

HOUSE BILL 577

Introduced by D. Brown

2/10	Introduced
2/10	Referred to Business & Economic Development
2/10	First Reading
2/16	Hearing
2/16	Committee Report--Bill Passed as Amended
2/17	2nd Reading Passed
2/19	3rd Reading Passed
	Transmitted to Senate
2/22	First Reading
2/22	Referred to Business & Industry
3/11	Hearing
3/13	Committee Report--Bill Concurred
3/16	2nd Reading Concurred
3/17	3rd Reading Concurred
	Returned to House
3/21	Signed by Speaker
3/24	Signed by President
3/29	Transmitted to Governor
3/31	Signed by Governor
	Chapter Number 249
	Effective Date: 10/01/93

1 Howe BILL NO. 577  
2 INTRODUCED BY Chris Brown  
3 BY REQUEST OF THE SECRETARY OF STATE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND  
6 CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR  
7 MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME  
8 DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE  
9 EXTENSION OF DURATION OF A CORPORATION; AND AMENDING  
10 SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104,  
11 35-2-608, 35-2-833, AND 35-4-206, MCA."  
12

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

14 **Section 1.** Section 35-1-115, MCA, is amended to read:

15 "35-1-115. General powers. Unless its articles of  
16 incorporation provide otherwise, each corporation has  
17 perpetual duration and succession in its corporate name and,  
18 unless otherwise prohibited by law, has the same powers as  
19 an individual to do all things necessary or convenient to  
20 carry out its business and affairs, including without  
21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its  
23 corporate name;

24 (2) to have a corporate seal, which may be altered at  
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its  
3 articles of incorporation or with the laws of this state,  
4 for managing the business and regulating the affairs of the  
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire  
7 and to own, hold, improve, use, and otherwise deal with real  
8 or personal property or any legal or equitable interest in  
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,  
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise  
13 acquire any other entity; to own, hold, vote, use, sell,  
14 mortgage, lend, pledge, or otherwise dispose of any other  
15 entity; and to deal in and with shares or other interests  
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur  
18 liabilities; to borrow money; to issue its notes, bonds, and  
19 other obligations, which, if authorized by the articles of  
20 incorporation, may be convertible into or include the option  
21 to purchase other securities of the corporation; and to  
22 secure any of its obligations by mortgage or pledge of any  
23 of its property, franchises, or income;

24 (8) to lend money, invest and reinvest its funds, and  
25 receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or  
3 manager of any partnership, joint venture, trust, or other  
4 entity;

5 (10) to conduct its business, locate offices, and  
6 exercise the powers granted by this chapter in the state or  
7 out of the state;

8 (11) to elect directors and appoint officers, employees,  
9 and agents of the corporation; to define their duties; to  
10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,  
12 pension trusts, profit-sharing plans, share bonus plans,  
13 share option plans, and benefit or incentive plans for any  
14 or all of its current or former directors, officers,  
15 employees, and agents;

16 (13) to make donations for the public welfare or for  
17 charitable, religious, scientific, or educational purposes  
18 and, in time of war, to make donations in aid of war  
19 activities;

20 (14) to transact any lawful business that will aid  
21 governmental policy; and

22 (15) to make payments or donations or to do any other  
23 act that is consistent with law and that furthers the  
24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is  
2 entitled to dissent from and obtain payment of the fair  
3 value of his the shareholder's shares in the event of any of  
4 the following corporate actions:

5 (a) consummation of a plan of merger to which the  
6 corporation is a party if:

7 (i) shareholder approval is required for the merger by  
8 35-1-815 or the articles of incorporation and the  
9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with  
11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which  
13 the corporation is a party as the corporation whose shares  
14 will be acquired if the shareholder is entitled to vote on  
15 the plan;

16 (c) consummation of a sale or exchange of all or  
17 substantially all of the property of the corporation other  
18 than in the usual and regular course of business if the  
19 shareholder is entitled to vote on the sale or exchange,  
20 including a sale in dissolution but not including a sale  
21 pursuant to court order or a sale for cash pursuant to a  
22 plan by which all or substantially all of the net proceeds  
23 of the sale will be distributed to the shareholders within 1  
24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a  
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the  
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of  
6 redemption, including a provision with respect to a sinking  
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the  
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be  
11 voted on any matter or to accumulate cumulate votes, other  
12 than a limitation by dilution through issuance of shares or  
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the  
15 shareholder to a fraction of a share if the fractional share  
16 so created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a  
18 shareholder vote to the extent the articles of  
19 incorporation, bylaws, or a resolution of the board of  
20 directors provides that voting or nonvoting shareholders are  
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain  
23 payment for his shares under 35-1-826 through 35-1-839 may  
24 not challenge the corporate action creating the  
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the  
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. Unknown claims against dissolved  
5 corporation. (1) Subject to 35-1-939 35-1-936, the  
6 dissolution of a corporation, including by the expiration of  
7 its term, does not take away or impair any remedy available  
8 to or against the corporation or its officers, directors, or  
9 shareholders for any claim or right, whether or not the  
10 claim or right existed or accrued prior to dissolution. A  
11 proceeding by or against the corporation may be prosecuted  
12 or defended by the corporation in its corporate name. The  
13 shareholders, directors, and officers have power to take  
14 corporate or other action as appropriate to protect the  
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this  
17 section:

18 (a) against the dissolved corporation, to the extent of  
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,  
21 against a shareholder of the dissolved corporation to the  
22 extent of his the shareholder's pro rata share of the claim  
23 or the corporate assets distributed to the shareholder in  
24 liquidation, whichever is less, but a shareholder's total  
25 liability for all claims under this section may not exceed

1 the total amount of assets distributed to him the  
2 shareholder.

3 (3) Subsections (1) and (2) apply to foreign  
4 corporations and their shareholders transacting business in  
5 this state for any claims otherwise arising or accruing  
6 under Montana law."

7 **Section 4.** Section 35-1-1039, MCA, is amended to read:

8 "35-1-1039. Procedure for and effect of revocation. (1)

9 If the secretary of state determines that one or more  
10 grounds exist under 35-1-1038 for revocation of a  
11 certificate of authority, the secretary of state shall serve  
12 mail to the foreign corporation with the written notice of  
13 his the determination pursuant to 35-1-1034.

14 (2) If the foreign corporation does not correct each  
15 ground for revocation or demonstrate to the reasonable  
16 satisfaction of the secretary of state that each ground  
17 determined by the secretary of state does not exist within  
18 60 days after service of the notice is perfected under  
19 35-1-1034, the secretary of state may revoke the foreign  
20 corporation's certificate of authority by signing a  
21 certificate of revocation that states the ground or grounds  
22 for revocation and the effective date of the revocation. The  
23 secretary of state shall file the original of the  
24 certificate and serve a copy on the foreign corporation  
25 pursuant to 35-1-1034.

1 (3) The authority of a foreign corporation to transact  
2 business in this state ceases on the date shown on the  
3 certificate revoking its certificate of authority.

4 (4) The secretary of state's revocation of a foreign  
5 corporation's certificate of authority appoints the  
6 secretary of state as the foreign corporation's agent for  
7 service of process in any proceeding based on a cause of  
8 action that arose during the time the foreign corporation  
9 was authorized to transact business in this state. Service  
10 of process on the secretary of state under this subsection  
11 is service on the foreign corporation. Upon receipt of  
12 process, the secretary of state shall mail a copy of the  
13 process to the secretary of the foreign corporation at its  
14 principal office shown in its most recent annual report or  
15 in any subsequent communication received from the  
16 corporation stating the current mailing address of its  
17 principal office, or, if no a report or communication is not  
18 on file, in its application for a certificate of authority.

19 (5) Revocation of a foreign corporation's certificate  
20 of authority does not terminate the authority of the  
21 registered agent of the corporation."

22 **Section 5.** Section 35-1-1104, MCA, is amended to read:

23 "35-1-1104. Annual report for secretary of state. (1)  
24 Each domestic corporation and each foreign corporation  
25 authorized to transact business in this state shall deliver

1 to the secretary of state, for filing, an annual report that  
2 sets forth:

3 (a) the name of the corporation and the state or  
4 country under whose law it is incorporated;

5 (b) the mailing address and, if different, street  
6 address of its registered office and the name of its  
7 registered agent at that office in this state;

8 (c) the address of its principal office;

9 (d) the names and business addresses of its directors  
10 and principal officers;

11 (e) a brief description of the nature of its business;

12 (f) the total number of authorized shares, itemized by  
13 class and series, if any, within each class; and

14 (g) the total number of issued and outstanding shares,  
15 itemized by class and series, if any, within each class.

16 (2) Each foreign corporation shall also include a  
17 statement, expressed in dollars, of the value of all the  
18 property owned by the corporation, wherever located, and the  
19 value of the property of the corporation located within  
20 Montana and a statement, expressed in dollars, of the gross  
21 amount of business transacted by the corporation for the  
22 year ending December 31 preceding the date provided in this  
23 section for the filing of the report and the gross amount of  
24 business transacted by the corporation at or from places of  
25 business in Montana. If on December 31 preceding the time

1 provided in this section for the filing of the report the  
2 corporation had not been authorized to transact business in  
3 Montana for 1 year, the statement with respect to business  
4 transacted must be furnished for the period between the date  
5 of its authorization to transact business in Montana and  
6 December 31. If all the property of the corporation is  
7 located in Montana and all of its business is transacted at  
8 or from places of business in Montana, the information  
9 required by this subsection need not be reported.

