidavit setting forth its assumed business name, if any.

(4+) (2) A foreign business trust shall file a verified statement application in the office of the secretary of state of Montana as provided in the case of foreign corporations under section 15-1701 (1) of the Revised Codes of Montana, 1947, 15-22-103 and shall file, as provided for foreign corporations in section 15-1701 (2), a copy of its articles, declaration of trust, or trust agreement by which it was created, duly certified by said the secretary of state, in the office of the county clerk of the county where its principal office or place of business in this state will be located. Such The foreign business trust shall also file, at the same time and in the same office, a certificate certifying that the said foreign business trust it has consented to all the license laws and other laws of the state of Montana relative to foreign corporations and

has consented to be sued in the courts of this state, upon

2 all causes of action arising against it in this state, and

3 that service of process may be made upon some person, a

4 citizen of this state, whose principal place of business

5 shall be is designated in such certificate, and such

6 service Service of process, when se made upon such agent,

7 shall be is valid service on the business trust.

with the filing requirements as provided in subsection (a)

subsections (1) and (2) of this section, the secretary of

state shall issue to a domestic business trust a certificate

of organization, or to a foreign business trust a license to

do business in this state, and such the business trust may

thereupon commence business.*

15 Section 14. Section 63-504, R.C.M. 1947, is amended to 16 read as follows:

17 m63-504. Dissolution by decree of court. (1) On
18 application by or for a partner, the court shall decree a
19 dissolution whenever:

- 20 (a) 1 a partner has been is declared a lunation
 21 seriously mentally ill in any a judicial proceeding or is
 22 shown to be of unsound mind mentally incompetenty:
- 23 (b) A a partner becomes in any other way incapable of performing his part of the partnership contract.
- 25 (c) A a partner has been guilty of such conduct as

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tends to affect prejudicially the carrying on of the business;

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- (d) A a partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him;
- 8 (e) The the business of the partnership can only be
 9 carried on at a loss_{Ti} or
- 10 (f) Other Other circumstances render a dissolution
 11 equitable.
 - (2) On the application of the purchaser of a partner's interest under sections 63-404 or 63-405, the court shall decree a dissolution:
- 15 (a) <u>after after</u> the termination of the specified term
 16 or particular undertaking;
- 17 (b) 4t at any time if the partnership was a

 18 partnership at will when the interest was assigned or when

 19 the charging order charging such interest was issued.**
- 20 Section 15. Section 63-702, R.C.M. 1947, is amended to read as follows:
- 22 n63-702. Formation. (1) Two or more persons desiring 23 to form a limited partnership shall
- 24 (a) Sign and swear to a certificate, which shall 25 state:

- 1 Fr(a) The the name of the partnership.;
- 2 II. (b) The the character of the business;
- 3 <u>FHF (c)</u> The the location of the principal place of a business;
- 5 IV-(d) The the name and place of residence of each
 6 member+ general and limited partners being respectively
 7 designated:
- 8 Frie) The the term for which the partnership is to 9 exist.
- 13 THE (q) The the additional contributions, if any,
 14 agreed to be made by each limited partner and the times at
 15 which or events on the happening of which they shall are to
 16 be made;
- 17 The the time, if agreed upon, when the
 18 contribution of each limited partner is to be returned.
- 19 <u>IX. (i)</u> The <u>the</u> share of the profits or the other 20 compensation by way of income which each limited partner 21 <u>shall is to</u> receive by reason of his contribution;
- 22 **r(1) The the right, if given, of a limited partner to
 23 substitute an assignee as contributor in his place, and the
- 24 terms and conditions of the substitution.
- 25 ## (k) The the right, if given, of the partners to

admit additional limited partners;

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2 <u>XII. (1)</u> The the right, if given, of one or more of the 3 limited partners to priority over other limited partners, as 4 to contributions or as to compensation by way of income, and 5 the nature of such priority.:

10 The the right, if given, of a limited partner
11 to demand and receive property other than cash in return for
12 his contribution.

(b) (2) Pile Those persons shall file the certificate in the office of the county clerk and recorder of the county, if any, in which the principal place of business is located, and in the office of the secretary of state.

(2)(3) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph subsections (1) and (2).

20 Section 16. Section 63-803, R.C.H. 1947, is amended to read as follows:

m63-803. Rights, powers, and liabilities of a general partner. A general partner whall have has all the rights and powers and be is subject to all the restrictions and liabilities of a partner in a partnership without limited

2 ratification of the specific act by all the limited
3 partners, a general partner or all of the general partners

partners, except that without the written consent or

4 have no authority to may not:

5 (a) (1) Be any do an act in contravention of the 6 certificater:

7 (b) (2) De any do an act which would make it impossible
8 to carry on the ordinary business of the partnership.:

9 (c) (3) Confess confess a judgment against the 10 partnership.

11 (4)(4) Possess possess partnership property, or assign
12 their rights in specific partnership property, for other
13 than a partnership purpose,:

14 (e) (5) Admit admit a person as a general partner;
15 (f) (6) Admit admit a person as a limited partner,

16 unless the right so to do is given in the certificater:

17 (g) (7) Continue continue the business with partnership
18 property on the death, retirement, or insanity serious
19 mental illness of a general partner, unless the right so to
20 do so is given in the certificate.

21 Section 17. Section 63-901, B.C.M. 1947, is amended to read as follows:

23 **63-901. Effect of retirement, death, or insanity
24 serious mental illness of a general partner. The retirement,
25 death, or insanity serious mental illness of a general

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- 1 partner dissolves the partnership, unless the business is 2 continued by the remaining general partners;
- 3 (a) (1) Under under a right so to do so stated in the certificater: or
- (b) (2) With with the consent of all members."
- Section 18. Section 63-905, R.C.M. 1947, is amended to 7 read as follows:
- 8 "63-905. When certificate shall to be canceled or amended. (1) The certificate shall be canceled when if the 10 partnership is dissolved or if all limited partners cease to 11
- 12 (2) A certificate shall be amended when if:
 - (a) When there is a change in the name of the partnership or in the amount or character of the contribution of any limited partner;
 - (b) A a person is substituted as a limited partner;
 - (c) an an additional limited partner is admitted;
- 18 (d) & a person is admitted as a general partner;
- 19 (e) & a general partner retires, dies, or becomes 20 income, seriously mentally ill and the business is continued
- 21 under sestion 63-9017:
- 22 (f) There there is a change in the character of the
- 23 husiness of the partnership;
- 24 (g) There there is a false or erroneous statement in
- 25 the certificater:

be such.

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- 1 (h) There there is a change in the time as stated in the certificate for the dissolution of the partnership or 3 for the return of a contribution;
- (i) & a time is fixed for the dissolution of the 5 partnership, or the return of a contribution, no time having 6 been specified in the certificater; or
- 7 (j) The the members desire to make a change in any other statement in the certificate in order so that it shall 8 9 accurately represents the agreement between them." 10 Section 19. Repealer. Sections 14-221, 14-222. 93-4336, and 93-5811, R.C.H. 1947, are repealed.

-End-

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LC 0059

1977 Legislature Code Commissioner Bill - Summary

HOUSE Bill No. 27

FOR THE GENERAL REVISION AND CLARIFICATION OF LAWS RELATING TO CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 9-107. In order to correct archaic usage and to clarify, "board" is changed to "Quorum".

Section 2. 9-119. To correct obvious error and to clarify, "purchases" in the second to last sentence is changed to "purchasers".

Section 3. 9-804. To correct obvious error, the first "of" is changed to "or".

Section 4. 9-1003. Amended to conform to 94-1-105 dealing with classification of offenses. Since there is no classification for high misdemeanor, the word "high" in this section is deleted.

Section 5. 9-1004. Amended to recognize, conform to, and avoid conflict with 94-6-102 dealing with criminal mischief. The conduct described in 9-1004(a) and (b) is essentially criminal mischief as defined by the criminal code.

Section 6. 9-1006. To correct obvious error and avoid confusion, this section is amended to read "... to the removal of anything . . "

Section 7. 9-1013. Amended to recognize, conform to, and avoid conflict with 94-8-107 which deals with public nuisance as related to individual offenders.

Section 8. 14-312. This section internally refers to 15-303 which has been repealed. Since there is no substantially equivalent provision in force which can be substituted as an internal reference, this section is amended to incorporate the

applicable language of repealed 15-303.

Section 9. 15-2105. In order to make clear the reference in this section to Montana's general business corporation law, "the Corporation Act of Montana" is changed to "Title 15, chapter 22". There is no act entitled the "corporation act of Montana" and the context (i.e reference to "profit") clearly indicates that a reference to general business corporation law was intended.

Section 10. 15-2212. To correct obvious error, "country" in the last paragraph is changed to "county".

Section 11. <u>15-2274</u>. In the first paragraph, next to last sentence, "ten-day period" is changed to "prescribed period" to make clear that this sentence is to apply to the 15-day period relating to merger without shareholder approval as well as to the 10-day period relating to other corporate action. The fifth paragraph is amended for general clarification.

Section 12. <u>15-2352</u>. In order to avoid confusion as to what "action" is being referred to, the word "other" in the last sentence is deleted.

Section 13. <u>15-2504</u>. Subsections 15-1701 (1) and 15-1701 (2) dealing with foreign corporations and internally referred to in 15-2504(a) (4) have been repealed. Section 15-2504 is amended to substitute reference to 15-22-103 which is the present provision comparable to repealed 15-1701.

Section 14. 63-504. In order to update terminology relating to mental health to conform to recent legislation and usage, "a lunatic" is changed to "seriously mentally ill" and "of unsound mind" is changed to "mentally incompetent" in subsection (1)(a). Also added words in subsection (2) to complete the thought.

Sections 15, 16, 17, 18. In order to update terminology relating to mental health to conform to recent legislation and usage, "insanity" is changed to "serious mental illness" and "insane" to "seriously mentally ill" wherever these terms appear in 63-702 (1) (a) (XIII), 63-803(g), 63-901, and 63-905 (2) (e).

Section 19. Repealer.

- 14-221, 14-222. These sections were enacted with 14-220. Section 14-220 was repealed in 1973. Since 14-221 and 14-222 were dependent upon 14-220 for any applicability or efficacy, these sections are repealed.
- 93-4336, 93-5811. These provisions deal with attachment of and execution upon a partner's interest in specific partnership property, they are in conflict with 63-402(2)(c) of the uniform partnership act which states that a partner's right in such property is not subject to attachment or execution, except on a claim against the partnership as an entity.

