

AMENDED IN ASSEMBLY AUGUST 14, 2014

AMENDED IN ASSEMBLY JUNE 30, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN ASSEMBLY MAY 29, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1301

Introduced by Senator DeSaulnier

February 21, 2014

An act to amend Sections 107, 158, 171.08, 911, 1100, 1112.5, 1113, 1151, 1152, 1155, 1201, 2500, 2501, 2502, 2502.01, 2502.03, 2502.04, 2502.05, 2502.06, 2503.1, 2504, 2506, 2507, 2509, 2510, 2510.1, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2600, 2600.5, 2601, 2602, 2603, 2604, 2605, 2700, 2701, 2702, 2800, 2900, 3000, 3001, 3002, 3100, 3200, 3201, 3202, 3203, 3300, 3301, 3302, 3303, 3304, 3305, 3400, 3401, 3500, 3501, 3502, 3503, 5813.5, 7813.5, 9621, and 12504 of, to amend the heading of Division 1.5 (commencing with Section 2500) of Title 1 of, and to add Section 3307 to, the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, as amended, DeSaulnier. Corporate Flexibility Act of 2011: Social Purpose Corporations Act.

The Corporate Flexibility Act of 2011 authorizes and regulates the formation and operation of flexible purpose corporations.

This bill would rename the act as the Social Purpose Corporations Act and rename the type of corporation authorized and regulated under that act as a social purpose corporation.

Under the act, an existing business association organized as a trust under the laws of this state or of a foreign jurisdiction may incorporate under the act upon approval by its board of trustees or similar governing body and approval by the affirmative vote of a majority of the outstanding voting shares of beneficial interest, and the filing of articles with a certificate.

This bill would revise the approval by the affirmative vote of a majority of the outstanding voting shares of beneficial interest requirement to approval by the affirmative vote of $\frac{2}{3}$ of those shares.

Under the act, the articles of incorporation are required to set forth specified statements, including the name of the corporation.

This bill would revise the statements that are required to be contained in the articles of incorporation. This bill would authorize a corporation formed pursuant to the act before January 1, 2015, to elect to change its status from a flexible purpose corporation to a social purpose corporation by amending its articles of incorporation, as provided. The bill would require that any reference in the act to social purpose corporation be deemed a reference to flexible purpose corporation, for any flexible purpose corporation formed prior to January 1, 2015, that has not amended its articles of incorporation to change its status to a social purpose corporation.

This bill would require, for corporations organized on and after January 1, 2015, a statement that the corporation is organized as a social purpose corporation under the Social Purpose Corporations Act.

Under the act, the director, in discharging his or her duties, may consider those factors, and give weight to those factors, as the director deems relevant, including the short-term and long-term prospects of the corporation, the best interests of the corporation and its shareholders, and the purposes of the corporation as set forth in its articles.

This bill would revise one of the factors and would require the director to consider those factors. This bill would authorize shareholders to maintain a derivative lawsuit to enforce this requirement.

Under the act, certificates representing the shares of a corporation formed under the act are required to contain specified statements.

This bill would revise the statements required to be on those certificates. This bill would provide that the certificates representing shares of a corporation formed pursuant to this act as a “flexible purpose corporation” before January 1, 2015, continue to be valid, and that any reference to a “flexible purpose corporation” or any abbreviation of

that term in those certificates is also a reference to “social purpose corporation.”

Under the act, a corporation formed under the act may, by amendment of its articles as specified in the act, convert to a domestic corporation.

This bill would instead provide that a corporation formed under the act may change its status to that of a business corporation. This bill would provide that if the status change is approved, shareholders with dissenting shares may exercise dissenters’ rights set forth in the General Corporation Law.

Under the act certain mergers require approval by an affirmative vote of at least $\frac{2}{3}$ of the outstanding shares of each class, or a greater vote if required in the articles, regardless of whether that class is entitled to vote thereon by the provisions of the articles, of the disappearing corporation.

This bill would provide that if the merger is approved, shareholders with dissenting shares may exercise dissenters’ rights set forth in the General Corporation Law.

Under the act, a corporation formed under the act may be converted into a domestic other business entity if specified conditions are met. The act requires the approval of a plan of conversion.

This bill would provide that if the plan is approved, shareholders with dissenting shares may exercise dissenters’ rights set forth in the General Corporation Law.

Under the act, the principal terms of a reorganization are required to be approved by the outstanding shares of any class of a corporation formed under that act that is a party to a merger or sale-of-assets reorganization if holders of shares of that class receive shares of the surviving or acquiring corporation formed under that act or parent party having different rights, preferences, privileges, or restrictions than those surrendered.

This bill would instead require the principal terms of a reorganization to be approved by the affirmative vote of at least $\frac{2}{3}$ of each class, or a greater vote if required in the articles, of the outstanding shares of any class of a corporation formed under that act that is a party to a merger or sale-of-assets reorganization if holders of shares of that class receive shares of the surviving or acquiring corporation formed under that act or parent party having different rights, preferences, privileges, or restrictions than those surrendered.

Under the act, the board of a corporation formed under the act is required to cause an annual report to be sent to the shareholders,

provided with a management discussion and analysis (special purpose MD&A) that contains specified information concerning the corporation's stated purposes. Existing law exempts the annual report and special purpose MD&A requirement for corporations formed under the act with fewer than 100 holders of record of its shares if specified conditions exist.

This bill would revise the information required to be contained in the special purpose MD&A. This bill would repeal the exemption.

Existing law sets forth procedures for how a corporation formed pursuant to the Corporate Flexibility Act of 2011 can convert or change their status into other types of entities and how other entities can convert or change their status to a corporation formed pursuant to the Corporate Flexibility Act of 2011.

This bill would revise those procedures.

This bill would make other changes to correct erroneous cross-references.

This bill would incorporate additional changes to Sections 1155 and 3304 of the Corporations Code proposed by SB 1041 that would become operative only if this bill and SB 1041 are both chaptered and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 107 of the Corporations Code is amended
2 to read:

3 107. No corporation, social purpose corporation, association,
4 or individual shall issue or put in circulation, as money, anything
5 but the lawful money of the United States.

6 SEC. 2. Section 158 of the Corporations Code is amended to
7 read:

8 158. (a) "Close corporation" means a corporation, including
9 a close social purpose corporation, whose articles contain, in
10 addition to the provisions required by Section 202, a provision that
11 all of the corporation's issued shares of all classes shall be held of
12 record by not more than a specified number of persons, not
13 exceeding 35, and a statement "This corporation is a close
14 corporation."

1 (b) The special provisions referred to in subdivision (a) may be
2 included in the articles by amendment, but if such amendment is
3 adopted after the issuance of shares only by the affirmative vote
4 of all of the issued and outstanding shares of all classes.

5 (c) The special provisions referred to in subdivision (a) may be
6 deleted from the articles by amendment, or the number of
7 shareholders specified may be changed by amendment, but if such
8 amendment is adopted after the issuance of shares only by the
9 affirmative vote of at least two-thirds of each class of the
10 outstanding shares; provided, however, that the articles may
11 provide for a lesser vote, but not less than a majority of the
12 outstanding shares, or may deny a vote to any class, or both.

13 (d) In determining the number of shareholders for the purposes
14 of the provision in the articles authorized by this section, a husband
15 and wife and the personal representative of either shall be counted
16 as one regardless of how shares may be held by either or both of
17 them, a trust or personal representative of a decedent holding shares
18 shall be counted as one regardless of the number of trustees or
19 beneficiaries and a partnership or corporation or business
20 association holding shares shall be counted as one (except that any
21 such trust or entity the primary purpose of which was the
22 acquisition or voting of the shares shall be counted according to
23 the number of beneficial interests therein).