10 (3) Information in the annual report must be current as  
11 of the date the annual report is executed on behalf of the  
12 corporation.

13 (4) The first annual report must be delivered to the  
14 secretary of state between January 1 and April 15 of the  
15 year following the calendar year in which a domestic  
16 corporation was incorporated or a foreign corporation was  
17 authorized to transact business. Subsequent annual reports  
18 must be delivered to the secretary of state between January  
19 1 and April 15.

20 (5) If an annual report does not contain the  
21 information required by this section, the secretary of state  
22 shall promptly notify the reporting domestic or foreign  
23 corporation in writing and return the report to it for  
24 correction. ~~If the report is corrected to contain the~~  
25 ~~information required by this section and delivered to the~~

~~secretary-of-state-within-30-days-after-the--effective--date  
of-notice;-it-is-considered-to-be-timely-filed:-"~~

**Section 6.** Section 35-2-608, MCA, is amended to read:

"35-2-608. Approval of plan of merger. (1) Subject to the limitations set forth in 35-2-609, profit one or more nonprofit corporations may merge into a business or nonprofit corporation if the plan of merger is approved as provided in 35-2-610.

(2) The plan of merger must set forth:

(a) the name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

(b) the terms and conditions of the planned merger;

(c) the manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and

(d) if the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

(b) other provisions relating to the planned merger."

**Section 7.** Section 35-2-833, MCA, is amended to read:

"35-2-833. Procedure for and effect of revocation. (1)

The secretary of state, upon determining that one or more grounds exist under 35-2-832 for revocation of a certificate of authority, shall serve mail to the foreign corporation with written notice of that determination under 35-2-830.

(2) The attorney general, upon determining that one or more grounds exist under 35-2-832(2) for revocation of a certificate of authority, shall request the secretary of state to serve, and the secretary of state shall serve, the foreign corporation with written notice of that determination under 35-2-830.

(3) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within 60 days after mailing the notice or after service of the notice is perfected under 35-2-830, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve a copy on the foreign

1 corporation under 35-2-830.

2 (4) The authority of a foreign corporation to transact  
3 business in this state ceases on the date shown on the  
4 certificate revoking its certificate of authority.

5 (5) Revocation of a foreign corporation's certificate  
6 of authority does not terminate the authority of the  
7 registered agent of the corporation."

8 **Section 8.** Section 35-4-206, MCA, is amended to read:

9 "35-4-206. Corporate name. The name of a domestic or  
10 foreign professional corporation:

11 (1) must contain the words "professional corporation"  
12 or the abbreviation "P.C.", and the name of a foreign  
13 corporation may contain the words "professional services" or  
14 "P.S.";

15 (2) may not contain any word or phrase that indicates  
16 or implies that the corporation is organized for any purpose  
17 other than the purposes contained in its articles of  
18 incorporation;

19 (3) may not be the same as or deceptively similar to  
20 any assumed business name, limited partnership name,  
21 trademark, or service mark registered or reserved with the  
22 secretary of state or to the name of any domestic  
23 corporation existing under the laws of this state, any  
24 foreign corporation authorized to transact business in this  
25 state, a name the exclusive right to which is reserved in

1 the manner provided in the Montana Business Corporation Act,  
2 or the name of a corporation that has in effect a  
3 registration of its corporate name as provided in the  
4 Montana Business Corporation Act. This subsection does not  
5 apply if:

6 (a) the similarity results from the use in the  
7 corporate name of personal names of shareholders or former  
8 shareholders or of natural persons who were associated with  
9 a predecessor entity; or

10 (b) the corporation files with the secretary of state  
11 either the written consent of such other corporation or  
12 holder of a reserved or registered name to use the same or a  
13 deceptively similar name and one or more words are added to  
14 make such name distinguishable from such other name or a  
15 certified copy of a final decree of a court of competent  
16 jurisdiction establishing the prior right of the corporation  
17 to the use of the name in this state; and

18 (4) must conform to rules promulgated by a licensing  
19 authority having jurisdiction of a professional service  
20 described in the articles of incorporation of the  
21 corporation."

22 **NEW SECTION. Section 9.** Extension of duration of  
23 corporation. If a corporation is dissolved by the expiration  
24 of its period of duration as stated in its articles of  
25 incorporation, the corporation may amend its articles of



LC 0833/01

1 incorporation within 5 years from the stated date of  
2 expiration to extend its existence.