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Approved by Committee on Judiciary

1 HOUSE BILL NO. 27 2 INTRODUCED BY KVAALEN 3 A BILL POR AN ACT ENTITLED: "AN ACT FOR THE GENERAL REVISION AND CLARIFICATION OF LAWS RELATING TO CORPORATIONS, 5 PARTNERSHIPS. AND ASSOCIATIONS: AMENDING SECTIONS 9-107, 9-119, 9-804, 9-1003, 9-1004, 9-1006, 9-1013, 14-312, 7 15-2105, 15-2212, 15-2274, 15-2352, 15-2504, 63-504, 63-702, 9 63-803, 63-901, AND 63-905; AND REPBALING SECTIONS 14-221, 14-222, 93-4336, AND 93-5811, R.C.H. 1947." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 9-107, R.C.M. 1947, is amended to 13 read as follows: 14 *9-107. Powers and duties of trustees - officers. The 15 affairs and property of such the association shall be 16 17 managed by the trustees, a majority of whom shall form forms 18 IS a beard quorum for the transaction of business. The trustees shall annually appoint from among their number a 19 president, vice-president, secretary, and treasurer, who 20 21 shall hold their offices during the pleasure of the board of 22 trustees. and the The trustees may require the treasurer to 23 qive security for the faithful performance of the duties of 24 his office." Section 2. Section 9-119, R.C.H. 1947, is amended to 25

any such an association are laid out in lots, and such the 3 lots or any of them are transferred to individual proprietors, and after there has been an interment in any a lot so transferred, such that lot from the time of such interment shall forever thereafter be inalienable, and shall, upon the death of the proprietor, descend to the his 9 heirs of such proprietor, forevert, but However, any one or more of such those heirs may release to any other of the 10 sald heirs his or their interest in the same lot; a A copy 11 of such the release shall be filed with the secretary of 12 said the association, or with the county clerk and recorder 13 of the county within which said the lot shall be is 14 situated. The Except by consent of all persons having an 15 interest in the lot, the body of any a deceased person shall 16 17 may not be interred in such that lot unless it is the body of: 18 (a) a person having, an interest in that lot at the 19

"9-119. Transfer of lots. (1) Whenever the lands of

read as follows:

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(b) an -interest in such lot, or of a relative of some

(d) the husband of such person, or the a relative of

(c) or the wife or husband of such a person; or

such husband or wife, except by consent of all persons

time of such his deceaser:

person having such interest;

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having an interest in such lots

2 (2) provided, that However, the person or persons who in whom shall be invested with the title to asy such lot or 3 lots or part thereof, is vested may, at any time, sell, convey, and release any such the lots or parts thereof to the cemetery association maintaining the cemetery in which such the lots are situated a h copy of the instruments of such conveyance to shall be filed as above in the same manner provided in case of releases for release q 10 from one heir to another. and cuch The cemetery association shall have power to may use any funds under its control for 11 12 such purposes, and shall hold and shall have power to may 13 convey any such lots or parts thereof to other purchases, purchasers in the same manner and with the same effect as it 14 15 holds and can convey conveys any other of its cemetery lots. 16 But this This proviso shall does not allow or authorize the 17 conveyance by persons invested with the title thereto, to such the cemetery association, of any a piece of ground in 18 which the body of any a deceased person theretofore there 19 lawfully interred shall actually remain remains interred at 20 21 the time of such the attempted conveyance."

22 Section 3. Section 9-804, R.C.M. 1947, is amended to 23 read as follows:

24 79-804. Amended map or plat. Any part of or 25 subdivision of the property so mapped and plotted may, by

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order of the directors, be resurveyed and altered in shape

and size and an amended map or plat filed, so long as such

the change does not disturb the interred remains of any

deceased person."

Section 4. Section 9-1003, R.C.M. 1947, is amended to

read as follows:

7 "9-1003. Attachment of remains - misdemeanor. Every A person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, is quilty of a high misdemeanor." 10

11 Section 5. Section 9-1004, R.C.M. 1947, is amended to 12

read as follows:

13 *9-1004. Destruction or mutilation of mausoleum or columbarium -- interference with interment -- misdemeanor. 14 15 (1) Story A person is guilty of a high misdeseanor criminal 16 mischief and is punishable as provided in 94-6-102 who 17 unlawfully or without right willfully knowingly does any of 18 the following:

19 (a) Destroys destroys, cuts, mutilates, effaces, or otherwise injures, tears down, or removes any a crypt, 20 niche, monument, memorial, or marker in a mauscleum or 21 22 columbarium, or any a gate, door, fence, wall, post, or 23 railing, or any an inclosure for the protection of a crypt 24 or niche or any other property in a mauscleum or 25 columbarium-:

(b) Destroys destroys, cuts, breaks, removes, or injures any a building, statuary, ornamentation, tree, shrub, flower, or plant within a mausoleum or columbarium or within the limits of any grounds within which such a mansoleum or columbarium is located.

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(e) (2) Disturbs A person is quilty of a misdemeanor who without right knowingly disturbs, obstructs, detains, or interferes with any a person carrying or accompanying human remains to a mausoleum, or columbatium, or funeral establishment, or a person who is engaged in a funeral service, or an interment."

12 Section 6. Section 9-1006, R.C.M. 1947, is amended to 13 read as follows:

m9-1006. Exceptions from violation of preceding sections. (1) The provisions of section 9-1004 do not apply to the removal or unavoidable breakage or injury, by a manusoleum-columbarium authority, of anything placed in or upon any portion of its manusoleum or columbarium, or the grounds within which the same are situated, in violation of any of the rules or regulations of the manusoleum-columbarium authority.

(2) nor The provisions of 9-1004 do not apply to the removal or of anything placed in said a mausoleum or columbarium or the grounds within which the same are it is situated, by or with the consent of the

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nausoleum-columbarium authority, which has become in-a
 wrecked, unsightly, or dilapidated condition.

3 Section 7. Section 9-1013, R.C.M. 1947, is amended to 4 read as follows:

*9-1013. Construction in violation of act a public 5 muisance - penalty. Every An owner or operator of a mansoleum or columbarium erected in violation of this act is quilty of maintaining a public nuisance and upon conviction 9 is punishable by a fine of not less than five hundred 10 dollars (\$500,00) nor or more than five thousand dollars (\$5,000.00) -- or in the case of a corporation, or as provided 11 12 in 94-8-107 in the case of an individual, by imprisonment in a county fail for not loss than one (1) south nor more than 14 siz (6) months, or by both; and, in In addition, the owner 15 or operator is liable for all costs, expenses, and 16 disbursements paid or incurred in prosecuting the case. The 17 costs, expenses, and disbursements shall be fixed by the 18 court having jurisdiction of the case."

19 Section 8. Section 14-312, R.C.M. 1947, is amended to 20 read as follows:

21 **14-312. Bylaws, — recording and amending. (1) The
22 bylaws and all amendments and additions thereto shall be
23 recorded, and may be amended as provided in section 15-303
24 of this code.

25 (2) The bylaws may be repealed or amended or new

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- 1 bylaws may be adopted at the annual meeting, or at any other 2 meeting of the members called for that purpose by the 3 directors, by a vote representing two-thirds of the stock or other evidences of membership or by two-thirds of the members. The written assent of the holders of two-thirds of the stock or other evidences of membership or of two-thirds 7 of the members is effective to repeal or amend a bylaw or to adopt additional bylaws. The power to repeal and amend the 9 bylaws and to adopt new bylaws may, by a similar vote at any 10 such weeting or by similar written assent, be delegated to 11 the board of directors or trustees. That power, when 12 delegated, say be revoked by a similar vote at any such 13 meeting of the members."
- 15 read as follows: #15-2105. Purpose for which incorporated Permissible 16 17 purposes for incorporation. An individual or group of 18 individuals duly licensed or otherwise legally authorized to 19 render the same professional services within this state may 20 organize and become a shareholder or shareholders of a 21 professional corporation for pecuniary profit under the 22 provisions of the Corporation Act of Bontana Title 15, 23 chapter 22, for the sole and specific purpose of rendering 24 the same and specific professional service." 25 Section 10. Section 15-2212, R.C.M. 1947, is amended

Section 9. Section 15-2105, R.C.H. 1947, is amended to

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to read as follows:

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- 2 **15-2212. Change of registered office or registered
 3 agent. (1) A corporation may change its registered office or
 4 change its registered agent, or both, upon filing in the
 5 office of the secretary of state a statement setting forth:
 - (a) The the name of the corporation+:
 - (b) The the address of its then registered officer;
- 8 (c) If if the address of its registered office be is
 9 changed, the address to which the registered office is to be
 10 changed.
 - (d) The the name of its then registered agenta;
- (e) ## if its registered agent be is changed, the name
 of its successor registered agent.
- 15 (f) That that the address of its registered office and 15 the address of the business office of its registered agent, 16 as changed, will be identical.
- (g) That that such change was authorized by resolution
 duly adopted by its board of directors.
- 19 (2) Such statement shall be executed for the
 20 corporation by any officer thereof, verified by him, and
 21 delivered to the secretary of state. If the secretary of
 22 state finds that such statement conforms to the provisions
 23 of this act, he shall, when all fees have been paid as in
 24 this act prescribed, file such statement in his office, and

ween Upon filing, the change of address of the registered

office, or the appointment of a new registered agent, or both, as the case may be, shall become is effective.

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- (3) day A registered agent of a corporation may resign as such registered agent upon filing a written notice thereof of resignation, executed in duplicate, with the secretary of state, who shall forthwith immediately mail a copy thereof to the corporation at its registered office. The appointment of such the agent shall terminate upon the expiration of thirty 30 days after receipt of such notice by the secretary of state.
- [4] If a registered agent changes his or its business address to another place within the same security-[county], he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to [1](e) or [1](g) and must recite that a copy of the statement has been mailed to each such corporation.
- 20 Section 11. Section 15-2274, R.C.H. 1947, is amended 21 to read as follows:
 - *15-2274. Rights of dissenting shareholders. (1) Any A shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such the proposed corporate action is

submitted to a vote, a written objection to such the 2 proposed corporate action. If such the proposed corporate action be is approved by the required vote and such 3 shareholder shall does not have-woted wote in favor thereof, 5 such shareholder he may, within ten-(10) days after the date on which the vote was taken, or if a corporation is to be 7 morgod without a vote of its charoholders into another corporation, any of its shareholders may, in the case of a 9 merger without shareholder vote within fifteen (15) days 10 after the plan of such merger shall have been is mailed to such chareholders him, make written demand on the 11 12 corporation, or, in the case of a merger or consolidation, 13 on the surviving or new corporation, domestic or foreign. for payment of the fair value of such shareholder's his 14 15 shares, and, if such If the proposed corporate action is effected, such the corporation shall pay to such the shareholder, upon surrender of the certificate or 17 18 certificates representing such his shares, the fair value 19 thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding 20 21 any appreciation or depreciation in anticipation of such corporate action. Any A shareholder failing to make demand 22 within the ten day prescribed period shall be is bound by 23 24 terms of the proposed corporate action. Amy A shareholder making such demand shall is thereafter be

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entitled only to payment as <u>provided</u> in this section provided and chall <u>is</u> not be entitled to vote or to exercise any other rights of a shareholder.

(2) No such demand may be withdrawn unless the corporation shall consent consents thereto. If, however, The right of a shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim, if:

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10 <u>(a) such the shareholder's</u> demand shall—be <u>is</u>

11 withdrawn upon consent; er—if

(b) the proposed corporate action shall be is abandoned or rescinded or the shareholders shall revoke the authority to effect such action; i er if;

(C) in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or if

(d) no demand or petition for the determination of fair value by a court shall have been is made or filed within the time provided in this section; or

<u>(e)</u> if a court of competent jurisdiction shall determine determines that such the shareholder is not entitled to the relief provided by this section. then the

right of much charoholder to be paid the fair value of bie

charce shall cease and his status as a charcholder chall be

restored, without projudice to any corporate proceedings

which may have been taken during the interim,

(3) Within ten (10) days after such the corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as berein provided, and shall make a written offer to each such shareholder to pay for such his shares at a specified price deemed considered by such the corporation to be the fair value thereof. Such The notice and offer shall be accompanied by a balance sheet of the corporation, the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve-{12} months prior to the making of such offer, and a profit and loss statement of such that corporation for the twelve- (12) months! 12-month period ended ending on the date of such balance sheet.