24 (e) A corporation shall cease to be a close corporation upon the
25 filing of an amendment to its articles pursuant to subdivision (c)
26 or if it shall have more than the maximum number of holders of
27 record of its shares specified in its articles as a result of an inter
28 vivos transfer of shares which is not void under subdivision (d) of
29 Section 418, the transfer of shares on distribution by will or
30 pursuant to the laws of descent and distribution, the dissolution of
31 a partnership or corporation or business association or the
32 termination of a trust which holds shares, by court decree upon
33 dissolution of a marriage or otherwise by operation of law.
34 Promptly upon acquiring more than the specified number of holders
35 of record of its shares, a close corporation shall execute and file
36 an amendment to its articles deleting the special provisions referred
37 to in subdivision (a) and deleting any other provisions not
38 permissible for a corporation which is not a close corporation,
39 which amendment shall be promptly approved and filed by the
40 board and need not be approved by the outstanding shares.

1 (f) Nothing contained in this section shall invalidate any
2 agreement among the shareholders to vote for the deletion from
3 the articles of the special provisions referred to in subdivision (a)
4 upon the lapse of a specified period of time or upon the occurrence
5 of a certain event or condition or otherwise.

6 (g) The following sections contain specific references to close
7 corporations: Sections 186, 202, 204, 300, 418, 421, 1111, 1201,
8 1800, and 1904.

9 SEC. 3. Section 171.08 of the Corporations Code is amended
10 to read:

11 171.08. “Social purpose corporation” means any social purpose
12 corporation formed under Division 1.5 (commencing with Section
13 2500).

14 SEC. 4. Section 911 of the Corporations Code is amended to
15 read:

16 911. (a) A corporation may, by amendment of its articles
17 pursuant to this section, change its status to that of a social purpose
18 corporation, nonprofit public benefit corporation, nonprofit mutual
19 benefit corporation, nonprofit religious corporation, or cooperative
20 corporation.

21 (b) The amendment of the articles to change status to a nonprofit
22 corporation shall revise the statement of purpose, delete the
23 authorization for shares and any other provisions relating to
24 authorized or issued shares, make such other changes as may be
25 necessary or desired, and, if any shares have been issued, provide
26 either for the cancellation of those shares or for the conversion of
27 those shares to memberships of the nonprofit corporation. The
28 amendment of the articles to change status to a cooperative
29 corporation shall revise the statement of purpose, make such other
30 changes as may be necessary or desired, and, if any shares have
31 been issued, provide for the cancellation of those shares or for the
32 conversion of those shares to memberships of the cooperative
33 corporation, if necessary.

34 (c) If shares have been issued, an amendment to change status
35 to a nonprofit corporation shall be approved by all of the
36 outstanding shares of all classes regardless of limitations or
37 restrictions on the voting rights thereof and an amendment to
38 change status to a cooperative corporation shall be approved by
39 the outstanding shares (Section 152) of each class regardless of
40 limitations or restrictions on the voting rights thereof.

1 (d) In the case of a change of status to a social purpose
2 corporation:

3 (1) The corporation shall modify the name of the corporation,
4 revise the statement of purpose, include the statement required by
5 subparagraph (B) of paragraph (3) of subdivision (b) of Section
6 2602, and make such other conforming changes as may be
7 necessary or desired.

8 (2) The amendment shall be approved by the affirmative vote
9 of at least two-thirds of each class, or a greater vote if required in
10 the articles, of outstanding shares (Section 152) of that changing
11 corporation.

12 (e) If an amendment pursuant to this section is included in a
13 merger agreement, the provisions of this section apply, except that
14 any provision for cancellation or conversion of shares shall be in
15 the merger agreement rather than in the amendment of the articles.

16 (f) Notwithstanding subdivision (c), if a corporation is a mutual
17 water company within the meaning of Section 2705 of the Public
18 Utilities Code and under the terms of the status change each
19 outstanding share is converted to a membership of a nonprofit
20 mutual benefit corporation, an amendment to change status to a
21 nonprofit mutual benefit corporation shall be approved by the
22 outstanding shares (Section 152) of each class regardless of
23 limitations or restrictions on the voting rights thereof.

24 SEC. 5. Section 1100 of the Corporations Code is amended to
25 read:

26 1100. Any two or more corporations may be merged into one
27 of those corporations. A corporation may merge with one or more
28 domestic corporations (Section 167), social purpose corporations
29 (Section 171.08), foreign corporations (Section 171), or other
30 business entities (Section 174.5) pursuant to this chapter. Mergers
31 in which a foreign corporation but no other business entity is a
32 constituent party are governed by Section 1108, mergers in which
33 a social purpose corporation but no other business entity is a
34 constituent party are governed by Section 1112.5, and mergers in
35 which an other business entity is a constituent party are governed
36 by Section 1113.

37 SEC. 6. Section 1112.5 of the Corporations Code is amended
38 to read:

1 1112.5. If a disappearing corporation in a merger is a
2 corporation governed by this division and the surviving corporation
3 is a social purpose corporation, both of the following shall apply:

4 (a) The merger shall be approved by the affirmative vote of at
5 least two-thirds of each class, or a greater vote if required in the
6 articles, of the outstanding shares (Section 152) of the disappearing
7 corporation, notwithstanding any provision of Chapter 12
8 (commencing with Section 1200).

9 (b) The shareholders of the disappearing corporation shall have
10 all of the rights under Chapter 13 (commencing with Section 1300)
11 of the shareholders of a corporation involved in a reorganization
12 requiring the approval of its outstanding shares (Section 152), and
13 the disappearing corporation shall have all of the obligations under
14 Chapter 13 (commencing with Section 1300) of a corporation
15 involved in the reorganization.

16 SEC. 7. Section 1113 of the Corporations Code is amended to
17 read:

18 1113. (a) Any one or more corporations may merge with one
19 or more other business entities (Section 174.5). One or more
20 domestic corporations (Section 167) not organized under this
21 division and one or more foreign corporations (Section 171) may
22 be parties to the merger. Notwithstanding the provisions of this
23 section, the merger of any number of corporations with any number
24 of other business entities may be effected only if:

25 (1) In a merger in which a domestic corporation not organized
26 under this division or a domestic other business entity is a party,
27 it is authorized by the laws under which it is organized to effect
28 the merger.

29 (2) In a merger in which a foreign corporation is a party, it is
30 authorized by the laws under which it is organized to effect the
31 merger.

32 (3) In a merger in which a foreign other business entity is a
33 party, it is authorized by the laws under which it is organized to
34 effect the merger.

35 (b) Each corporation and each other party that desires to merge
36 shall approve, and shall be a party to, an agreement of merger.
37 Other persons, including a parent party (Section 1200), may be
38 parties to the agreement of merger. The board of each corporation
39 that desires to merge and, if required, the shareholders shall
40 approve the agreement of merger. The agreement of merger shall

1 be approved on behalf of each party by those persons required to
2 approve the merger by the laws under which it is organized. The
3 agreement of merger shall state:

4 (1) The terms and conditions of the merger.

5 (2) The name and place of incorporation or organization of each
6 party to the merger and the identity of the surviving party.

7 (3) The amendments, if any, subject to Sections 900 and 907,
8 to the articles of the surviving corporation, if applicable, to be
9 effected by the merger. If any amendment changes the name of
10 the surviving corporation, if applicable, the new name may be,
11 subject to subdivision (b) of Section 201, the same as or similar
12 to the name of a disappearing party to the merger.