3 NEW SECTION. Section 10. Codification instruction.  
4 [Section 9] is intended to be codified as an integral part  
5 of Title 35, chapter 1, and the provisions of Title 35,  
6 chapter 1, apply to [section 9].

-End-

APPROVED BY COMM. ON BUSINESS  
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 577  
INTRODUCED BY D. BROWN  
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND  
CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR  
MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME  
DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE  
EXTENSION OF DURATION OF A CORPORATION; AND AMENDING  
SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104,  
35-2-608, 35-2-833, AND 35-4-206, MCA."

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

**Section 1.** Section 35-1-115, MCA, is amended to read:

"35-1-115. General powers. Unless its articles of  
incorporation provide otherwise, each corporation has  
perpetual duration and succession in its corporate name and,  
unless otherwise prohibited by law, has the same powers as  
an individual to do all things necessary or convenient to  
carry out its business and affairs, including without  
limitation, the power:

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

(2) to have a corporate seal, which may be altered at  
will, and to use it or a facsimile of the seal by impressing

or affixing it or in any other manner reproducing it;

(3) to make and amend bylaws, consistent with its  
articles of incorporation or with the laws of this state,  
for managing the business and regulating the affairs of the  
corporation;

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

(5) to sell, convey, mortgage, pledge, lease, exchange,  
and otherwise dispose of all or any part of its property;

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

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

(8) to lend money, invest and reinvest its funds, and  
receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or  
3 manager of any partnership, joint venture, trust, or other  
4 entity;

5 (10) to conduct its business, locate offices, and  
6 exercise the powers granted by this chapter in the state or  
7 out of the state;

8 (11) to elect directors and appoint officers, employees,  
9 and agents of the corporation; to define their duties; to  
10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,  
12 pension trusts, profit-sharing plans, share bonus plans,  
13 share option plans, and benefit or incentive plans for any  
14 or all of its current or former directors, officers,  
15 employees, and agents;

16 (13) to make donations for the public welfare or for  
17 charitable, religious, scientific, or educational purposes  
18 and, in time of war, to make donations in aid of war  
19 activities;

20 (14) to transact any lawful business that will aid  
21 governmental policy; and

22 (15) to make payments or donations or to do any other  
23 act that is consistent with law and that furthers the  
24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is  
2 entitled to dissent from and obtain payment of the fair  
3 value of his the shareholder's shares in the event of any of  
4 the following corporate actions:

5 (a) consummation of a plan of merger to which the  
6 corporation is a party if:

7 (i) shareholder approval is required for the merger by  
8 35-1-815 or the articles of incorporation and the  
9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with  
11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which  
13 the corporation is a party as the corporation whose shares  
14 will be acquired if the shareholder is entitled to vote on  
15 the plan;

16 (c) consummation of a sale or exchange of all or  
17 substantially all of the property of the corporation other  
18 than in the usual and regular course of business if the  
19 shareholder is entitled to vote on the sale or exchange,  
20 including a sale in dissolution but not including a sale  
21 pursuant to court order or a sale for cash pursuant to a  
22 plan by which all or substantially all of the net proceeds  
23 of the sale will be distributed to the shareholders within 1  
24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a  
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the  
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of  
6 redemption, including a provision with respect to a sinking  
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the  
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be  
11 voted on any matter or to ~~accumulate~~ cumulate votes, other  
12 than a limitation by dilution through issuance of shares or  
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the  
15 shareholder to a fraction of a share if the fractional share  
16 ~~so~~ created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a  
18 shareholder vote to the extent the articles of  
19 incorporation, bylaws, or a resolution of the board of  
20 directors provides that voting or nonvoting shareholders are  
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain  
23 payment for his shares under 35-1-826 through 35-1-839 may  
24 not challenge the corporate action creating the  
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the  
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. Unknown claims against dissolved  
5 corporation. (1) Subject to 35-1-939 35-1-936, the  
6 dissolution of a corporation, including by the expiration of  
7 its term, does not take away or impair any remedy available  
8 to or against the corporation or its officers, directors, or  
9 shareholders for any claim or right, whether or not the  
10 claim or right existed or accrued prior to dissolution. A  
11 proceeding by or against the corporation may be prosecuted  
12 or defended by the corporation in its corporate name. The  
13 shareholders, directors, and officers have power to take  
14 corporate or other action as appropriate to protect the  
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this  
17 section:

18 (a) against the dissolved corporation, to the extent of  
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,  
21 against a shareholder of the dissolved corporation to the  
22 extent of ~~his~~ the shareholder's pro rata share of the claim  
23 or the corporate assets distributed to the shareholder in  
24 liquidation, whichever is less, but a shareholder's total  
25 liability for all claims under this section may not exceed

the total amount of assets distributed to him the shareholder.