(4) If within thirty (30) days after the date on which such the corporate action was effected, the fair value of such shares is agreed upon between the dissenting shareholder and the corporation, payment therefor shall be made within minety (90) days after the date on which such

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the corporate action was effected, upon surrender of the certificate or certificates representing such the shares. Upon payment of the agreed value, the dissenting shareholder shall--sease ceases to have any interest in such the shares. (5) If within such 30-day period of-thirty-(30)-days a dissenting shareholder and the corporation do not so agree. then the dissenting shareholder may, within 60 days after the date on which the corporate action was effected, make written demand on the corporation for the filing of a petition, in the district court for the county in this state where the corporation's registered office is located, to have the fair value of his shares determined. The corporation must file the petition within 30 days after receipt of the written demand or at its election may file the petition at any time within 60 days after the date on which the corporate action was effected, corporation, within thirty (30) days after receipt of written demand from any dissenting charcholder given within sixty (60) days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty (60) days may, file a potition in the district court in the county in this state where the registered office of the corporation is located praying that the fair value of such shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a

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foreign corporation without a registered office in this state, such the petition shall be filed in the county where the registered office of the domestic corporation was last 3 located. If the corporation shall fail to institute the proceeding as becoin provided file the petition, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding [as an-] action 9 against on their shares quasi in ren. Bach dissenting 10 shareholder shall be served personally or by publication as 11 provided by the Montana Rules of Civil Procedure. The 12 jurisdiction of the court shall be is plenary and exclusive. 13 All shareholders who are parties to the proceeding shall be 14 are entitled to judgment against the corporation for the 15 amount of the fair value of their shares.

16 (6) The court may, if it so elects, appoint one 41+ or 17 more persons as appraiser appraisers to receive evidence and 18 recommend a decision on the question of fair value. The 19 appraisers shall have such power and authority as shall be is specified in the order of their appointment or in an 20 21 amendment thereof. The judgment chall be is payable only 22 upon and concurrently with the surrender to the corporation 23 of the certificate or certificates representing such the 24 shares. Upon payment of the judgment, the dissenting shareholder shall sease ceases to have any interest in such

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1 the shares.

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(7) The judgment shall include an allowance for interest, at such rate as the court may find to be fair and equitable is under all the circumstances, from the date on which the wote was taken on the proposed corporate action to the date of payment.

(8) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such the costs and expenses may be apportioned and assessed as the court may does considers equitable against any or all of the dissenting shareholders who are parties to the proceeding and to whom the corporation shall have made an offer to pay for the shares, if the court shall find finds that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such The expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude do not include the fees and expenses of counsel for and experts employed by any party+, but Bowever, if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine determines to be reasonable compensation

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to any expert or experts employed by the shareholder in the proceeding. 2

(9) Within tweaty - (20) days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise directs. 10 If shares represented by a certificate on which notation has 11 been so made shall be are transferred, each new certificate 12 issued therefor shall bear similar notation, together with 13 the name of the original dissenting holder of such the 14 15 shares, and a 1 transferee of such shares shall acquire acquires by such the transfer no rights in the corporation 16 other than those which the original dissenting shareholder 17 18 had after making demand for payment of the fair value 19 thereof.

(10) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the 22 judgment entered therefor, as in this section provided, may be held and disposed of by such the corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as

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the plan of merger or consolidation may otherwise provide provides."

3 Section 12. Section 15-2352, R.C.M. 1947, is amended to read as follows:

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"15-2352. Notification to attorney general. (1) The secretary of state, on or before the last day of December 31 of each year, shall certify to the attorney general the names of all corporations which have failed to file their annual reports in accordance with the provisions of this act. He shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this act, together with the facts pertinent thereto.

(2) Whenever the secretary of state shall-sertify certifies the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such the certification has been sade.

(3) Upon the receipt of such certification, the attorney general shall file an action in the mame of the state against such corporation for its dissolution. Every Bach such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all

courts as prima facie evidence of the facts therein stated. 2 (4) If, before the action is filed, the corporation shall file files its annual report or shall appoint appoints or maintain maintains a registered agent as provided in this act, or shall file files with the secretary of state the required statement of change of registered agent, such fact shall be forthwith immediately certified by the secretary of state to the attorney general and he shall may not file an action against such the corporation for such 10 cause. If, after the action is filed, the corporation shall 11 file files its annual report, or shall appoint appoints or 12 esiateia maintains a registered agent as provided in this 13 acty or shall file files with the secretary of state the 14 required statement of change of registered agenty and shall 15 pay pays the costs of such the action, the other action for 16 such cause shall abate."

Section 13. Section 15-2504, R.C.H. 1947, is amended 18 to read as follows:

19 *15-2504. Required filings with the secretary of state 20 -- certified copy of trust instrument -- filing. (a) (1) Any 21 business trust desiring to transact business in this state 22 shall file with the secretary of state of Montana:

23 (1) (a) As an executed copy of their its articles, 24 declarations of trust, or trust agreement by which the trust was created and all amendments thereto, or a true copy

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thereof certified to be such by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory, or country in whose office an executed copy thereof is on file. Such The true copy shall be verified within sixty (60) days before it is filed with the secretary of state of Hontana.

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7 (2)(b) A a verified list of the names, residences, and post-office addresses of its trustees.

(3)(c) he an affidavit setting forth its assumed business name, if any.

(4)(2) A foreign business trust shall file a verified statement application in the office of the secretary of state of Mostana as provided in the case of foreign corporations under section 15-1701 (1) of the Bovised Codes of Mostana, 1947, 15-22-103 and shall file, as provided for fereign corporations is section 15-1701 (2), a copy of its articles, declaration of trust, or trust agreement by which it was created, duly certified by said the secretary of state, in the office of the county clerk of the county where its principal office or place of business in this state will be located. Such The foreign business trust shall also file, at the same time and in the same office, a certificate certifying that the said foreign business trust it has consented to all the license laws and other laws of

the state of Montana relative to foreign corporations and

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1 has consented to be sued in the courts of this state, upon

2 all causes of action arising against it in this state, and

3 that service of process may be made upon some person, a

 ${\tt q}$ citizen of this state, whose principal place of business

shall be is designated in such certificate, and such

f sorvice Service of process, when so made upon such agent,

7 shall be is valid service on the business trust.

8 (b) (3) When Whenever a business trust has complied

with the filing requirements as provided in subsection (a)

10 subsections (1) and (2) of this section, the secretary of

11 state shall issue to a domestic business trust a certificate

12 of organization, or to a foreign business trust a license to

13 do business in this state, and such the business trust may

14 thereupon commence business."

15 Section 14. Section 63-504, R.C.H. 1947, is amended to

16 read as follows:

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17 #63-504. Dissolution by decree of court. (1) On

18 application by or for a partner, the court shall decree a

19 dissolution whenever:

20 (a) A a partner has-boom is declared a-lunatic

21 seriously mentally ill in any a judicial proceeding or is

22 shown to be of-unsound mind mentally incompetenty:

(b) A a partner becomes in any other way incapable of

24 performing his part of the partnership contract;

25 (c) & a partner has been guilty of such conduct as

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tends to affect prejudicially the carrying on of the business;

- 3 (d) # a partner willfully or persistently commits a
 4 breach of the partnership agreement, or otherwise so
 5 conducts himself in matters relating to the partnership
 6 business that it is not reasonably practicable to carry on
 7 the business in partnership with him;
- 8 (e) The the business of the partnership can only be
 9 carried on at a loss; or
- 10 (f) Other other circumstances render a dissolution 11 equitable.
- 12 (2) On the application of the purchaser of a partner's

 13 interest under sections 63-404 or 63-405, the court shall

 14 decree a dissolution:
- 15 (a) After after the termination of the specified term
 16 or particular undertaking:
- 17 (b) At at any time if the partnership was a

 18 partnership at will when the interest was assigned or when

 19 the charging order charging such interest was issued.**
- 20 Section 15. Section 63-702, R.C.M. 1947, is amended to read as follows:
- 702. Pormation. (1) Two or more persons desiring
 to form a limited partnership shall
- 24 (a) Sign and swear to a certificate, which shall state:

Iv (a) The the name of the partnership;

- 2 II- (b) The the character of the business;
- 3 III. (C) The the location of the principal place of business.
- 5 IFr(d) who the name and place of residence of each
 6 member+, general and limited partners being respectively
 7 designated:
- 8 **-(e) *he the term for which the partnership is to
 9 exist*:
- 10 #H-(f) The the amount of cash, and a description of
 11 and the agreed value of the other property, contributed by
 12 each limited partner;
- 17 THE the time, if agreed upon, when the contribution of each limited partner is to be returned;
- 19 <u>II. (i)</u> The <u>the</u> share of the profits or the other 20 compensation by way of income which each limited partner 21 <u>shall is to</u> receive by reason of his contribution;
- 24 terms and conditions of the substitution;
- 25 ***I-(k)** The <u>the</u> right, if given, of the partners to

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admit additional limited partners;

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XII-[1] The the right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority;

general partner or partners to continue the business on the death, retirement, or insentity serious mental illness of a general partner, and

10 <u>XIV-(n)</u> The the right, if given, of a limited partner
11 to demand and receive property other than cash in return for
12 his contribution.

(b) (2) Pile Those persons shall file the certificate in the office of the county clerk and recorder of the county, if any, in which the principal place of business is located, and in the office of the secretary of state.

(2)(3) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph subsections (1) and (2)."

20 Section 16. Section 63-803, R.C.M. 1947, is amended to read as follows:

partner. A general partner shall have has all the rights and powers and be is subject to all the restrictions and liabilities of a partner in a partnership without limited

partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have see authority to may not:

5 (a) (1) Do any do an act in contravention of the 6 certificate.

7 (b) (2) De any do an act which would make it impossible
8 to carry on the ordinary business of the partnership.:

9 (e) (3) Confess confess a judgment against the 10 partnership;

11 (4)(4) Pessess passess partnership property, or assign
12 their rights in specific partnership property, for other
13 than a partnership purpose,:

14 (e) (5) Admit admit a person as a general partner;

15 (f) (6) Admit admit a person as a limited partner,
16 unless the right so to do is given in the certificater;

17 (s) (7) Continue continue the business with partnership
18 property on the death, retirement, or insanity serious
19 mental illness of a general partner, unless the right so to
20 do so is given in the certificate."