13 (4) The manner of converting the shares of each constituent
14 corporation into shares, interests, or other securities of the surviving
15 party. If any shares of any constituent corporation are not to be
16 converted solely into shares, interests, or other securities of the
17 surviving party, the agreement of merger shall state (A) the cash,
18 rights, securities, or other property which the holders of those
19 shares are to receive in exchange for the shares, which cash, rights,
20 securities, or other property may be in addition to or in lieu of
21 shares, interests, or other securities of the surviving party, or (B)
22 that the shares are canceled without consideration.

23 (5) Any other details or provisions required by the laws under
24 which any party to the merger is organized, including, if a public
25 benefit corporation or a religious corporation is a party to the
26 merger, Section 6019.1, or, if a mutual benefit corporation is a
27 party to the merger, Section 8019.1, or, if a consumer cooperative
28 corporation is a party to the merger, Section 12540.1, or if an
29 unincorporated association is a party to the merger, Section 18370,
30 or, if a domestic limited partnership is a party to the merger,
31 Section 15911.12, or, if a domestic partnership is a party to the
32 merger, Section 16911, or, if a domestic limited liability company
33 is a party to the merger, Section 17710.12.

34 (6) Any other details or provisions as are desired, including,
35 without limitation, a provision for the payment of cash in lieu of
36 fractional shares or for any other arrangement with respect thereto
37 consistent with the provisions of Section 407.

38 (c) Each share of the same class or series of any constituent
39 corporation (other than the cancellation of shares held by a party
40 to the merger or its parent, or a wholly owned subsidiary of either,

1 in another constituent corporation) shall, unless all shareholders
2 of the class or series consent and except as provided in Section
3 407, be treated equally with respect to any distribution of cash,
4 rights, securities, or other property. Notwithstanding paragraph
5 (4) of subdivision (b), the unredeemable common shares of a
6 constituent corporation may be converted only into unredeemable
7 common shares of a surviving corporation or a parent party
8 (Section 1200) or unredeemable equity securities of a surviving
9 party other than a corporation if another party to the merger or its
10 parent owns, directly or indirectly, prior to the merger shares of
11 that corporation representing more than 50 percent of the voting
12 power of that corporation, unless all of the shareholders of the
13 class consent and except as provided in Section 407.

14 (d) Notwithstanding its prior approval, an agreement of merger
15 may be amended prior to the filing of the agreement of merger or
16 the certificate of merger, as is applicable, if the amendment is
17 approved by the board of each constituent corporation and, if the
18 amendment changes any of the principal terms of the agreement,
19 by the outstanding shares (Section 152), if required by Chapter 12
20 (commencing with Section 1200), in the same manner as the
21 original agreement of merger. If the agreement of merger as so
22 amended and approved is also approved by each of the other parties
23 to the agreement of merger, the agreement of merger as so amended
24 shall then constitute the agreement of merger.

25 (e) The board of a constituent corporation may, in its discretion,
26 abandon a merger, subject to the contractual rights, if any, of third
27 parties, including other parties to the agreement of merger, without
28 further approval by the outstanding shares (Section 152), at any
29 time before the merger is effective.

30 (f) Each constituent corporation shall sign the agreement of
31 merger by its chairperson of the board, president or a vice president,
32 and also by its secretary or an assistant secretary acting on behalf
33 of their respective corporations.

34 (g) (1) If the surviving party is a corporation or a foreign
35 corporation, or if a social purpose corporation (Section 171.08), a
36 public benefit corporation (Section 5060), a mutual benefit
37 corporation (Section 5059), a religious corporation (Section 5061),
38 or a corporation organized under the Consumer Cooperative
39 Corporation Law (Section 12200) is a party to the merger, after
40 required approvals of the merger by each constituent corporation

1 through approval of the board (Section 151) and any approval of
2 the outstanding shares (Section 152) required by Chapter 12
3 (commencing with Section 1200) and by the other parties to the
4 merger, the surviving party shall file a copy of the agreement of
5 merger with an officers' certificate of each constituent domestic
6 and foreign corporation attached stating the total number of
7 outstanding shares or membership interests of each class entitled
8 to vote on the merger (and identifying any other person or persons
9 whose approval is required), that the agreement of merger in the
10 form attached or its principal terms, as required, were approved
11 by that corporation by a vote of a number of shares or membership
12 interests of each class that equaled or exceeded the vote required,
13 specifying each class entitled to vote and the percentage vote
14 required of each class and, if applicable, by that other person or
15 persons whose approval is required, or that the merger agreement
16 was entitled to be and was approved by the board alone (as
17 provided in Section 1201, in the case of corporations subject to
18 that section). If equity securities of a parent party (Section 1200)
19 are to be issued in the merger, the officers' certificate of that
20 controlled party shall state either that no vote of the shareholders
21 of the parent party was required or that the required vote was
22 obtained. In lieu of an officers' certificate, a certificate of merger,
23 on a form prescribed by the Secretary of State, shall be filed for
24 each constituent other business entity. The certificate of merger
25 shall be executed and acknowledged by each domestic constituent
26 limited liability company by all managers of the limited liability
27 company (unless a lesser number is specified in its articles of
28 organization or operating agreement) and by each domestic
29 constituent limited partnership by all general partners (unless a
30 lesser number is provided in its certificate of limited partnership
31 or partnership agreement) and by each domestic constituent general
32 partnership by two partners (unless a lesser number is provided in
33 its partnership agreement) and by each foreign constituent limited
34 liability company by one or more managers and by each foreign
35 constituent general partnership or foreign constituent limited
36 partnership by one or more general partners, and by each
37 constituent reciprocal insurer by the chairperson of the board,
38 president, or vice president, and by the secretary or assistant
39 secretary, or, if a constituent reciprocal insurer has not appointed
40 those officers, by the chairperson of the board, president, or vice

1 president, and by the secretary or assistant secretary of the
2 constituent reciprocal insurer's attorney-in-fact, and by each other
3 party to the merger by those persons required or authorized to
4 execute the certificate of merger by the laws under which that party
5 is organized, specifying for that party the provision of law or other
6 basis for the authority of the signing persons. The certificate of
7 merger shall set forth, if a vote of the shareholders, members,
8 partners, or other holders of interests of the constituent other
9 business entity was required, a statement setting forth the total
10 number of outstanding interests of each class entitled to vote on
11 the merger and that the agreement of merger in the form attached
12 or its principal terms, as required, were approved by a vote of the
13 number of interests of each class that equaled or exceeded the vote
14 required, specifying each class entitled to vote and the percentage
15 vote required of each class, and any other information required to
16 be set forth under the laws under which the constituent other
17 business entity is organized, including, if a domestic limited
18 partnership is a party to the merger, subdivision (a) of Section
19 15911.14, if a domestic partnership is a party to the merger,
20 subdivision (b) of Section 16915, and, if a domestic limited liability
21 company is a party to the merger, subdivision (a) of Section
22 17710.04. The certificate of merger for each constituent foreign
23 other business entity, if any, shall also set forth the statutory or
24 other basis under which that foreign other business entity is
25 authorized by the laws under which it is organized to effect the
26 merger. The merger and any amendment of the articles of the
27 surviving corporation, if applicable, contained in the agreement
28 of merger shall be effective upon filing of the agreement of merger
29 with an officer's certificate of each constituent domestic and
30 foreign corporation and a certificate of merger for each constituent
31 other business entity, subject to subdivision (c) of Section 110 and
32 subject to the provisions of subdivision (j), and the several parties
33 thereto shall be one entity. If a domestic reciprocal insurer
34 organized after 1974 to provide medical malpractice insurance is
35 a party to the merger, the agreement of merger or certificate of
36 merger shall not be filed until there has been filed the certificate
37 issued by the Insurance Commissioner approving the merger
38 pursuant to Section 1555 of the Insurance Code. The Secretary of
39 State may certify a copy of the agreement of merger separate from
40 the officers' certificates and certificates of merger attached thereto.