(3) Subsections (1) and (2) apply to foreign corporations and their shareholders transacting business in this state for any claims otherwise arising or accruing under Montana law."

**Section 4.** Section 35-1-1039, MCA, is amended to read:

"35-1-1039. Procedure for and effect of revocation. (1)

If the secretary of state determines that one or more grounds exist under 35-1-1038 for revocation of a certificate of authority, the secretary of state shall serve mail to the foreign corporation with the written notice of his the determination pursuant-to-35-1-1034.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service--of the notice is perfected--under 35-1-1034 MAILED, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve MAIL a copy on TO the foreign corporation pursuant-to-35-1-1034.

(3) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(4) The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state as the foreign corporation's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal officer, or, if no a report or communication is not on file, in its application for a certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation."

**Section 5.** ~~Section 35-1-1104, MCA, is amended to read:--~~

~~"35-1-1104. Annual report for secretary of state. (1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall deliver~~

1 to-the-secretary-of-state,for-filing,an-annual-report-that  
 2 sets-forth:

3 {a}--the--name--of--the--corporation--and--the--state-or  
 4 country-under-whose-law-it-is-incorporated;

5 {b}--the--mailing--address--and,--if--different,--street  
 6 address-of--its--registered--office--and--the--name--of--its  
 7 registered-agent-at-that-office-in-this-state;

8 {c}--the-address-of-its-principal-officer;

9 {d}--the--names--and-business-addresses-of-its-directors  
 10 and-principal-officers;

11 {e}--a-brief-description-of-the-nature-of-its-business;

12 {f}--the-total-number-of-authorized-shares,itemized--by  
 13 class-and-series,if-any,within-each-class;

14 {g}--the--total-number-of-issued-and-outstanding-shares,  
 15 itemized-by-class-and-series,if-any,within-each-class;

16 {2}--Each--foreign--corporation--shall--also--include--a  
 17 statement,expressed-in-dollars,of-the--value--of--all--the  
 18 property-owned-by-the-corporation,wherever-located,and-the  
 19 value--of--the--property--of--the-corporation-located-within  
 20 Montana-and-a-statement,expressed-in-dollars,of-the--gross  
 21 amount--of--business--transacted--by-the-corporation-for-the  
 22 year-ending-December-31-preceding-the-date-provided-in--this  
 23 section-for-the-filing-of-the-report-and-the-gross-amount-of  
 24 business--transacted-by-the-corporation-at-or-from-places-of  
 25 business-in-Montana--if-on-December-31--preceding--the--time

1 provided--in--this--section-for-the-filing-of-the-report-the  
 2 corporation-had-not-been-authorized-to-transact-business--in  
 3 Montana--for--1-year,the-statement-with-respect-to-business  
 4 transacted-must-be-furnished-for-the-period-between-the-date  
 5 of-its-authorization-to-transact--business--in--Montana--and  
 6 December-31,--if--all--the--property--of-the-corporation-is  
 7 located-in-Montana-and-all-of-its-business-is-transacted--at  
 8 or--from--places--of--business--in--Montana,the-information  
 9 required-by-this-subsection-need-not-be-reported;

10 {3}--Information-in-the-annual-report-must-be-current-as  
 11 of-the-date-the-annual-report-is-executed-on-behalf--of--the  
 12 corporation;

13 {4}--The--first--annual--report-must-be-delivered-to-the  
 14 secretary-of-state-between-January-1-and--April--15--of--the  
 15 year--following--the--calendar--year--in--which--a--domestic  
 16 corporation--was--incorporated--or-a-foreign-corporation-was  
 17 authorized-to-transact-business,Subsequent--annual--reports  
 18 must--be-delivered-to-the-secretary-of-state-between-January  
 19 1-and-April-15;

20 {5}--If--an--annual--report---does---not---contain---the  
 21 information-required-by-this-section,the-secretary-of-state  
 22 shall--promptly--notify--the--reporting--domestic-or-foreign  
 23 corporation-in-writing-and--return--the--report--to--it--for  
 24 correction,--if--the--report--is--corrected--to--contain-the  
 25 information-required-by-this-section-and--delivered--to--the

~~secretary--of--state-within-30-days-after-the-effective-date  
of-notice-it-is-considered-to-be-timely-filed."~~

**Section 5.** Section 35-2-608, MCA, is amended to read:

"35-2-608. **Approval of plan of merger.** (1) Subject to the limitations set forth in 35-2-609, profit one or more nonprofit corporations may merge into a business or nonprofit corporation if the plan of merger is approved as provided in 35-2-610.

(2) The plan of merger must set forth:

(a) the name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

(b) the terms and conditions of the planned merger;

(c) the manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and

(d) if the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

(b) other provisions relating to the planned merger."