21 Section 17. Section 63-901, R.C.M. 1947, is amended to read as follows:

23 **63-901. Effect of retirement, death, or instantly
24 <u>serious mental illness</u> of a general partner. The retirement,
25 death, or instantly serious mental illness of a general

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partner dissolves the partnership, unless the business is
continued by the remaining general partners:

- 3 (a) (1) Under under a right so to do so stated in the
 4 certificater: or
- 5 (b) (2) With with the consent of all members."
- Section 18. Section 63-905, R.C.M. 1947, is amended toread as follows:
- 8 *63-905. When certificate shall to be canceled or amended. (1) The certificate shall be canceled when if the 10 partnership is dissolved or if all limited partners cease to 11 be such.
- 12 (2) A certificate shall be amended when if:
- 13 (a) When there is a change in the name of the
 14 partnership or in the amount or character of the
 15 contribution of any limited partner;
- 16 (b) La person is substituted as a limited partner;
 - (c) an additional limited partner is admitted;
 - (d) A a person is admitted as a general partner,:
- 19 (e) <u>A a general partner retires</u>, dies, or becomes
 20 <u>insame</u>, <u>seriously mentally ill</u> and the business is continued
- 20 theater Seriously sentally iti and the business is continued
- 21 under section 63-901-:

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- 22 (f) There there is a change in the character of the 23 business of the partnership.
- 24 (g) There there is a false or erroneous statement in 25 the certificate;

1 (h) There there is a change in the time as stated in
2 the certificate for the dissolution of the partnership or
3 for the return of a contribution;

- (i) hatime is fixed for the dissolution of the
 partnership, or the return of a contribution, no time having
 been specified in the certificate; or
- 7 (j) The the members desire to make a change in any 8 ther statement in the certificate in order so that it chall 9 accurately represents the agreement between them." 10 Section 19. Repealer. Sections 14-221, 14-222, 11 93-4336, and 93-5811, R.C.H. 1947, are repealed.

-End-

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READING

THIRD

1	HOUSE BILL NO. 27
2	INTRODUCED BY KVANLEN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5	REVISION AND CLARIFICATION OF LAWS BELATING TO CORPORATIONS,
6	PARTHERSHIPS, AND ASSOCIATIONS; AMENDING SECTIONS 9-107,
7	9-119, 9-804, 9-1003, 9-1004, 9-1006, 9-1013, 14-312,
8	15-2105, 15-2212, 15-2274, 15-2352, 15-2504, 63-504, 63-702,
9	63-803, 63-901, AND 63-905; AND REPEALING SECTIONS 14-221,
10	14-222, 93-4336, AND 93-5811, R.C.H. 1947."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MOSTANA:
13	Section 1. Section 9-107, R.C.H. 1947, is amended to
14	read as follows:
15	"9-107. Powers and duties of trustees officers. The
16	affairs and property of such the association shall be
17	managed by the trustees, a majority of whom shall form forms
18	$\underline{\text{IS}}$ a beard quorum for the transaction of business. The
19	trustees shall annually appoint from among their number a
20	president, vice-president, secretary, and treasurer, who
21	shall hold their offices during the pleasure of the board of
22	trustees+. and the The trustees may require the treasurer to
23	give security for the faithful performance of the duties of
24	his office.*

There are no changes in H. B.27, and due to length will not be rerun. Please refer to yellow copy for complete text.

read as follows:

"9-119. Transfer of lots. (1) Whenever the lands of 2 any such an association are laid out in lots, and such the lots or any of them are transferred to individual proprietors, and after there has been an interment in any a lot so transferred, such that lot from the time of such interment shall forever thereafter be inalienable, and shall, upon the death of the proprietor, descend to the his heirs of such proprietor, ferever, but However, any one or 10 more of such those heirs may release to any other of the 11 said heirs his or their interest in the same lote, a h copy of such the release shall be filed with the secretary of 13 said the association, or with the county clerk and recorder 14 of the county within which said the lot shall be is situated. The Except by consent of all persons having an interest in the lot, the body of any a deceased person shall 16 17 may not be interred in such that lot unless it is the body 18 of:

- 19 <u>(a)</u> a person having, an interest in that lot at the
 20 time of such his decease;
- 21 (b) an interest in such lety or of a relative of some
 22 person having such interest;
- 23 (c) or the wife or husband of such a person; or
- 24 (d) the husband of such person, or the a relative of 25 such husband or wife, except by consent of all persons

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havisy-en interest is such loty

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read as follows:

(2) provided, that However, the person or persons who in whom shall be invested with the title to saw such lot or lots, or part thereof, is vested may, at any time, sell, convey, and release the such the lots or parts thereof to the cemetery association maintaining the cemetery in which such the lots are saturated a a copy of the instruments of such conveyance to shall be filed as above in the same stater provided in these of releases for release from one heir to another. 4x4 such The cemetery association shall have perfor to may use any funds under its control for such purposes, and shall hold and shall have power to may convey and such lots or parts thereof to other parchases, purchasers in the same manner and with the same effect as it holds and san-senvey conveys any other of its cemetery lots. Set-this This provise shall does not allow or authorize the conveyance by persons invested with the title thereto, to sesh the cometery association, of ear a piece of ground in which the body of any a deceased person there-there lawfully interred shall actually remain remains interred at the time of such the attempted conveyance." Section 3. Section 9-804, R.C.M. 1947, is amended to

and size and an amended map or plat filed, so long as such 3 the change does not disturb the interred remains of any deceased person." 5 Section 4. Section 9-1003, R.C.H. 1947, is amended to read as follows: 7 *9-1003. Attachment of remains -- mistemeanor. Swory A 8 person who arrests, attaches, detains, or claims to detain 9 any human remains for any debt or demand, or upon any 10 pretended lien or charge, is quilty of a bigh misdemeanor." Section 5. Section 9-1004, R.C.B. 1947, is amended to 11 12 read as follows: 13 *9-1004. Destruction or mutilation of mausoleum or 14 columbarium -- interference with intersent -- misdemeanor. 15 (1) Brony A person is quilty of a high-misdemeanor criminal 16 mischief and is punishable as provided in 94-6-102 who enlawfully or without right willfully knowingly does any of 17 18 the following: 19 (a) Destroys destroys, cuts, autilates, effaces, or 20 otherwise injures, tears down, or removes any a crypt, 21 niche, monument, memorial, or marker in a mausoleum or 22 columbarium, or any a gate, door, feace, wall, post, or

railing, or eas an inclosure for the protection of a crypt

or miche or any other property in a mauscleum or

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order of the directors, be resurveyed and altered in shape

"9-804. Amended map or plat. Any part of or

subdivision of the property so mapped and plotted may, by

STANDING COMMITTEE REPORT Senate Committee on Judiciary

That House Bill No. 27 be amended as follows:

1. Amend title, line 9.
Following: "14-221"
Strike: ","
Insert: "AND"

2. Amend title, line 10. Following: "14-222," Strike: "93-4336, AND 93-5811,"

3. Amend page 26, section 19, line 10. Following: "14-221" Strike: "," Insert: "and"

4. Amend page 26, section 19, line 11. Following: line 10 Strike: "93-4336, and 93-5811,"

45th Legislature H8 0027/03

1 HOUSE BILL NO. 27
2 INTRODUCED BY KVAALEN

3

4 A BIL. FOR AN ACT ENTITIED: MAN ACT FOR THE GENERAL
2 REVISION AND CLARIFICATION OF LAWS RELATING TO CORPURATIONS,
5 PARTNERSHIPS, AND ASSOCIATIONS; AMENDING SECTIONS 9-107,
6 9-119, 9-804, 9-1003, 9-1004, 9-1006, 9-1013, 14-312,
7 15-2105, 15-2212, 15-2274, 15-2352, 15-2504, 63-504, 63-702,
9 03-803, 63-901, AND 63-905; AND REPEALING SECTIONS 14-221,
10 AND 14-222, 93-4336, AND-93-5011, Rocomo 1947.

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 section 1. Section 9-107, R.C.M. 1947, is amended to read as follows:

#9-107. Powers and duties of trustees -- officers. The affairs and property of such the association shall be managed by the trustees, a majority of whom shall-form forms.

IS a board quorum for the transaction of business. The trustees shall annually appoint from among their number a president, vice-president, secretary, and treasurery who shall hold their offices during the pleasure of the board of trusteest, and the line trustees may require the treasurer to give security for the faithful performance of the duties of his office."

Section 2. Section 9-119, R.C.M. 1947, is amended to

l read as follows:

"9-119. Transfer of lots. (1) Whenever the lands of any such an association are laid out in lots, and such the luts or any of them are transferred to individual proprietorsy and after there has been an interment in any a lot so transferred, such that lot from the time of such interment shall forever thereafter be inalienable, and 7 shall, upon the death of the proprietor, descend to the his 8 9 heirs of-such-proprietory-foreverta but Howevers any one or more of such those neirs may release to any other of the 10 said neirs his or their interest in the same lotte a A copy 11 of such the release shall be filed with the secretary of 12 said the associations or with the county clerk and recorder 13 14 of the county within which soid the lot shall-be is 15 situated. The Except by consent of all persons having an 16 interest in the lot, the body of any a deceased person shall 1/ may not be interred in such that lot unless it is the body 18

- 19 <u>(a)</u> a person having an interest in that lot at the 20 time of such his decease:
- 21 <u>(b)</u> an—interest—in—such—loty—or—of a relative of some 22 person having such interesty:
- 23 (c) or the wife or husband of such a personvi or

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24 (d) the-husband-of-such-persony-or-the a relative of such husband or wifeys except--by-consent-of-all-persons

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having-an-interest-in-such-lott

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2 (2) providedy-that However, the person or persons who in whom shall-be-invested-with the title to any such lot or lotsy or part thereofy is vested mayy at any timey sell, convey, and release any-such the lots or parts thereof to the cemetery association maintaining the cemetery in which such the lots are situated a A copy of the instruments of such conveyance to shall be filed as-above in the same manner provided in-case-of--releases for release from one heir to another. And-such The cemetery association shall-have-power-to may use any funds under its control for such purposesy and shall hold and shall-have-power-to may convey any such lots or parts thereof to other purchasesy **PULCDASELS** in the same manner and with the same effect as it holds and con-convey conveys any other of its cemetery lots. dut--this <u>This</u> proviso shell <u>does</u> not allow or authorize the conveyance by-persons-invested-with-the--title--theretor to such the cemetery associations of any a piece of ground in which the body of any a deceased person theretofore--there lawfully interred shalf actually remain remains interred at the time of such the attempted conveyance."

Section 3. Section 9-804, R.C.M. 1947, is amended to read as follows:

24 "9-804. Amended map or plat. Any part of or 25 subdivision of the property so mapped and plotted may, by

order of the directors, be resurveyed and altered in shape and size and an amended map or plat filed, so long as such the change does not disturb the interred remains of any š deceased person."

section 4. Section 9-1003, R.C.M. 1947, is amended to 5 read as follows:

"9-1003. Attachment of remains -- misdemeanor. Every A 1 person who arrests, attaches, detains, or claims to detain 9 any human remains for any debt or demandy or upon any 10 pretended lien or chargey is quilty of a high misdemeanor." 11 Section 5. Section 9-1004, R.C.M. 1947, is amended to read as follows: 12

13 #9-1004. Destruction or mutilation of mausoleum or 14 columbarium -- interference with interment -- misdemeanor. 15 111 every A person is quilty of a-high-misdemeanor criminal 16 mischief and is punishable as provided in 94-6-102 who 11 unlawfully-or without right willfully knowingly does any of 13 the following:

19 (a) Destroys <u>destroys</u>, cuts, mutilates, effaces, or 23 otherwise injures, tears downs or removes any a crypt. 21 niche, monument, memorial, or marker in a mausoleum or 22 columnariumy or eny a date, door, fence, wall, posts or 23 railings or ens an inclosure for the protection of a crypt 24 or niche or any other property in a mausoleum or 25 columnariume:

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the second destroys, cuts, breaks, removes or injures any a building, statuary, ornamentation, tree, shrub, flowers or plant within a mausoleum or columbarium or within the limits of any grounds within which such a mausoleum or columbarium is located.