1 (2) If the surviving entity is an other business entity, and no
2 public benefit corporation (Section 5060), mutual benefit
3 corporation (Section 5059), religious corporation (Section 5061),
4 or corporation organized under the Consumer Cooperative
5 Corporation Law (Section 12200) is a party to the merger, after
6 required approvals of the merger by each constituent corporation
7 through approval of the board (Section 151) and any approval of
8 the outstanding shares (Section 152) required by Chapter 12
9 (commencing with Section 1200) and by the other parties to the
10 merger, the parties to the merger shall file a certificate of merger
11 in the office of, and on a form prescribed by, the Secretary of State.
12 The certificate of merger shall be executed and acknowledged by
13 each constituent domestic and foreign corporation by its
14 chairperson of the board, president or a vice president, and also
15 by its secretary or an assistant secretary and by each domestic
16 constituent limited liability company by all managers of the limited
17 liability company (unless a lesser number is specified in its articles
18 of organization or operating agreement) and by each domestic
19 constituent limited partnership by all general partners (unless a
20 lesser number is provided in its certificate of limited partnership
21 or partnership agreement) and by each domestic constituent general
22 partnership by two partners (unless a lesser number is provided in
23 its partnership agreement) and by each foreign constituent limited
24 liability company by one or more managers and by each foreign
25 constituent general partnership or foreign constituent limited
26 partnership by one or more general partners, and by each
27 constituent reciprocal insurer by the chairperson of the board,
28 president, or vice president, and by the secretary or assistant
29 secretary, or, if a constituent reciprocal insurer has not appointed
30 those officers, by the chairperson of the board, president, or vice
31 president, and by the secretary or assistant secretary of the
32 constituent reciprocal insurer's attorney-in-fact. The certificate of
33 merger shall be signed by each other party to the merger by those
34 persons required or authorized to execute the certificate of merger
35 by the laws under which that party is organized, specifying for
36 that party the provision of law or other basis for the authority of
37 the signing persons. The certificate of merger shall set forth all of
38 the following:

39 (A) The name, place of incorporation or organization, and the
40 Secretary of State's file number, if any, of each party to the merger,

1 separately identifying the disappearing parties and the surviving
2 party.

3 (B) If the approval of the outstanding shares of a constituent
4 corporation was required by Chapter 12 (commencing with Section
5 1200), a statement setting forth the total number of outstanding
6 shares of each class entitled to vote on the merger and that the
7 principal terms of the agreement of merger were approved by a
8 vote of the number of shares of each class entitled to vote and the
9 percentage vote required of each class.

10 (C) The future effective date or time, not more than 90 days
11 subsequent to the date of filing of the merger, if the merger is not
12 to be effective upon the filing of the certificate of merger with the
13 office of the Secretary of State.

14 (D) A statement, by each party to the merger which is a domestic
15 corporation not organized under this division, a foreign corporation,
16 or an other business entity, of the statutory or other basis under
17 which that party is authorized by the laws under which it is
18 organized to effect the merger.

19 (E) Any other information required to be stated in the certificate
20 of merger by the laws under which each party to the merger is
21 organized, including, if a domestic limited liability company is a
22 party to the merger, subdivision (a) of Section 17710.14, if a
23 domestic partnership is a party to the merger, subdivision (b) of
24 Section 16915, and, if a domestic limited partnership is a party to
25 the merger, subdivision (a) of Section 15911.14.

26 (F) Any other details or provisions that may be desired.

27 Unless a future effective date or time is provided in a certificate
28 of merger, in which event the merger shall be effective at that
29 future effective date or time, a merger shall be effective upon the
30 filing of the certificate of merger in the office of the Secretary of
31 State and the several parties thereto shall be one entity. The
32 surviving other business entity shall keep a copy of the agreement
33 of merger at its principal place of business which, for purposes of
34 this subdivision, shall be the office referred to in Section 17710.13
35 if a domestic limited liability company, at the business address
36 specified in paragraph (5) of subdivision (a) of Section 17710.14
37 if a foreign limited liability company, at the office referred to in
38 subdivision (a) of Section 16403 if a domestic general partnership,
39 at the business address specified in subdivision (f) of Section 16911
40 if a foreign partnership, at the office referred to in subdivision (a)

1 of Section 15901.14 if a domestic limited partnership, or at the
2 business address specified in paragraph (3) of subdivision (a) of
3 Section 15909.02 if a foreign limited partnership. Upon the request
4 of a holder of equity securities of a party to the merger, a person
5 with authority to do so on behalf of the surviving other business
6 entity shall promptly deliver to that holder, a copy of the agreement
7 of merger. A waiver by that holder of the rights provided in the
8 foregoing sentence shall be unenforceable. If a domestic reciprocal
9 insurer organized after 1974 to provide medical malpractice
10 insurance is a party to the merger the agreement of merger or
11 certificate of merger shall not be filed until there has been filed
12 the certificate issued by the Insurance Commissioner approving
13 the merger in accordance with Section 1555 of the Insurance Code.

14 (h) (1) A copy of an agreement of merger certified on or after
15 the effective date by an official having custody thereof has the
16 same force in evidence as the original and, except as against the
17 state, is conclusive evidence of the performance of all conditions
18 precedent to the merger, the existence on the effective date of the
19 surviving party to the merger, and the performance of the
20 conditions necessary to the adoption of any amendment to the
21 articles, if applicable, contained in the agreement of merger.

22 (2) For all purposes for a merger in which the surviving entity
23 is a domestic other business entity and the filing of a certificate of
24 merger is required by paragraph (2) of subdivision (g), a copy of
25 the certificate of merger duly certified by the Secretary of State is
26 conclusive evidence of the merger of the constituent corporations,
27 either by themselves or together with the other parties to the
28 merger, into the surviving other business entity.

29 (i) (1) Upon a merger pursuant to this section, the separate
30 existences of the disappearing parties to the merger cease and the
31 surviving party to the merger shall succeed, without other transfer,
32 to all the rights and property of each of the disappearing parties to
33 the merger and shall be subject to all the debts and liabilities of
34 each in the same manner as if the surviving party to the merger
35 had itself incurred them.

36 (2) All rights of creditors and all liens upon the property of each
37 of the constituent corporations and other parties to the merger shall
38 be preserved unimpaired, provided that those liens upon property
39 of a disappearing party shall be limited to the property affected
40 thereby immediately prior to the time the merger is effective.

1 (3) Any action or proceeding pending by or against any
2 disappearing corporation or disappearing party to the merger may
3 be prosecuted to judgment, which shall bind the surviving party,
4 or the surviving party may be proceeded against or substituted in
5 its place.

6 (4) If a limited partnership or a general partnership is a party to
7 the merger, nothing in this section is intended to affect the liability
8 a general partner of a disappearing limited partnership or general
9 partnership may have in connection with the debts and liabilities
10 of the disappearing limited partnership or general partnership
11 existing prior to the time the merger is effective.

12 (j) (1) The merger of domestic corporations with foreign
13 corporations or foreign other business entities in a merger in which
14 one or more other business entities is a party shall comply with
15 subdivision (a) and this subdivision.