**Section 6.** Section 35-2-833, MCA, is amended to read:

"35-2-833. **Procedure for and effect of revocation.** (1)

The secretary of state, upon determining that one or more grounds exist under 35-2-832 for revocation of a certificate of authority, shall serve mail to the foreign corporation with written notice of that determination under 35-2-830.

(2) The attorney general, upon determining that one or more grounds exist under 35-2-832(2) for revocation of a certificate of authority, shall request the secretary of state to serve, and the secretary of state shall serve, the foreign corporation with written notice of that determination under 35-2-830.

(3) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within 60 days after mailing the notice or after service of the notice is perfected under 35-2-830, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve MAIL a copy on TO the foreign

1 corporation under-35-2-838.

2 (4) The authority of a foreign corporation to transact  
3 business in this state ceases on the date shown on the  
4 certificate revoking its certificate of authority.

5 (5) Revocation of a foreign corporation's certificate  
6 of authority does not terminate the authority of the  
7 registered agent of the corporation."

8 **Section 7.** Section 35-4-206, MCA, is amended to read:

9 "35-4-206. Corporate name. The name of a domestic or  
10 foreign professional corporation:

11 (1) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), must  
12 contain the words "professional corporation" or the  
13 abbreviation "P.C."~~and~~; UNLESS

14 (B) the name of a foreign corporation may-contain  
15 CONTAINS the words "professional services" or "P.S.";

16 (2) may not contain any word or phrase that indicates  
17 or implies that the corporation is organized for any purpose  
18 other than the purposes contained in its articles of  
19 incorporation;

20 (3) may not be the same as or deceptively similar to  
21 any assumed business name, limited partnership name,  
22 trademark, or service mark registered or reserved with the  
23 secretary of state or to the name of any domestic  
24 corporation existing under the laws of this state, any  
25 foreign corporation authorized to transact business in this

1 state, a name the exclusive right to which is reserved in  
2 the manner provided in the Montana Business Corporation Act,  
3 or the name of a corporation that has in effect a  
4 registration of its corporate name as provided in the  
5 Montana Business Corporation Act. This subsection does not  
6 apply if:

7 (a) the similarity results from the use in the  
8 corporate name of personal names of shareholders or former  
9 shareholders or of natural persons who were associated with  
10 a predecessor entity; or

11 (b) the corporation files with the secretary of state  
12 either the written consent of such other corporation or  
13 holder of a reserved or registered name to use the same or a  
14 deceptively similar name and one or more words are added to  
15 make such name distinguishable from such other name or a  
16 certified copy of a final decree of a court of competent  
17 jurisdiction establishing the prior right of the corporation  
18 to the use of the name in this state; and

19 (4) must conform to rules promulgated by a licensing  
20 authority having jurisdiction of a professional service  
21 described in the articles of incorporation of the  
22 corporation."

23 NEW SECTION. **Section 8.** Extension of duration of  
24 corporation. If a corporation is dissolved by the expiration  
25 of its period of duration as stated in its articles of



1 incorporation, the corporation may amend its articles of  
2 incorporation within 5 years from the stated date of  
3 expiration to extend its existence.

4 NEW SECTION. **Section 9.** Codification instruction.  
5 [Section 9 8] is intended to be codified as an integral part  
6 of Title 35, chapter 1, and the provisions of Title 35,  
7 chapter 1, apply to [section 9 8].

-End-

## 1 HOUSE BILL NO. 577

2 INTRODUCED BY D. BROWN

3 BY REQUEST OF THE SECRETARY OF STATE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND  
6 CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR  
7 MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME  
8 DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE  
9 EXTENSION OF DURATION OF A CORPORATION; AND AMENDING  
10 SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-2-1104,  
11 35-2-608, 35-2-833, AND 35-4-206, MCA."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 **Section 1.** Section 35-1-115, MCA, is amended to read:

15 "35-1-115. General powers. Unless its articles of  
16 incorporation provide otherwise, each corporation has  
17 perpetual duration and succession in its corporate name and,  
18 unless otherwise prohibited by law, has the same powers as  
19 an individual to do all things necessary or convenient to  
20 carry out its business and affairs, including without  
21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its  
23 corporate name;

24 (2) to have a corporate seal, which may be altered at  
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its  
3 articles of incorporation or with the laws of this state,  
4 for managing the business and regulating the affairs of the  
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire  
7 and to own, hold, improve, use, and otherwise deal with real  
8 or personal property or any legal or equitable interest in  
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,  
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise  
13 acquire any other entity; to own, hold, vote, use, sell,  
14 mortgage, lend, pledge, or otherwise dispose of any other  
15 entity; and to deal in and with shares or other interests  
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur  
18 liabilities; to borrow money; to issue its notes, bonds, and  
19