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tet[2] Disturbs A person is quilty of a misdemeanor who without right knowingly disturbs, obstructs, detains, or interferes with only a person carrying or accompanying human remains to a mausoleum, or columbarium, or funeral establishmenty or a person who is engaged in a funeral service, or an interment.

12 Section 6. Section 9-1006. R.C.M. 1947. is amended to 13 read as follows:

#9-1006. Exceptions from——violation——of——preceding sections. (1) The provisions of section 9-1004 do not apply to the removal or unavoidable breakage or injury. by a mausoleum—columbarium authority, of anything placed in or upon any portion of its mausoleum or columbariumy or the grounds within which the same are situatedy in violation of any of the rules or—requisitions of the mausoleum—columbarium authority.

removal or of anything placed in said a mausoleum or columnarium or the grounds within which the same are it is

mausoleum-columbarium authoritys which has become in-a
wrecked, unsightlys or dilapidated condition."

3 Section 1. Section 9-1013, R.C.M. 1947, is amended to 4 read as forlows:

"5-1013. Construction in violation of act a public nuisance -- penalty. Every An owner or operator of a mausoleum or columbarium erected in violation of this act is quilty of maintaining a public nuisance and upon conviction 9 is punishable by a fine of not less than five hundred 10 dollars-(\$500+00)-nor or more than five--thousand--dollars 11 +\$5,000=00}--or in the case of a corporation, or as provided 12 in 24-8-107 in the case of an individual. by imprisonment in 13 a-county-jail-for-not-less-thon-one-(1)-month-nor-more--than 14 six--f6}--monthsy-or-by-both;-andy-in In addition, the owner 15 or operator is liable for all costs, expenses, and 15 disbursements paid or incurred in prosecuting the case. The 17 costs, expenses, and disbursements shall be fixed by the 1 ö court having jurisdiction of the case."

19 Section 8. Section 14-312, R.C.M. 1947, is amended to read as follows:

21 "14-312. Bylaws = recording and amending. (1) The
22 bylaws and all amendments and additions thereto shall be
23 recorded = amended = amended = amended = in - section - 15-303
24 of this code.

25 (2) Ine bylaws may be repealed or amended or new

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- ı bylaws may be adopted at the annual meeting, or at any other 2 meeting of the members called for that purpose by the 3 directors, by a vote representing two-thirds of the stock or other evidences of membership or by two-thirds of the 2 members. Ine written assent of the holders of two-thirds of the stock or other evidences of membership or of two-thirds 7 of the members is effective to repeal or amend a bylaw or to 8 adopt additional bylams. The power to repeal and amend the g bylaws and to adopt new bylaws may, by a similar vote at any 10 such accting or by similar written assent, be delegated to the poard of directors or trustees. That power, when 11 12 delegated: may be revoked by a similar vote at any such 13 meeting of the members."
- Section 9. Section 15-2105, R.C.M. 1947, is amended to read as follows:

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- #15-2105. Purpose—for—which-incorporated Permissible purposes for incorporation. An individual or proup of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of the—Corporation—Act—of—Hontona <u>litle 15</u>-chapter 22* for the sole and specific purpose of rendering the same and specific professional service.*
- 25 Section 10. Section 15-2212, R.C.M. 1947, is amended

to read as follows:

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2 "15-2212. Change of registered office or registered
3 agent. (1) A corporation may change its registered office or
4 change its registered agent. or both, upon filing in the
5 office of the secretary of state a statement setting forth:

- (a) The the name of the corporation :
- (b) The the address of its then registered officer:
- 8 (c) If if the address of its registered office be is
 9 changed, the address to which the registered office is to be
 10 changed:
 - (d) The the name of its then registered agent*:
- (e) if its registered agent be is changed, the name of its successor registered agent.
- 14 (f) First that the address of its registered office and 15 the address of the business office of its registered agent, 16 as changed, will be identical;
- 17 (q) That that such change was authorized by resolution
 18 duly adopted by its board of directors.
- corporation by any officer thereof, verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed, file such statement in his office, and upon filing, the change of address of the registered

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orfice, or the appointment of a new registered agent, or both, as the case may be, shall-become is effective.

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(3) Any A registered agent of a corporation may resign as such registered agent upon filing a written notice thereof of resignation, executed in duplicate, with the secretary of state, who shall forthwith immediately mail a copy thereof to the corporation at its registered office. The appointment of such the agent shall terminate upon-the expiration of thirty 30 days after receipt of such notice by the secretary of state.

14) If a registered agent changes his or its business address to another place within the same country-[county], ne or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to (1)(e) or (1)(g) and must recite that a copy of the statement has been mailed to each such corporation."

20 Section 11. Section 15-2274, R.C.M. 1947, is amended 21 to read as follows:

22 *15-2274. Rights of dissenting shareholders. (1) Any A
23 shareholder electing to exercise such right of dissent shall
24 file with the corporation, prior to or at the meeting of
25 shareholders at which such the proposed corporate action is

1 submitted to a vote, a written objection to such the 2 proposed corporate action. If such the proposed corporate 3 action be is approved by the required vote and such shareholder shall goes not have-voted vote in favor thereof. 5 such-shoreholder he may, within ten-(10) days after the date on which the vote was taken, or if-a-corporation-is--to--be 7 serged--without--a--vote--of--its--shareholders-into-another 8 corporationy-any-of-its-shareholders-mayy in the case of a 9 merger_without_shareholder_vote_within fifteen-+15+ days 10 after the plan of such merger shall-have-been is mailed to such---shoreholders him. make written demand on the 11 12 corporations or, in the case of a merger or consolidation. 13 on the surviving or new corporation, domestic or foreign, 14 for payment of the fair value of such--shareholder*s his 15 sharesy, andy--if--such If the proposed corporate action is 16 effected, such the corporation shall pay to such the 17 shareholder, upon surrender of the certificate or 18 certificates representing such his shares, the fair value 19 thereof as of the day prior to the date on which the vote 20 was taken approving the proposed corporate action, excluding 21 any appreciation or depreciation in anticipation of such corporate action. *ny A shareholder failing to make demand 21 23 within the ten-day prescribed period shall-be is bound by the terms of the proposed corporate action. Any A 24 25 shareholder making such demand shaft is thereafter be

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- entitled only to payment as <u>provided</u> in this section

 provided and shall is not be entitled to vote or to exercise

 any other rights of a shareholder.
- 121 No such demand may be withdrawn unless the corporation shall-consent consents thereto. If who we were I he right of a shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interime if:
- 10 (a) such the shareholder's demand shall---be is
 11 withdrawn upon consenty; or-if
- 12 <u>(b)</u> the proposed corporate action shall—be <u>is</u>
 13 abandoned or rescinded or the shareholders shall revoke the
 14 authority to effect such actions; or-ify

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- (c) in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or-if
- (d) no demand or setition for the determination of fair value by a court shall—have—been is made or filed within the time provided in this section; or
- (e) if a court of competent jurisdiction shall determine determines that such the shareholder is not entitled to the relief provided by this section.

right--of--such-shareholder-to-be-paid-the-fair-value-of-his
shares-shall-cease-and-his-status-as-a-shareholder-shall--be
restoredy--without---prejudice--to-any-corporate-proceedings
which-may-have-been-taken-during-the-interiwy

(3) Within ten-(10) days after such the corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each such shareholder to pay for such his shares at a specified price deemed considered by such the corporation to be the fair value thereof. Such The notice and offer shall be accompanied by a balance sheet of the corporations the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve-{12} months prior to the making of such offer, and a profit and loss statement of such that corporation for the twelve-(12) months* 12-month period ended ending on the date of such balance sheet.

21 <u>[4]</u> If within thirty-(30) days after the date on which 22 such the corporate action was effected, the fair value of 23 such shares is agreed upon between any-such the dissenting 24 shareholder and the corporation, payment therefor shall be 25 made within ninety-(90) days after the date on which such

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certificate or certificates representing such the shares. Upon payment of the agreed value, the dissenting shareholder shall--cease ceases to have any interest in such the shares. (5) If within such 30-day period of-thirty-(30)-days a dissenting shareholder and the corporation do not so agree. then the dissenting shareholder may, within 60 days after the date on which the corporate action was effected, make written demand on the corporation for the filing of a petition, in the district court for the county in this state where the corporation's registered office is located: to have the fair value of his shares determined. The corporation must file the petition within 30 days after receipt of the written demand or at its election may file the petition at any time within 60 days after the date on which the corporate action was effected, corporationy-within thirty--(38)--days--after-receipt-of-written-demand-from-any dissenting-shareholder-given-within-sixty--(60)--days--after the-date-on-which-such-corporate-action-was-effectedy-shally or--at--its-election-at-any-time-within-such-period-of-sixty 1681-days-mayy-file-a-petition-in-the-district-court-in--the county--in--this--state--where--the-registered-office-of-the corporation-is-located-praying-that-the-fair-value--of--such shares--be-found-end-determined If in the case of a merner or consolidation, the surviving or new corporation is a

the corporate action was effected, upon surrender of the

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1 foreign corporation without a registered office in this 2 state, such the petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall-fail fails to institute +ne--proceeding--as--herein--provided file the petition+ any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, snall be made parties to the proceeding fas and action against on their shares quasi in rem. Each dissenting shareholder shall be served personally or by publication as 10 11 provided by the Montana Rules of Civil Procedure. The 12 jurisdiction of the court shall be is plenary and exclusive. 13 All shareholders who are parties to the proceeding shall-be 14 are entitled to judgment against the corporation for the 15 amount of the fair value of their shares.

(6) The court may, if it so elects, appoint one (1) or more persons as appraiser appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall—be is specified in the order of their appointment or in an amendment thereof. The judgment shall—be is payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such the snares. Upon payment of the judgment, the dissenting snareholder shall—cease ceases to have any interest in such

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the snares.

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(1) The judgment shall include an allowance for interest, at such rate as the court may find to be fair and equitable in under all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

181 The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such the costs and expenses may be apportioned and assessed as the court may-deem considers equitable against any or all of the dissenting shareholders who are parties to the proceeding and to whom the corporation shall-have made an offer to pay for the shares, if the court shell--find finds that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such The expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall-exclude do not include the fees and expenses of counsel for and experts employed by any partyte but Howevere if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may-determine determines to be reasonable compensation

to any expert or experts employed by the shareholder in the proceeding.

3 [9] Within twenty--- t20+ days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such 7 demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this 9 section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct directs. 10 If shares represented by a certificate on which notation has 11 been so made shall-be are transferred, each new certificate 12 13 issued therefor shall bear similar notation, together with 14 the name of the original dissenting holder of such the snaresys and-a A transferee of such shares anall--acquire 15 16 acquires by such the transfer no rights in the corporation 17 other than those which the original dissenting shareholder 18 had after making demand for payment of the fair value 19 thereof.