16 (2) If the surviving party is a domestic corporation or domestic
17 other business entity, the merger proceedings with respect to that
18 party and any domestic disappearing corporation shall conform to
19 the provisions of this section. If the surviving party is a foreign
20 corporation or foreign other business entity, then, subject to the
21 requirements of subdivision (c), and of Section 407 and Chapter
22 12 (commencing with Section 1200) and Chapter 13 (commencing
23 with Section 1300), and, if applicable, corresponding provisions
24 of the Nonprofit Corporation Law or the Consumer Cooperative
25 Corporation Law, with respect to any domestic constituent
26 corporations, Article 11 (commencing with Section 17711.01) of
27 Title 2.6 with respect to any domestic constituent limited liability
28 companies, Article 6 (commencing with Section 16601) of Chapter
29 5 of Title 2 with respect to any domestic constituent general
30 partnerships, and Article 11.5 (commencing with Section 15911.20)
31 of Chapter 5.5 of Title 2 with respect to any domestic constituent
32 limited partnerships, the merger proceedings may be in accordance
33 with the laws of the state or place of incorporation or organization
34 of the surviving party.

35 (3) If the surviving party is a domestic corporation or domestic
36 other business entity, the certificate of merger or the agreement of
37 merger with attachments shall be filed as provided in subdivision
38 (g) and thereupon, subject to subdivision (c) of Section 110 or
39 paragraph (2) of subdivision (g), as is applicable, the merger shall

1 be effective as to each domestic constituent corporation and
2 domestic constituent other business entity.

3 (4) If the surviving party is a foreign corporation or foreign
4 other business entity, the merger shall become effective in
5 accordance with the law of the jurisdiction in which the surviving
6 party is organized, but, except as provided in paragraph (5), the
7 merger shall be effective as to any domestic disappearing
8 corporation as of the time of effectiveness in the foreign jurisdiction
9 upon the filing in this state of a copy of the agreement of merger
10 with an officers' certificate of each constituent foreign and
11 domestic corporation and a certificate of merger of each constituent
12 other business entity attached, which officers' certificates and
13 certificates of merger shall conform to the requirements of
14 paragraph (1) of subdivision (g). If one or more domestic other
15 business entities is a disappearing party in a merger pursuant to
16 this subdivision in which a foreign other business entity is the
17 surviving entity, a certificate of merger required by the laws under
18 which that domestic other business entity is organized, including
19 subdivision (a) of Section 15911.14, subdivision (b) of Section
20 16915, or subdivision (a) of Section 17710.14, as is applicable,
21 shall also be filed at the same time as the filing of the agreement
22 of merger.

23 (5) If the date of the filing in this state pursuant to this
24 subdivision is more than six months after the time of the
25 effectiveness in the foreign jurisdiction, or if the powers of a
26 domestic disappearing corporation are suspended at the time of
27 effectiveness in the foreign jurisdiction, the merger shall be
28 effective as to the domestic disappearing corporation as of the date
29 of filing in this state.

30 (6) In a merger described in paragraph (3) or (4), each foreign
31 disappearing corporation that is qualified for the transaction of
32 intrastate business shall by virtue of the filing pursuant to this
33 subdivision, subject to subdivision (c) of Section 110, automatically
34 surrender its right to transact intrastate business in this state. The
35 filing of the agreement of merger or certificate of merger, as is
36 applicable, pursuant to this subdivision, by a disappearing foreign
37 other business entity registered for the transaction of intrastate
38 business in this state shall, by virtue of that filing, subject to
39 subdivision (c) of Section 110, automatically cancels the

1 registration for that foreign other business entity, without the
2 necessity of the filing of a certificate of cancellation.

3 SEC. 8. Section 1151 of the Corporations Code is amended to
4 read:

5 1151. (a) A corporation may be converted into a domestic
6 other business entity, including, but not limited to, a limited
7 liability company or a partnership, pursuant to this chapter if,
8 pursuant to the proposed conversion, (1) each share of the same
9 class or series of the converting corporation shall, unless all the
10 shareholders of the class or series consent, be treated equally with
11 respect to any cash, rights, securities, or other property to be
12 received by, or any obligations or restrictions to be imposed on,
13 the holder of that share, and (2) nonredeemable common shares
14 of the converting corporation shall be converted only into
15 nonredeemable equity securities of the converted entity unless all
16 of the shareholders of the class consent; provided, however, that
17 clause (1) shall not restrict the ability of the shareholders of a
18 converting corporation to appoint one or more managers, if the
19 converted entity is a limited liability company, or one or more
20 general partners, if the converted entity is a limited partnership,
21 in the plan of conversion or in the converted entity's governing
22 documents.

23 (b) Notwithstanding this section, the conversion of a corporation
24 into a domestic other business entity, including, but not limited
25 to, a limited liability company or a partnership, may be effected
26 only if both of the following conditions are complied with:

27 (1) The law under which the converted entity will exist expressly
28 permits the formation of that entity pursuant to a conversion.

29 (2) The corporation complies with any and all other requirements
30 of any other law that applies to conversion to the converted entity.

31 SEC. 9. Section 1152 of the Corporations Code is amended to
32 read:

33 1152. (a) A corporation that desires to convert to a domestic
34 other business entity shall approve a plan of conversion. The plan
35 of conversion shall state all of the following:

36 (1) The terms and conditions of the conversion.

37 (2) The jurisdiction of the organization of the converted entity
38 and of the converting corporation and the name of the converted
39 entity after conversion.

1 (3) The manner of converting the shares of each of the
2 shareholders of the converting corporation into securities of, or
3 interests in, the converted entity.

4 (4) The provisions of the governing documents for the converted
5 entity, including the partnership agreement or limited liability
6 company articles of organization and operating agreement, to
7 which the holders of interests in the converted entity are to be
8 bound.

9 (5) Any other details or provisions that are required by the laws
10 under which the converted entity is organized, or that are desired
11 by the converting corporation.

12 (b) The plan of conversion shall be approved by the board of
13 the converting corporation (Section 151), and the principal terms
14 of the plan of the conversion shall be approved by the outstanding
15 shares (Section 152) of each class of the converting corporation.
16 The approval of the outstanding shares may be given before or
17 after approval by the board. Notwithstanding the foregoing, if a
18 converting corporation is a close corporation, the conversion shall
19 be approved by the affirmative vote of at least two-thirds of each
20 class, or a greater vote if required in the articles, of outstanding
21 shares (Section 152) of that converting corporation; provided,
22 however, that the articles may provide for a lesser vote, but not
23 less than a majority of the outstanding shares of each class.

24 (c) If the corporation is converting into a general or limited
25 partnership or into a limited liability company, then in addition to
26 the approval of the shareholders set forth in subdivision (b), the
27 plan of conversion shall be approved by each shareholder who will
28 become a general partner or manager, as applicable, of the
29 converted entity pursuant to the plan of conversion unless the
30 shareholders have dissenters' rights pursuant to Section 1159 and
31 Chapter 13 (commencing with Section 1300).

32 (d) Upon the effectiveness of the conversion, all shareholders
33 of the converting corporation, except those that exercise dissenters'
34 rights as provided in Section 1159 and Chapter 13 (commencing
35 with Section 1300), shall be deemed parties to any agreement or
36 agreements constituting the governing documents for the converted
37 entity adopted as part of the plan of conversion, irrespective of
38 whether or not a shareholder has executed the plan of conversion
39 or those governing documents for the converted entity. Any

1 adoption of governing documents made pursuant thereto shall be
2 effective at the effective time or date of the conversion.