20  
21  
22 THERE ARE NO CHANGES IN THIS BILL  
23 AND WILL NOT BE REPRINTED. PLEASE  
24 REFER TO YELLOW COPY FOR COMPLETE TEXT.  
25

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21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its  
23 corporate name;

24 (2) to have a corporate seal, which may be altered at  
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its  
3 articles of incorporation or with the laws of this state,  
4 for managing the business and regulating the affairs of the  
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire  
7 and to own, hold, improve, use, and otherwise deal with real  
8 or personal property or any legal or equitable interest in  
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,  
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise  
13 acquire any other entity; to own, hold, vote, use, sell,  
14 mortgage, lend, pledge, or otherwise dispose of any other  
15 entity; and to deal in and with shares or other interests  
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur  
18 liabilities; to borrow money; to issue its notes, bonds, and  
19 other obligations, which, if authorized by the articles of  
20 incorporation, may be convertible into or include the option  
21 to purchase other securities of the corporation; and to  
22 secure any of its obligations by mortgage or pledge of any  
23 of its property, franchises, or income;

24 (8) to lend money, invest and reinvest its funds, and  
25 receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or

3 manager of any partnership, joint venture, trust, or other

4 entity;

5 (10) to conduct its business, locate offices, and

6 exercise the powers granted by this chapter in the state or

7 out of the state;

8 (11) to elect directors and appoint officers, employees,

9 and agents of the corporation; to define their duties; to

10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,

12 pension trusts, profit-sharing plans, share bonus plans,

13 share option plans, and benefit or incentive plans for any

14 or all of its current or former directors, officers,

15 employees, and agents;

16 (13) to make donations for the public welfare or for

17 charitable, religious, scientific, or educational purposes

18 and, in time of war, to make donations in aid of war

19 activities;

20 (14) to transact any lawful business that will aid

21 governmental policy; and

22 (15) to make payments or donations or to do any other

23 act that is consistent with law and that furthers the

24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is

2 entitled to dissent from and obtain payment of the fair

3 value of his the shareholder's shares in the event of any of

4 the following corporate actions:

5 (a) consummation of a plan of merger to which the

6 corporation is a party if:

7 (i) shareholder approval is required for the merger by

8 35-1-815 or the articles of incorporation and the

9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with

11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which

13 the corporation is a party as the corporation whose shares

14 will be acquired if the shareholder is entitled to vote on

15 the plan;

16 (c) consummation of a sale or exchange of all or

17 substantially all of the property of the corporation other

18 than in the usual and regular course of business if the

19 shareholder is entitled to vote on the sale or exchange,

20 including a sale in dissolution but not including a sale

21 pursuant to court order or a sale for cash pursuant to a

22 plan by which all or substantially all of the net proceeds

23 of the sale will be distributed to the shareholders within 1

24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a  
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the  
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of  
6 redemption, including a provision with respect to a sinking  
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the  
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be  
11 voted on any matter or to accumulate cumulate votes, other  
12 than a limitation by dilution through issuance of shares or  
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the  
15 shareholder to a fraction of a share if the fractional share  
16 so created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a  
18 shareholder vote to the extent the articles of  
19 incorporation, bylaws, or a resolution of the board of  
20 directors provides that voting or nonvoting shareholders are  
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain  
23 payment for his shares under 35-1-826 through 35-1-839 may  
24 not challenge the corporate action creating the  
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the  
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. Unknown claims against dissolved  
5 corporation. (1) Subject to 35-1-939 35-1-936, the  
6 dissolution of a corporation, including by the expiration of  
7 its term, does not take away or impair any remedy available  
8 to or against the corporation or its officers, directors, or  
9 shareholders for any claim or right, whether or not the  
10 claim or right existed or accrued prior to dissolution. A  
11 proceeding by or against the corporation may be prosecuted  
12 or defended by the corporation in its corporate name. The  
13 shareholders, directors, and officers have power to take  
14 corporate or other action as appropriate to protect the  
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this  
17 section:

18 (a) against the dissolved corporation, to the extent of  
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,  
21 against a shareholder of the dissolved corporation to the  
22 extent of his the shareholder's pro rata share of the claim  
23 or the corporate assets distributed to the shareholder in  
24 liquidation, whichever is less, but a shareholder's total  
25 liability for all claims under this section may not exceed

the total amount of assets distributed to him the shareholder.

(3) Subsections (1) and (2) apply to foreign corporations and their shareholders transacting business in this state for any claims otherwise arising or accruing under Montana law."