(10) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such the corporation as in the case of other treasury shares, except that in the case of a merger or consolidation, they may be held and disposed of as

the plan of merger or consolidation may otherwise provide

provides.**

- 3 rection 12. Section 15-2352, R.C.M. 1947, is amended 4 to read as follows:
- "15-2352. Notification to attorney general. 111 The 5 secretary of state, on or before the-last-day-of December 31 of each year, shall certify to the attorney general the names of all corporations which have failed to file their ж annual reports in accordance with the provisions of this 9 act. We shall also certifyy from time to timey the names of 10 all corporations which have given other cause for 11 12 dissolution as provided in this act, together with the facts 13 pertinent thereto.
 - L21 Whenever the secretary of state shall—certify certifies the name of a corporation to the attorney general as naving given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such the certification has been made.

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(3) Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution. Every tach such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all

courts as prima facie evidence of the facts therein stated. (4) If, before the action is filed, the corporation / shell -file files its annual reporty or shell--speciat appoints or maintain maintains a registered agent as provided in this acty or shall-file files with the secretary 6 of state the required statement of change of registered 7 agent, such fact shall be forthwith immediately certified by 8 the secretary of state to the attorney general and he shall 9 may not file an action against such the corporation for such 10 cause. If, after the action is filed, the corporation shall 11 file files its annual reporty or shall-appoint appoints or 12 maintain maintains a registered agent as provided in this 13 acty or shall-file files with the secretary of state the 14 required statement of change of registered agenty and shall 15 pay pays the costs of such the action, the other action for 16 such cause shall abate."

- 1/ Section 13. Section 15-2504, R.C. N. 1947, is amended to read as follows:
- 19 *1>-2504. Required filings with the secretary of state
 20 -- certified copy of trust instrument -- filing. (e)(1) Any
 21 business trust desiring to transact business in this state
 22 shall file with the secretary of state of-Montana:
 - t+flal An an executed copy of their its articles,

 declarations of trust, or trust agreement by which the trust
 was created and all amendments thereto, or a true copy

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thereof certified to be such by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory, or country in whose office an executed copy thereof is on file. Such The true copy shall be verified within sixty-(60) days before it is filed with the secretary of state of-Montang.

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t2)1b) * a verified list of the names, residences, and
post-office addresses of its trustees.

(3)(c) An an affidavit setting forth its assumed business name, if any.

thill A foreign business trust shall file a verified statement application in the office of the secretary of state of-Montana as provided in the case of foreign corporations under section 15-1701-(1)-of-the-Revised-Godes of-Montanav-1947v 15-22-103 and shall filey-as-provided-for foreign-corporations-in-section-15-1701-(2)v a copy of its articles, declaration of trust, or trust agreement by which it was created, duly certified by said the secretary of state, in the office of the county clerk of the county wherein where its principal office or place of business in this state will be located. Such The foreign business trust shall also file, at the same time and in the same office, a certificate certifying that the said-foreign-business—trust it has consented to all the license laws and other laws of the state of Montana relative to foreign corporations and

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nas consented to be sued in the courts of this state, upon
all causes of action arising against it in this state, and
that service of process may be made upon some person, a
citizen of this state, whose principal place of business
shall—be is designated in such certificate, and such
service Service of process, when so made upon such agent,

shall-be is valid service on the business trust.

with the filing requirements as provided in subsection—(a)

subsections (1) and (2) of this section, the secretary of

state shall issue to a domestic business trust a certificate

of organization, or to a foreign business trust a license to

do business in this state, and such the business trust may

thereupon commence business."

Lo Section 14. Section 63-504, R.C.M. 1947, is amended to 16 read as follows:

17 #63-504. Dissolution by decree of court. (1) On
18 application by or for a partner, the court shall decree a
19 dissolution whenever:

20 (a) A g partner has—been is declared a—lunatic
21 seriously mentally ill in any g judicial proceeding or is
22 shown to be of—unsound—mind mentally incompetenty:

23 (b) A g partner becomes in any other way incapable of performing his part of the partnership contracty:

25 (c) * a partner has been guilty of such conduct as

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- tends to affect prejudicially the carrying on of the
 businessy:
- d) * a partner willfully or persistently commits a breach of the partnership agreementy or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with himsi
- 6 (e) The the business of the partnership can only be
 9 carried on at a lossy: or
- 10 (f) Other other circumstances render a dissolution
 11 equitable.
- 12 (2) On the application of the purchaser of a partner's
 13 interest under sections 63-404 or 63-405, the court shall
 14 decree a dissolution:
- (a) After after the termination of the specified term
 or particular undertakings:
- 17 (b) At <u>at</u> any time if the partnership was a

 18 partnership at will when the interest was assigned or when

 19 the energing order <u>Charging such interest</u> was issued.**
- 20 Section 15. Section 63-702, R.C.M. 1947, is amended to 21 read as follows:
- 22 *63-702. Formation. (1) Two or more persons desiring 23 to form a limited partnership shall
- 24 (a)--Sign <u>sign</u> and swear to a certificate* which shall 25 state:

- 1 I*(a) The the name of the partnership*:
- 2 if wib) The the character of the businessy:
- 3 <u>iff(c)</u> the tne location of the principal place of 4 businessy:
- fv=(d) The the name and place of residence of each
 membert: general and limited partners being respectively
 designatedv:
- 8 \(\forall \frac{1}{2} \) \(\frac{1}{2} \) \(\frac{1}
- 10 VIv(f) The the amount of cash, and a description of
 11 and the agreed value of the other property, contributed by
 12 each limited partners:
- 13 <u>VIIv(g)</u> The <u>the</u> additional contributions, if any,
 14 agreed to be made by each limited partner and the times at
 15 which or events on the happening of which they shall are to
 16 be madey:
- 17 \forall \fo
- 19 <u>f*w(i)</u> The the share of the profits or the other 20 compensation by way of income which each limited partner 21 <u>shell is to</u> receive by reason of his contributions:
- 22 ***(j) The the right, if given, of a limited partner to 23 substitute an assignee as contributor in his place, and the 24 terms and conditions of the substitution;
- 25 XIv(k) The the right, if given, of the partners to

admit additional limites partnersy:

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##(1) The the right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority;

tb)[2] File Those persons shall file the certificate in the office of the county clerk and recorder of the county—if—any in which the principal place of business is located, and in the office of the secretary of state.

t2)(1) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph subsections (1) and (2).

Section 16. Section 63-803, R.C.M. 1947, is amended to read as follows:

"63-803. Rights, powers, and liabilities of a general partner. A general partner shall have has all the rights and powers and be is subject to all the restrictions and liabilities of a partner in a partnership without limited

partners, except that without the written consent or latification of the specific act by all the limited partners, a general partner or all of the general partners

4 heve-no-authority-to may not:

5 (a)(1) 80--any do an act in contravention of the certificatey:

/ (b)121 Bo-any do an act which would make it impossible to carry on the ordinary business of the partnershipy:

9 (c)(3) Confess confess a judgment against the

11 (d)(1) Possess possess partnership property or assign
12 their rights in specific partnership property for other
13 than a partnership purpose;

14 (e)(5) Admit admit a person as a general partner.

15 (f)(6) Admit admit a person as a limited partner.

16 unless the right so to do is given in the certificate.

17 (g)(1) Continue continue the business with partnership
18 property on the death, retirements or insanity serious
19 mental illness of a general partner, unless the right so to
20 do so is given in the certificate.

21 Section 17. Section 63-901, R.C.M. 1947, is amended to 22 read as follows:

23 #63-901. Effect of retirement, death, or insonity
24 <u>serious mental illness</u> of a general partner. The retirement,
25 death, or insonity <u>serious mental illness</u> of a general

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1	partner	dissolves	the	partnership,	unless	the	business	i s
2	continue	d by the re	maini	ng general pa	rtners:			

- 3 (a)(1) Under under a right so to do so stated in the certificate i or
- 5 (b)121 With with the consent of all members."
- 6 Section 18. Section 63-905, R.C.M. 1947, is amended to read as follows:
- 8 **63-905. When certificate **hall to be canceled or 9 amended. (1) The certificate shall be canceled when if the 10 partnership is dissolved or if all limited partners cease to 11 be such.
- 12 (2) A certificate shall be amended when if:

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- 13 (a) When there is a change in the name of the
 14 partnership or in the amount or character of the
 15 contribution of any limited partner;
- 16 (b) A person is substituted as a limited partner vi
 - (c) An an additional limited partner is admittedy;
 - (d) ★ a person is admitted as a general partner v:
- (e) ★ a general partner retires, dies, or becomes
- 20 insanev seriously mentally ill and the business is continued
 21 under section 63-901v:
- 22 (f) There there is a change in the character of the
- 23 business of the partnership*:
- 24 (g) There there is a false or erroneous statement in 25 the certificater:

1 (h) There there is a change in the time as stated in
2 the certificate for the dissolution of the partnership or
3 tor the return of a contribution:

- (i) A a time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate, or
- 7 (j) The the members desire to make a change in any 8 other statement in the certificate in-order so that it shall 9 accurately represent represents the agreement between them.**
 10 Section 19. Repealer. Sections 14-221 AND 14-222.

93-4336y-and-93-5811y R.C.M. 1947, are repealed.

-End-

HB 0027/03

1	HOUSE BILL NO. 27
2	INTRODUCED BY KVAALEN

45th Legislature

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4 A BILL FOR AN ACT ENTITLED: MAN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF LANS RELATING TO CORPORATIONS,
6 PARTNERSHIPS, AND ASSOCIATIONS; AMENDING SECTIONS 9-107,
7 9-119, 9-804, 9-1003, 9-1004, 9-1006, 9-1013, 14-312,
8 15-2105, 15-2212, 15-2274, 15-2352, 15-2504, 63-504, 63-702,
9 63-803, 63-901, AND 63-905; AND REPEALING SECTIONS 14-221,
10 AND 14-222, 93-4336-AND-93-5811, Rocome 1947.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 section 1. Section 9-107, R.C.M. 1947, is amended to read as follows:

#9-107. Powers and duties of trustees -- officers. The affairs and property of such the association shall be managed by the trustees, a majority of whom shall-form forms.

IS a board quorum for the transaction of business. The trustees shall annually appoint from among their number a president, vice-president, secretary, and treasurery who shall hold their offices during the pleasure of the board of trusteests and the Ine trustees may require the treasurer to give security for the faithful performance of the duties of his office.

Section 2. Section 9-119, R.C.M. 1947, is amended to

read as follows:

#9-119. Transfer of lots. (1) Whenever the lands of eny such an association are laid out in lotsy and such the lots or any of them are transferred to individual proprietorsy and after there has been an interment in any a lot so transferred, such that lot from the time of such interment shall forever thereafter be inalienabley and 7 shall, upon the death of the proprietor, descend to the his 8 9 heirs of-such-proprietory-forevert, but However, any one or more of such those heirs may release to any other of the 10 said neirs his or their interest in the same lotte a A copy 11 12 of such the release shall be filed with the secretary of said the associations or with the county clerk and recorder 14 14 of the county within which soid the lot shall--be is 15 situated. The Except by consent of all persons having an interest in the lot. the body of any a deceased person shall 11 may not be interred in such that lot unless it is the body 18

- 19 (a) a person having an interest in that lot at the
 20 time of such his decease;
- 21 <u>(b)</u> an--interest-in-such-loty-or-of a relative of some
 22 person having such interesty:
- 23 (c) or the wife or husband of such a personvi or

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24 (d) the-husband-of-such-persony-or-the a relative of
25 such husband or wifeys except--by-consent-of-oll-persons

having-an-interest-in-such-lott

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2 [2] providedy-that However, the person or persons who in_woom shall-be-invested-with the title to any such lot or lots or part thereof is yested may at any time sell. convey, and release any-such the lots or parts thereof to the cemetery association maintaining the cemetery in which 7 such the lots are situated situated a A copy of the instruments of such conveyance to shall be filed as-above in the same manner provided in-case--of--releases for release from one heir to another. And-such The cemetery association shall-have-power-to may use any funds under its control for such purposesy and shall hold and shall-have-power-to may convey any such lots or parts thereof to other purchasesy <u>purchasers</u> in the same manner and with the same effect as it holds and convey conveys any other of its cemetery lots. but--this Ihis provise shall does not allow or authorize the conveyance by-persons-invested-with-the--title--theretoy to such the cemetery association, of any a piece of ground in which the body of any a deceased person theretofore -- there lawfully interred shall actually remain remains interred at the time of such the attempted conveyance."