3 (e) Notwithstanding its prior approval by the board and the
4 outstanding shares or either of them, a plan of conversion may be
5 amended before the conversion takes effect if the amendment is
6 approved by the board and, if it changes any of the principal terms
7 of the plan of conversion, by the shareholders of the converting
8 corporation in the same manner and to the same extent as was
9 required for approval of the original plan of conversion.

10 (f) A plan of conversion may be abandoned by the board of a
11 converting corporation, or by the shareholders of a converting
12 corporation if the abandonment is approved by the outstanding
13 shares, in each case in the same manner as required for approval
14 of the plan of conversion, subject to the contractual rights of third
15 parties, at any time before the conversion is effective.

16 (g) The converted entity shall keep the plan of conversion at
17 (1) the principal place of business of the converted entity if the
18 converted entity is a domestic partnership or (2) at the office at
19 which records are to be kept under Section 15901.11 if the
20 converted entity is a domestic limited partnership or at the office
21 at which records are to be kept under Section 17701.13 if the
22 converted entity is a domestic limited liability company. Upon the
23 request of a shareholder of a converting corporation, the authorized
24 person on behalf of the converted entity shall promptly deliver to
25 the shareholder, at the expense of the converted entity, a copy of
26 the plan of conversion. A waiver by a shareholder of the rights
27 provided in this subdivision shall be unenforceable.

28 SEC. 10. Section 1155 of the Corporations Code is amended
29 to read:

30 1155. (a) To convert a corporation:

31 (1) If the corporation is converting into a domestic limited
32 partnership, a statement of conversion shall be completed on the
33 certificate of limited partnership for the converted entity.

34 (2) If the corporation is converting into a domestic partnership,
35 a statement of conversion shall be completed on the statement of
36 partnership authority for the converted entity, or if no statement
37 of partnership authority is filed then a certificate of conversion
38 shall be filed separately.

1 (3) If the corporation is converting into a domestic limited
2 liability company, a statement of conversion shall be completed
3 on the articles of organization for the converted entity.

4 (b) Any statement or certificate of conversion of a converting
5 corporation shall be executed and acknowledged by those officers
6 of the converting corporation as would be required to sign an
7 officers' certificate (Section 173), and shall set forth all of the
8 following:

9 (1) The name and the Secretary of State's file number of the
10 converting corporation.

11 (2) A statement of the total number of outstanding shares of
12 each class entitled to vote on the conversion, that the principal
13 terms of the plan of conversion were approved by a vote of the
14 number of shares of each class which equaled or exceeded the vote
15 required under Section 1152, specifying each class entitled to vote
16 and the percentage vote required of each class.

17 (3) The name, form, and jurisdiction of organization of the
18 converted entity.

19 (c) For the purposes of this chapter, the certificate of conversion
20 shall be on a form prescribed by the Secretary of State.

21 (d) The filing with the Secretary of State of a statement of
22 conversion on an organizational document or a certificate of
23 conversion as set forth in subdivision (a) shall have the effect of
24 the filing of a certificate of dissolution by the converting
25 corporation and no converting corporation that has made the filing
26 is required to file a certificate of election under Section 1901 or a
27 certificate of dissolution under Section 1905 as a result of that
28 conversion.

29 (e) Upon the effectiveness of a conversion pursuant to this
30 chapter, a converted entity that is a domestic partnership, domestic
31 limited partnership, or domestic limited liability company shall
32 be deemed to have assumed the liability of the converting
33 corporation (1) to prepare and file or cause to be prepared and filed
34 all tax and information returns otherwise required of the converting
35 corporation under the Corporation Tax Law (Part 11 (commencing
36 with Section 23001) of Division 2 of the Revenue and Taxation
37 Code) and (2) to pay any tax liability determined to be due pursuant
38 to that law.

39 *SEC. 10.5. Section 1155 of the Corporations Code is amended*
40 *to read:*

1 1155. (a) To convert a corporation:

2 (1) If the corporation is converting into a domestic limited
3 partnership, a statement of conversion shall be completed on the
4 certificate of limited partnership for the converted entity.

5 (2) If the corporation is converting into a domestic partnership,
6 a statement of conversion shall be completed on the statement of
7 partnership authority for the converted entity, or if no statement
8 of partnership authority is filed then a certificate of conversion
9 shall be filed separately.

10 (3) If the corporation is converting into a domestic limited
11 liability company, a statement of conversion shall be completed
12 on the articles of organization for the converted entity.

13 ~~(4) If the corporation is converting into a flexible purpose~~
14 ~~corporation, a statement of conversion shall be completed on the~~
15 ~~articles for the converted entity.~~

16 (b) Any statement or certificate of conversion of a converting
17 corporation shall be executed and acknowledged by those officers
18 of the converting corporation as would be required to sign an
19 officers' certificate (Section 173), and shall set forth all of the
20 following:

21 (1) *The name of the converting corporation and the Secretary*
22 *of State's file number of the converting corporation.*

23 (2) *A statement of the total number of outstanding shares of*
24 *each class entitled to vote on the conversion, that the principal*
25 *terms of the plan of conversion were approved by a vote of the*
26 *number of shares of each class which equaled or exceeded the vote*
27 *required under Section 1152, specifying each class entitled to vote*
28 *and the percentage vote required of each class.*

29 (3) *The name, form, and jurisdiction of organization of the*
30 *converted entity.*

31 (4) *The name and street address of the corporation's agent for*
32 *service of process. If a corporation qualified under Section 1505*
33 *is designated, no address for it shall be set forth.*

34 (c) For the purposes of this chapter, the certificate of conversion
35 shall be on a form prescribed by the Secretary of State.

36 (d) The filing with the Secretary of State of a statement of
37 conversion on an organizational document or a certificate of
38 conversion as set forth in subdivision (a) shall have the effect of
39 the filing of a certificate of dissolution by the converting
40 corporation and no converting corporation that has made the filing

1 is required to file a certificate of election under Section 1901 or a
2 certificate of dissolution under Section 1905 as a result of that
3 conversion.

4 (e) Upon the effectiveness of a conversion pursuant to this
5 chapter, a converted entity that is a ~~flexible purpose corporation,~~
6 domestic partnership, domestic limited ~~partnership~~ *partnership*,
7 or domestic limited liability company shall be deemed to have
8 assumed the liability of the converting corporation (1) to prepare
9 and file or cause to be prepared and filed all tax and information
10 returns otherwise required of the converting corporation under the
11 Corporation Tax Law (Part 11 (commencing with Section 23001)
12 of Division 2 of the Revenue and Taxation Code) and (2) to pay
13 any tax liability determined to be due pursuant to that law.

14 SEC. 11. Section 1201 of the Corporations Code is amended
15 to read:

16 1201. (a) The principal terms of a reorganization shall be
17 approved by the outstanding shares (Section 152) of each class of
18 each corporation the approval of whose board is required under
19 Section 1200, except as provided in subdivision (b) and except
20 that (unless otherwise provided in the articles) no approval of any
21 class of outstanding preferred shares of the surviving or acquiring
22 corporation or parent party shall be required if the rights,
23 preferences, privileges, and restrictions granted to or imposed upon
24 that class of shares remain unchanged (subject to the provisions
25 of subdivision (c)). For the purpose of this subdivision, two classes
26 of common shares differing only as to voting rights shall be
27 considered as a single class of shares.