**Section 4.** Section 35-1-1039, MCA, is amended to read:

"35-1-1039. Procedure for and effect of revocation. (1)

If the secretary of state determines that one or more grounds exist under 35-1-1038 for revocation of a certificate of authority, the secretary of state shall serve mail to the foreign corporation with the written notice of his the determination pursuant to 35-1-1034.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 60 days after service--of the notice is perfected--under 35-1-1034 MAILED, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve MAIL a copy on TO the foreign corporation pursuant to 35-1-1034.

(3) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(4) The secretary of state's revocation of a foreign corporation's certificate of authority appoints the secretary of state as the foreign corporation's agent for service of process in any proceeding based on a cause of action that arose during the time the foreign corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the secretary of the foreign corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office or, if no a report or communication is not on file, in its application for a certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation."

**Section 5.** ~~Section 35-1-1104, MCA, is amended to read:--~~

~~"35-1-1104. Annual report for secretary of state.--(1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall deliver~~

1 to the secretary of state for filing, an annual report that  
 2 sets forth:

3 (a) the name of the corporation and the state or  
 4 country under whose law it is incorporated;

5 (b) the mailing address and, if different, street  
 6 address of its registered office and the name of its  
 7 registered agent at that office in this state;

8 (c) the address of its principal office;

9 (d) the names and business addresses of its directors  
 10 and principal officers;

11 (e) a brief description of the nature of its business;

12 (f) the total number of authorized shares, itemized by  
 13 class and series, if any, within each class, and

14 (g) the total number of issued and outstanding shares,  
 15 itemized by class and series, if any, within each class;

16 (2) Each foreign corporation shall also include a  
 17 statement, expressed in dollars, of the value of all the  
 18 property owned by the corporation, wherever located, and the  
 19 value of the property of the corporation located within  
 20 Montana and a statement, expressed in dollars, of the gross  
 21 amount of business transacted by the corporation for the  
 22 year ending December 31 preceding the date provided in this  
 23 section for the filing of the report and the gross amount of  
 24 business transacted by the corporation at or from places of  
 25 business in Montana, if on December 31 preceding the time

1 provided in this section for the filing of the report the  
 2 corporation had not been authorized to transact business in  
 3 Montana for a year, the statement with respect to business  
 4 transacted must be furnished for the period between the date  
 5 of its authorization to transact business in Montana and  
 6 December 31, if all the property of the corporation is  
 7 located in Montana and all of its business is transacted at  
 8 or from places of business in Montana, the information  
 9 required by this subsection need not be reported.

10 (3) Information in the annual report must be current as  
 11 of the date the annual report is executed on behalf of the  
 12 corporation.

13 (4) The first annual report must be delivered to the  
 14 secretary of state between January 1 and April 15 of the  
 15 year following the calendar year in which a domestic  
 16 corporation was incorporated or a foreign corporation was  
 17 authorized to transact business. Subsequent annual reports  
 18 must be delivered to the secretary of state between January  
 19 1 and April 15.

20 (5) If an annual report does not contain the  
 21 information required by this section, the secretary of state  
 22 shall promptly notify the reporting domestic or foreign  
 23 corporation in writing and return the report to it for  
 24 correction. If the report is corrected to contain the  
 25 information required by this section and delivered to the

secretary--of--state-within-30-days-after-the-effective-date  
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(a) the name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

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(c) the manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and

(d) if the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

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(3) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within 60 days after mailing the notice or after service of the notice is perfected under 35-2-830, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve MAIL a copy on TO the foreign



corporation under-35-2-838.

(4) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

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(B) the name of a foreign corporation may contain CONTAINS the words "professional services" or "P.S.";

(2) may not contain any word or phrase that indicates or implies that the corporation is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) may not be the same as or deceptively similar to any assumed business name, limited partnership name, trademark, or service mark registered or reserved with the secretary of state or to the name of any domestic corporation existing under the laws of this state, any foreign corporation authorized to transact business in this

state, a name the exclusive right to which is reserved in the manner provided in the Montana Business Corporation Act, or the name of a corporation that has in effect a registration of its corporate name as provided in the Montana Business Corporation Act. This subsection does not apply if:

(a) the similarity results from the use in the corporate name of personal names of shareholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(b) the corporation files with the secretary of state either the written consent of such other corporation or holder of a reserved or registered name to use the same or a deceptively similar name and one or more words are added to make such name distinguishable from such other name or a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the corporation to the use of the name in this state; and

(4) must conform to rules promulgated by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation."

NEW SECTION. **Section 8.** Extension of duration of corporation. If a corporation is dissolved by the expiration of its period of duration as stated in its articles of

1 incorporation, the corporation may amend its articles of  
2 incorporation within 5 years from the stated date of  
3 expiration to extend its existence.

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5 [Section 9 8] is intended to be codified as an integral part  
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7 chapter 1, apply to [section 9 8].

-End-