22 Section 3. Section 9-804, R.C.M. 1947, is amended to 23 read as follows:

24 49-804. Amended map or plat. Any part of or subdivision of the property so mapped and plotted may, by 25

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1 order of the directors, be resurveyed and altered in shape and size and an amended map or plat filed, so long as such the change does not disturb the interred remains of any 3 deceased person.**

section 4. Section 9-1003, R.C.M. 1947, is amended to 5 read as follows:

"9-1003. Attachment of remains -- misdemeanor. Every A person who arrests, attaches, detains, or claims to detain b 9 any human remains for any debt or demandy or upon any 10 pretended lien or charge, is quilty of a high misdemeanor.* Section 5. Section 9-1004, R.C.H. 1947, is amended to 11

13 *9-1004. Destruction or mutilation of mausoleum or 14 columbarium -- interference with interment -- misdemeanor. 15 (1) every A person is quilty of a-high-misdemeanor criminal 16 mischief and is punishable as provided in 94-6-102 who 17 unlawfully-or without right willfully knowingly does any of 18 the following:

(a) Bestroys destroys, cuts, mutilates, effaces, or 19 20 otherwise injures, tears downs or removes any a crypt, 21 niche, monument, memorial, or marker in a mausoleum or 22 columnariumy or any a date, door, fence, wall, posts or 23 railing or any an inclosure for the protection of a crypt 24 or niche or any other property in a mausoleum or 25 columnarium#:

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read as follows:

(b) Bestroys destroys, cuts, breaks, removes, or ı injures any a building, statuary, ornamentation, tree, shrub, flowers or plant within a mausoleum or columbarium or within the limits of any grounds within which such a mausoleum or columbarium is located.

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tct(2) Disturbs A person is guilty of a misdemeanor who without right knowingly disturbs, obstructs, detains, or interferes with env a person carrying or accompanying human remains to a mausoleum, or columbarium, or funeral establishmenty or a person who is engaged in a funeral service, or an interment."

Section 6. Section 9-1006, R.C.M. 1947, is amended to 12 1.3 read as follows:

#9-1006. Exceptions from---violation---of---preceding sections. (1) The provisions of section 9-1004 do not apply to the removal or unavoidable breakage or injury, by a mausoleum-columbarium authoritys of anything placed in or upon any portion of its mausoleum or columbariumy or the grounds within which the same are situatedy in violation of any of the rules or-requiations of the mausoleum-columbarium autnority**

(2) nor The provisions of 9-1004 do not apply to the removal or of anything placed in said a mausoleum or columnarium or the grounds within which the-same-are it is or with the consent situated. by

mausoleum-columbarium authority: which has become in-s wrecked, unsightly, or dilapidated condition."

Section /. Section 9-1013. R.C.M. 1947. is amended to read as tollows:

49-1013. Construction in violation of act a public nuisance -- penalty. tvery An owner or operator of a mausoleum or columbarium erected in violation of this act is quilty of maintaining a public nuisance and upon conviction 9 is punishable by a fine of not less than five hundred 10 dollars-(\$500+00)-nor or more than five--thousand--dollars 11 (\$5+000=00)--or in the case of a corporation, or as provided 12 in 94-8-107 in the case of an individual, by imprisonment in 13 e-county-jail-for-not-less-than-one-(1)-month-nor-more--than 14 six--f6)--monthsy-or-by-both:-endy-in In addition: the owner 15 or operator is liable for all costs, expenses, and 15 disbursements paid or incurred in prosecuting the case. The 17 costs, expenses, and disbursements shall be fixed by the 18 court having jurisdiction of the case."

19 Section 8. Section 14-312, R.C.M. 1947, is amended to read as follows: 20

21 *14-312. Bylaws* -- recording and amending. (1) The 22 bylaws and all amendments and additions thereto shall be 23 recordedy-and-may-be-amended-as-provided-in--section--15-303 24 of-this-code.

25 12) Ine bylaws may be repealed or amended or new

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1 bylaws may be adopted at the annual meeting, or at any other 2 meeting of the members called for that purpose by the 3 directors. by a vote representing two-thirds of the stock or other evidences of membership or by two-thirds of the members. Ihe written assent of the holders of two-thirds of 2 the stock or other evidences of membership or of two-thirds 7 of the members is effective to repeal or amend a bylaw or to 8 adopt additional bylams. The power to repeal and amend the 9 bylaws and to adopt new bylaws may, by a similar vote at any 10 such aceting or by similar written assent, be delegated to 11 the poard of directors or trustees. That power, when 12 delegated, may be revoked by a similar vote at any such 13 meeting of the members."

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purposes for incorporation. An individual or group of individuals duty licensed or otherwise legalty authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of the Corporation Act of Hontons Iitle 15: chapter 22: for the sole and specific purpose of rendering the same and specific professional service.

25 Section 10. Section 15-2212, R.C.M. 1947, is amended

1 to read as follows:

2 #15-2212. Change of registered office or registered
3 agent. (1) A corporation may change its registered office or
4 change its registered agent, or both, upon filing in the
5 office of the secretary of state a statement setting forth:

- (a) The the name of the corporation:
- (b) The the address of its then registered office:
- 8 (c) If if the address of its registered office be is
 9 changed, the address to which the registered office is to be
 10 changed:
- 1) (d) The the name of its then registered agenta:
- 12 (e) If if its registered agent be is changed, the name
 13 of its successor registered agent.
- 14 (f) That that the address of its registered office and 15 the address of the business office of its registered agent, 16 as changed, will be identical.
- 17 (g) That that such change was authorized by resolution
 18 duly adopted by its board of directors.
- corporation by any officer thereof, verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed, file such statement in his office, and upon Upon filing, the change of address of the registered

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orfice, or the appointment of a new registered agent, or both, as the case may be, shall-become is effective.

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as such registered agent upon filing a written notice thereof of resignation. executed in duplicate, with the secretary of state, who shall forthwith immediately mail a copy thereof to the corporation at its registered office. The appointment of such the agent shall terminate upon-the expiration of thirty 30 days after receipt of such notice by the secretary of state.

[4] If a registered agent changes his or its business address to another place within the same country [county], he or it may change such address and the address of the registered office of any corporations of which he or it is registered agent by filing a statement as required above, except that it need be signed only by the registered agent and need not be responsive to [1](e) or [1](g) and must recite that a copy of the statement has been mailed to each such corporation.

Section 11. Section 15-2274, RaCaNa 1947, is amended to read as follows:

*15-2274. Rights of dissenting shareholders. (1) Any A shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such the proposed corporate action is

submitted to a vote, a written objection to such the 1 2 proposed corporate action. If such the proposed corporate 3 action be is approved by the required vote and such shareholder shall does not have-voted yote in favor thereof. 5 such-shareholder he may, within ten-(10) days after the date on which the vote was taken, or if-a-corporation--is--to--be 7 merged--without--a--vote--of--its--shareholders-into-another 8 corporationy-any-of-its-shareholders-mayy in the case of a 9 merger_without_shareholder_vote within fifteen-+15+ days 10 after the plan of such merger shall-have-been is mailed to 11 such -- shoreholders him, make written demand on the 12 corporation, or, in the case of a merger or consolidation. 13 on the surviving or new corporation, domestic or foreign, 14 for payment of the fair value of such-shareholder*s his 15 sharesys andy--if--such If the proposed corporate action is 16 effected, such the corporation shall pay to such the 17 shareholder, upon surrender of the certificate or 18 certificates representing such his shares, the fair value 19 thereof as of the day prior to the date on which the vote 20 was taken approving the proposed corporate action, excluding 21 any appreciation or depreciation in anticipation of such 22 corporate action. Any A shareholder failing to make demand 23 within the ten-day prescribed period shall-be is bound by 24 the terms of the proposed corporate action. Any A 25 shareholder making such demand shall is thereafter be

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entitled	only	to	payme	nt	a s	PEQV	ideo	i in	ti	ni S	section
provided	and sh	all	<u>is</u> not	be	ent	itled	to	vote	or	to	exercise
any other	right	s of	a sha	reh	olde	r.					

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- 4 (21 No such demand may be withdrawn unless the
 5 corporation shall-consent consents thereto. If v-however v Ihe
 6 right of a shareholder to be paid the fair value of his
 7 shares shall cease and his status as a shareholder shall be
 8 restored, without prejudice to any corporate proceedings
 9 which may have been taken during the interim, if:
- 10 (a) such the shareholder's demand shall--be is
 11 withdrawn upon consenty; or-if
- 12 (b) the proposed corporate action shall—be is

 13 abandoned or rescinded or the shareholders shall revoke the

 14 authority to effect such action; or-ify
 - (c) in the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or-if
- 20 <u>(d) no demand or petition</u> for the determination of 21 fair value by a court shall—have been is made or filed 22 within the time provided in this section; or
- 23 <u>(e)</u> if a court of competent jurisdiction shell
 24 determine determines that such the shareholder is not
 25 entitled to the relief provided by this sections, then—the

rightofsuch-shareholder-to-be-paid-the-fair-value-of-his
shares-shall-cease-and-his-status-as-a-shareholder-shallbe
restoredywithoutprejudiceto-any-corporate-proceedings
which-may-have-heen-taken-during-the-interimy

- (3) Within ten-flut days after such the corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein providedy and shall make a written offer to each such shareholder to pay for such his shares at a specified price deemed considered by such the corporation to be the fair value thereof. Such The notice and offer shall be accompanied by a balance sheet of the corporations the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve-fl2t months prior to the making of such offer, and a profit and loss statement of such that corporation for the twelve-(12) months* 12-month period ended ending on the date of such balance sheet.
- 21 (4) If within thirty-(30) days after the date on which
 22 such the corporate action was effected, the fair value of
 23 such shares is agreed upon between eny-such the dissenting
 24 shareholder and the corporation, payment therefor shall be
 25 made within ninety-(90) days after the date on which such

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certificate or certificates representing such the shares. Upon payment of the agreed value, the dissenting shareholder shall--cease ceases to have any interest in such the shares. (5) If within such 30-day period of-thirty-(30)-days a dissenting shareholder and the corporation do not so agree, then the dissenting shareholder may, within 60 days after the date on which the corporate action was effected, make written demand on the corporation for the filing of a petition, in the district court for the county in this state where the corporation's registered office is located, to have the fair value of his shares determined. The corporation must file the petition within 30 days after receipt of the written demand or at its election may file the petition at any time within 60 days after the date on which the corporate action was effected, corporationy-within thirty--(30)--days--efter-receipt-of-written-demand-from-any dissenting-shareholder-given-within-sixty--f60}--doys--ofter the-date-on-which-such-corporate-action-was-effectedy-shally or--at--its-election-at-any-time-within-such-period-of-sixty 160}-days-mayy-file-e-petition-in-the-district-court-in-the county--in--this--state--where--the-registered-office-of-the corporation-is-located-praying-that-the-fair-value--of--such shares--be-found-and-determined If, in the case of a merger

the corporate action was effected, upon surrender of the

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foreign corporation without a registered office in this state, such the petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall—fail fails to institute the—proceeding—as—herein—provided file the petition, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding fas and action against on their shares quasi in rem. Each dissenting shareholder shall be served personally or by publication as provided by the Montana Rules of Civil Procedure. The jurisdiction of the court shall—be is plenary and exclusive. All shareholders who are parties to the proceeding shall—be are entitled to judgment against the corporation for the amount of the fair value of their shares.