28 (b) No approval of the outstanding shares (Section 152) is
29 required by subdivision (a) in the case of any corporation if that
30 corporation, or its shareholders immediately before the
31 reorganization, or both, shall own (immediately after the
32 reorganization) equity securities, other than any warrant or right
33 to subscribe to or purchase those equity securities, of the surviving
34 or acquiring corporation or a parent party (subdivision (d) of
35 Section 1200) possessing more than five-sixths of the voting power
36 of the surviving or acquiring corporation or parent party. In making
37 the determination of ownership by the shareholders of a
38 corporation, immediately after the reorganization, of equity
39 securities pursuant to the preceding sentence, equity securities
40 which they owned immediately before the reorganization as

1 shareholders of another party to the transaction shall be
2 disregarded. For the purpose of this section only, the voting power
3 of a corporation shall be calculated by assuming the conversion
4 of all equity securities convertible (immediately or at some future
5 time) into shares entitled to vote but not assuming the exercise of
6 any warrant or right to subscribe to or purchase those shares.

7 (c) Notwithstanding subdivision (b), the principal terms of a
8 reorganization shall be approved by the outstanding shares (Section
9 152) of the surviving corporation in a merger reorganization if any
10 amendment is made to its articles that would otherwise require
11 that approval.

12 (d) Notwithstanding subdivision (b), the principal terms of a
13 reorganization shall be approved by the outstanding shares (Section
14 152) of any class of a corporation that is a party to a merger or
15 sale-of-assets reorganization if holders of shares of that class
16 receive shares of the surviving or acquiring corporation or parent
17 party having different rights, preferences, privileges, or restrictions
18 than those surrendered. Shares in a foreign corporation received
19 in exchange for shares in a domestic corporation have different
20 rights, preferences, privileges, and restrictions within the meaning
21 of the preceding sentence.

22 (e) Notwithstanding subdivisions (a) and (b), the principal terms
23 of a reorganization shall be approved by the affirmative vote of at
24 least two-thirds of each class, or a greater vote if required in the
25 articles, of the outstanding shares (Section 152) of any close
26 corporation if the reorganization would result in their receiving
27 shares of a corporation that is not a close corporation. However,
28 the articles may provide for a lesser vote, but not less than a
29 majority of the outstanding shares of each class.

30 (f) Notwithstanding subdivisions (a) and (b), the principal terms
31 of a reorganization shall be approved by at least two-thirds of each
32 class, or a greater vote if required in the articles, of the outstanding
33 shares (Section 152) of a corporation that is a party to a merger
34 reorganization if holders of shares receive shares of a surviving
35 social purpose corporation in the merger.

36 (g) Notwithstanding subdivisions (a) and (b), the principal terms
37 of a reorganization shall be approved by the outstanding shares
38 (Section 152) of any class of a corporation that is a party to a
39 merger reorganization if holders of shares of that class receive
40 interests of a surviving other business entity in the merger.

1 (h) Notwithstanding subdivisions (a) and (b), the principal terms
2 of a reorganization shall be approved by all shareholders of any
3 class or series if, as a result of the reorganization, the holders of
4 that class or series become personally liable for any obligations
5 of a party to the reorganization, unless all holders of that class or
6 series have the dissenters' rights provided in Chapter 13
7 (commencing with Section 1300).

8 (i) Any approval required by this section may be given before
9 or after the approval by the board. Notwithstanding approval
10 required by this section, the board may abandon the proposed
11 reorganization without further action by the shareholders, subject
12 to the contractual rights, if any, of third parties.

13 SEC. 12. The heading of Division 1.5 (commencing with
14 Section 2500) of Title 1 of the Corporations Code is amended to
15 read:

16
17 DIVISION 1.5. SOCIAL PURPOSE CORPORATIONS ACT
18

19 SEC. 13. Section 2500 of the Corporations Code is amended
20 to read:

21 2500. This division shall be known and may be cited as the
22 Social Purpose Corporations Act.

23 SEC. 14. Section 2501 of the Corporations Code is amended
24 to read:

25 2501. Except as otherwise expressly stated, the provisions of
26 Division 1 (commencing with Section 100) shall apply to
27 corporations organized under this division, and references in that
28 division to the terms "close corporation," "constituent corporation,"
29 "corporation," "disappearing corporation," "domestic corporation,"
30 "foreign corporation," "surviving corporation," and similar terms
31 shall be read to apply, in the same manner, to include the similar
32 "social purpose corporation."

33 SEC. 15. Section 2502 of the Corporations Code is amended
34 to read:

35 2502. This division applies only to social purpose corporations
36 organized expressly under this division whether organized or
37 existing under this division or amended, merged or converted into
38 a social purpose corporation in accordance with Chapter 9
39 (commencing with Section 900) of Division 1, Chapter 11
40 (commencing with Section 1100) of Division 1 or Chapter 11.5

1 (commencing with Section 1150) of Division 1, including all
2 flexible purpose corporations formed under this division prior to
3 January 1, 2015, and now existing except as provided in paragraph
4 (2) of subdivision (b) of Section 2601 and paragraph (3) of
5 subdivision (b) of Section 2602.

6 SEC. 16. Section 2502.01 of the Corporations Code is amended
7 to read:

8 2502.01. Every social purpose corporation organized under
9 the laws of this state or similar foreign social purpose corporation,
10 all of the capital stock of which is beneficially owned by the United
11 States, an agency or instrumentality of the United States or any
12 social purpose corporation or similar foreign social purpose
13 corporation the whole of the capital stock of which is owned by
14 the United States or by an agency or instrumentality of the United
15 States, is conclusively presumed to be an agency and
16 instrumentality of the United States and is entitled to all privileges
17 and immunities to which the holders of all of its stock are entitled
18 as agencies of the United States.

19 SEC. 17. Section 2502.03 of the Corporations Code is amended
20 to read:

21 2502.03. A social purpose corporation may be sued in the same
22 manner as a corporation as provided in the Code of Civil Procedure.

23 SEC. 18. Section 2502.04 of the Corporations Code is amended
24 to read:

25 2502.04. A social purpose corporation formed under this
26 division shall, in respect of its property, as a condition of its
27 existence as a social purpose corporation, be subject, in the same
28 manner as a corporation, to the provisions of the Code of Civil
29 Procedure authorizing the attachment of corporate property.

30 SEC. 19. Section 2502.05 of the Corporations Code is amended
31 to read:

32 2502.05. The fees of the Secretary of State for filing
33 instruments by or on behalf of social purpose corporations shall
34 be the same fees prescribed for corporations in Article 3
35 (commencing with Section 12180) of Chapter 3 of Part 2 of
36 Division 3 of Title 2 of the Government Code.

37 SEC. 20. Section 2502.06 of the Corporations Code is amended
38 to read:

39 2502.06. (a) Provisions of the articles described in paragraph
40 (3) of subdivision (e) of Section 2602 and subdivisions (a) and (b)

1 of Section 2603 may be made dependent upon facts ascertainable
2 outside of the articles, if the manner in which those facts shall
3 operate upon those provisions is clearly and expressly set forth in
4 the articles. Similarly, any of the terms of an agreement of merger
5 pursuant to Section 1101 may be made dependent upon facts
6 ascertainable outside of that agreement, if the manner in which
7 those facts shall operate upon the terms of the agreement is clearly
8 and expressly set forth in the agreement of merger.

9 (b) Notwithstanding subdivision (a), when any provisions or
10 terms of articles or an agreement of merger are made dependent
11 upon facts ascertainable outside of the filed instrument through a
12 reference to an agreement or similar document, the social purpose
13 corporation filing that instrument shall maintain at its principal
14 executive office a copy of that referenced agreement or document
15 and all amendments, and shall provide to its shareholders, in the
16 case of articles, or to shareholders of any constituent corporation
17 or other business entity, in the case of an agreement of merger, a
18 copy of them upon written request and without charge.