(6) The court may, if it so elects, appoint one (1) or more persons as appraiser appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall—be is specified in the order of their appointment or in an amendment thereof. The judgment shall—be is payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such the snares. Upon payment of the judgment, the dissenting snareholder shall—cease ceases to have any interest in such

or consolidation, the surviving or new corporation is a

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1 the snares.

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(1) The judgment shall include an allowance for interest, at such rate as the court may find to be fair and equitable in <u>under</u> all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

(8) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such the costs and expenses may be apportioned and assessed as the court may-deem considers equitable against any or all of the dissenting shareholders who are parties to the proceeding and to whom the corporation shall-have made an offer to pay for the shares, if the court shall--find finds that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such The expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall-exclude do not include the fees and expenses of counsel for and experts employed by any partyte but Howevers if the fair value of the snares as determined materially exceeds the amount which the corporation offered to pay therefory or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may-determine determines to be reasonable compensation

to any expert or experts employed by the shareholder in the
proceeding.

(9) Within twenty--+20+ days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise directs. If shares represented by a certificate on which notation has been so made shall-be are transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such the snares - and-a A transferee of such shares shall--acquire acquires by such the transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

(10) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such the corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as

- the plan of merger or consolidation may otherwise provide

 2 provides.**
- 3 rection 12. Section 15-2352, R.C.M. 1947, is amended 4 to read as tollows:
- #15-2352. Notification to attorney general. (1) The 5 secretary of state, on or before the last day of December 31 6 of each year, shall certify to the attorney general the 7 к names of all corporations which have failed to file their annual reports in accordance with the provisions of this 9 act. le shall also certify from time to time, the names of 10 11 all corporations which have given other cause for 12 dissolution as provided in this act, together with the facts 13 pertinent thereto.
 - (2) Whenever the secretary of state shall—certify certifies the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such the certification has been made.

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(3) Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution. Every tach such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all

- ı courts as prima facie evidence of the facts therein stated. (4) If, before the action is filed, the corporation shall--file files its annual reporty or shall--appoint appoints or maintains a registered agent as provided in this acty or shall-file files with the secretary of state the required statement of change of registered 7 agent, such fact shall be forthwith immediately certified by the secretary of state to the attorney general and he shall 9 may not file an action against such the corporation for such 10 cause. If, after the action is filed, the corporation shell files its annual reporty or shall-appoint appoints or 11 12 maintain <u>maintains</u> a registered agent as provided in this 13 acty or shall-file files with the secretary of state the 14 required statement of change of registered agenty and shell 15 pay pays the costs of such the action, the other action for 16 such cause shall abate.
- 17 Section 13. Section 15-2504, R.C.M. 1947, is amended 18 to read as follows:
- 19 **1>-2504. Required filings with the secretary of state
 20 -- certified copy of trust instrument -- filing. (e)(1) Any
 21 business trust desiring to transact business in this state
 22 shall file with the secretary of state of-Montana:
- 23 (††1<u>a)</u> An <u>an</u> executed copy of <u>their its</u> articles, 24 declarations of trust₂ or trust agreement by which the trust 25 was created and all amendments thereton or a true copy

thereof certified to be such by a trustee of the trust before an official authorized to administer oaths or by a public official of another state, territory, or country in whose office an executed copy thereof is on file. Such The true copy shall be verified within sixty-(60) days before it is filed with the secretary of state of-Montane.

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(2)(b) A a verified list of the names, residences, and post-office addresses of its trustees.

(3)(c) An an affidavit setting forth its assumed business name, if any.

thill A foreign business trust shall file a verified statement application in the office of the secretary of state of—Montane as provided in the case of foreign corporations under section 15-1701-(1)-of-the-Revised-Codes of-Montanay-1947y 15-22-103 and shall filey-as-provided—for foreign—corporations—in-section-15-1701-(2)y a copy of its articles, declaration of trust₂ or trust agreement by which it was created, duly certified by said the secretary of state, in the office of the county clerk of the county wherein where its principal office or place of business in this state will be located. Such The foreign business trust shall also file, at the same time and in the same office, a certificate certifying that the said-foreign business—trust it has consented to all the license laws and other laws of the state of Montana relative to foreign corporations and

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nas consented to be sued in the courts of this state, upon
all causes of action arising against it in this state, and
that service of process may be made upon some person, a
citizen of this state, whose principal place of business
shell—be is designated in such certificate, and—such
service Service of process, when so made upon such agent,
shell—be is valid service on the business trust.

with the filing requirements as provided in subsection—(a)

subsections (1) and (2) of this section, the secretary of

state shall issue to a domestic business trust a certificate

of organization, or to a foreign business trust a license to

do business in this state, and such the business trust may

thereupon commence business.**

Section 14. Section 63-504, R.C.M. 1947, is amended to read as follows:

17 **63-504. Dissolution by decree of court. (1) On

18 application by or for a partner, the court shall decree a

19 dissolution whenever:

20 (a) A a partner has—been is declared a—lunative
21 seriously mentally ill in any a judicial proceeding or is
22 shown to be of-unsound-wind mentally incompetenty:

(b) A a partner becomes in any other way incapable of performing his part of the partnership contracty:

(c) ★ a partner has been guilty of such conduct as

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ı	tends	to	affect	prejudicially	the	carrying	on	of	the
2	pusine	ssw:							

- d * a partner willfully or persistently commits a breach of the partnership agreement or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with himsi
- 6 (e) The the business of the partnership can only be
 9 carried on at a lossy; or
- 10 (f) Other other circumstances render a dissolution
 11 equitable.
- 12 (2) On the application of the purchaser of a partner's
 13 interest under sections 63-404 or 63-405, the court shall
 14 decree a dissolution:
- (a) After after the termination of the specified term
 or particular undertaking*:
- 17 (b) At <u>at</u> any time if the partnership was a

 18 partnership at will when the interest was assigned or when

 19 the energing order charging such interest was issued.**
- 20 Section 15. Section 63-702, R.C.M. 1947, is amended to 21 read as follows:
- 22 *63-702. Formation. (1) Two or more persons desiring 23 to form a limited partnership shall
- 24 (a)--Sign <u>sign</u> and swear to a certificate, which shall 25 state:

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1 ##(a) The the name of the partnership*:

2 #1*(b) The the character of the businessy:

8 \formula \left(\frac{e}{e}\right) \text{ \text{The the term for which the partnership is to}}
9 \text{exist} \frac{e}{e} \text{exist}

10 Viv(f) The the amount of cash, and a description of
11 and the agreed value of the other property, contributed by
12 each limited partnery:

13 <u>viiv(g)</u> The the additional contributions, if any,
14 agreed to be made by each limited partner and the times at
15 which or events on the happening of which they shell are to
16 be madey:

17 VIII v(h) The the time, if agreed upon, when the 18 contribution of each limited partner is to be returned.

19 <u>f*v(i)</u> The <u>the</u> share of the profits or the other
20 compensation by way of income which each limited partner
21 <u>shatters</u> receive by reason of his contributions:

22 X*(i) The the right, if given, of a limited partner to 23 substitute an assignee as contributor in his place, and the 24 terms and conditions of the substitution;

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admit additional limited partnersy:

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H(1) The the right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority*:

thick the certificate in the office of the county clerk and recorder of the county. The county of the county. The county of the county. Th

(2)(3) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of paragraph subsections (1) and (2).

Section 16. Section 63-803, R.C.M. 1947, is amended to read as follows:

#63-803. Rights, powers, and liabilities of a general partner. A general partner shall—have has all the rights and powers and be is subject to all the restrictions and liabilities of a partner in a partnership without limited

partners, except that without the written consent or

attification of the specific act by all the limited

partners, a general partner or all of the general partners

have-no-authority-to may not:

faj(1) bo--any do_an act in contravention of the

certificatevi

fbj(2) Bo-any do_an act which would make it impossible

to carry on the ordinary business of the partnershipvi

fcj(3) Confess confess a judgment against the

partnershipvi

td) td) td) tell Possess passess partnership property or assign
their rights in specific partnership property for other
than a partnership purpose;

14 (e)15) Admit admit a person as a general partnerv:
15 (f)16) Admit admit a person as a limited partnerv
16 unless the right so to do is given in the certificatev:

17 (g)(1) Continue continue the business with partnership
18 property on the death, retirement, or insenity serious
19 mental illness of a general partner, unless the right so to
20 do so is given in the certificate.**

21 Section 17. Section 63-901, R.C.M. 1947, is amended to read as follows:

23 **63-901. Effect of retirement, death, or insonity
24 serious mental illness of a general partner. The retirement,
25 death, or insonity serious mental illness of a general

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1	partner	dissolves	the	partnership.	unless	the	business	is
2	continue	d by the re	maini	ng general pa	rtners <u>:</u>			

- 3 (a)(1) Under under a right so to do so stated in the
 4 certificater: or
- 5 (b)[2] With with the consent of all members."
- 6 Section 18. Section 63-905, R.C.M. 1947, is amended to 7 read as follows:
- 8 #63-905. When certificate shall to be canceled or
 9 amended. (1) The certificate shall be canceled when if the
 10 partnership is dissolved or if all limited partners cease to
 11 be such.
- 12 (2) A certificate shall be amended when if:

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- (a) When there is a change in the name of the partnership or in the amount or character of the contribution of any limited partnery;
 - (b) A a person is substituted as a limited partnery:
 - (c) An an additional limited partner is admittedy;
- 18 (d) ★ a person is admitted as a general partnervi
- 19 (e) * a general partner retires, dies or becomes
 20 inserey seriously mentally ill and the business is continued
 21 under section 63-901;
- 22 (t) There there is a change in the character of the 23 business of the partnershipy:
- 24 (g) There there is a false or erroneous statement in the certificater:

- 1 (h) **There there is a change in the time as stated in 2 the certificate for the dissolution of the partnership or 3 for the return of a contribution**:
- 4 (1) * a time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificater: or
 - (j) The the members desire to make a change in any other statement in the certificate in-order so that it shall accurately represent represents the agreement between them. Section 19. Repealer. Sections 14-221. AND 14-222.

-End-

93-4336y-and-93-5811y R.C.M. 1947, are repealed.

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