19 (c) For the purposes of this section, “referenced agreement”
20 means an agreement or contract to which the social purpose
21 corporation is a party. An amendment or revision of a referenced
22 agreement shall require shareholder approval, in addition to any
23 other required approvals, upon any of the following circumstances:

24 (1) If the amendment or revision of the referenced agreement
25 would result in a material change in the rights, preferences,
26 privileges, or restrictions of a class or series of shares, the
27 amendment or revision shall be approved by the outstanding shares,
28 as defined in Section 152, of that class or series.

29 (2) If the amendment or revision of the referenced agreement
30 would result in a material change in the rights or liabilities of any
31 class or series of shares with respect to the subject matter of
32 paragraph (1), (2), (3), (5), or (9) of subdivision (a) of Section
33 2603, the amendment or revision shall be approved by the
34 outstanding shares, as defined in Section 152, of that class or series.

35 (3) If the amendment or revision of the referenced agreement
36 would result in a material change in the restrictions on transfer or
37 hypothecation of any class or series of shares, the amendment or
38 revision shall be approved by the outstanding shares, as defined
39 in Section 152, of that class or series.

1 (4) If the amendment or revision of the referenced agreement
2 would result in a change of any of the principal terms of an
3 agreement of merger, the amendment or revision shall be approved
4 in the same manner as required by Section 3504 for a change in
5 the principal terms of an agreement of merger.

6 SEC. 21. Section 2503.1 of the Corporations Code is amended
7 to read:

8 2503.1. “Close social purpose corporation” means a social
9 purpose corporation that is also a close corporation.

10 SEC. 22. Section 2504 of the Corporations Code is amended
11 to read:

12 2504. “Constituent social purpose corporation” means a social
13 purpose corporation that is merged with or into one or more
14 corporations or one or more other business entities and includes a
15 surviving social purpose corporation.

16 SEC. 23. Section 2506 of the Corporations Code is amended
17 to read:

18 2506. “Disappearing social purpose corporation” means a
19 constituent social purpose corporation that is not the surviving
20 entity.

21 SEC. 24. Section 2507 of the Corporations Code is amended
22 to read:

23 2507. “Domestic social purpose corporation” means a
24 corporation organized under this division.

25 SEC. 25. Section 2509 of the Corporations Code is amended
26 to read:

27 2509. “Social purpose corporation,” unless otherwise expressly
28 provided, refers only to a corporation organized under this division.

29 SEC. 26. Section 2510 of the Corporations Code is amended
30 to read:

31 2510. “Social purpose corporation subject to the Banking Law”
32 means any of the following:

33 (a) A social purpose corporation that, with the approval of the
34 Commissioner of Financial Institutions, is incorporated for the
35 purpose of engaging in, or that is authorized by the Commissioner
36 of Financial Institutions to engage in, the commercial banking
37 business under the Banking Law (Division 1 (commencing with
38 Section 99) of the Financial Code).

39 (b) Any social purpose corporation that, with the approval of
40 the Commissioner of Financial Institutions, is incorporated for the

1 purpose of engaging in, or that is authorized by the Commissioner
2 of Financial Institutions to engage in, the industrial banking
3 business under the Banking Law (Division 1 (commencing with
4 Section 99) of the Financial Code).

5 (c) Any social purpose corporation, other than a social purpose
6 corporation described in subdivision (d), that, with the approval
7 of the Commissioner of Financial Institutions, is incorporated for
8 the purpose of engaging in, or that is authorized by the
9 Commissioner of Financial Institutions to engage in, the trust
10 business under the Banking Law (Division 1 (commencing with
11 Section 99) of the Financial Code).

12 (d) Any social purpose corporation that is authorized by the
13 Commissioner of Financial Institutions and the Commissioner of
14 Insurance to maintain a title insurance department to engage in
15 title insurance business and a trust department to engage in trust
16 business.

17 (e) Any social purpose corporation that, with the approval of
18 the Commissioner of Financial Institutions, is incorporated for the
19 purpose of engaging in, or that is authorized by the Commissioner
20 of Financial Institutions to engage in, business under Article 1
21 (commencing with Section 3500) of Chapter 19 of Division 1 of
22 the Financial Code.

23 SEC. 27. Section 2510.1 of the Corporations Code is amended
24 to read:

25 2510.1. “Social purpose corporation subject to the Insurance
26 Code as an insurer” means a social purpose corporation that has
27 met the requirements of Sections 201.5, 201.6, and 201.7.

28 SEC. 28. Section 2511 of the Corporations Code is amended
29 to read:

30 2511. “Reorganization” means a merger reorganization, an
31 exchange reorganization, or a sale of assets reorganization.

32 (a) “Merger reorganization” means a merger pursuant to Chapter
33 11 (commencing with Section 1100) of Division 1 and Chapter 8
34 (commencing with Section 3200), of this division, other than a
35 short-form merger.

36 (b) “Exchange reorganization” means the acquisition by one
37 domestic social purpose corporation, foreign social purpose
38 corporation, or other business entity in exchange, in whole or in
39 part, for its equity securities, or the equity securities of a domestic
40 social purpose corporation, a foreign social purpose corporation,

1 or an other business entity that is in control of the acquiring entity,
2 of equity securities of another domestic social purpose corporation,
3 foreign social purpose corporation, or other business entity if,
4 immediately after the acquisition, the acquiring entity has control
5 of the other entity.

6 (c) “Sale-of-assets reorganization” means the acquisition by
7 one domestic social purpose corporation, foreign social purpose
8 corporation, or other business entity in exchange in whole or in
9 part for its equity securities, or the equity securities of a domestic
10 social purpose corporation, a foreign social purpose corporation,
11 or an other business entity that is in control of the acquiring entity,
12 or for its debt securities, or debt securities of a domestic social
13 purpose corporation, foreign social purpose corporation, or other
14 business entity that is in control of the acquiring entity, that are
15 not adequately secured and that have a maturity date in excess of
16 five years after the consummation of the reorganization, or both,
17 of all or substantially all of the assets of another domestic social
18 purpose corporation, foreign social purpose corporation, or other
19 business entity.

20 SEC. 29. Section 2512 of the Corporations Code is amended
21 to read:

22 2512. “Share exchange tender offer” means any acquisition by
23 one social purpose corporation in exchange in whole or in part for
24 its equity securities, or the equity securities of a corporation or a
25 social purpose corporation that is in control of the acquiring social
26 purpose corporation, of shares of another corporation or social
27 purpose corporation, other than an exchange reorganization
28 (subdivision (b) of Section 2511).

29 SEC. 30. Section 2513 of the Corporations Code is amended
30 to read:

31 2513. “Special purpose” means the special purpose set forth
32 in a social purpose corporation’s articles pursuant to subdivision
33 (b) of Section 2602.

34 SEC. 31. Section 2514 of the Corporations Code is amended
35 to read:

36 2514. “Special purpose current report” means the report
37 required of a social purpose corporation pursuant to Section 3501.

38 SEC. 32. Section 2515 of the Corporations Code is amended
39 to read:

1 2515. “Special purpose MD&A” means the management
2 discussion and analysis required of a social purpose corporation
3 pursuant to subdivision (b) of Section 3500.

4 SEC. 33. Section 2516 of the Corporations Code is amended
5 to read:

6 2516. “Special purpose objectives” means those objectives set
7 forth by management and the directors of a social purpose
8 corporation for purposes of measuring the impact of the social
9 purpose corporation’s efforts relating to its special purpose in
10 accordance with Section 3500.

11 SEC. 34. Section 2517 of the Corporations Code is amended
12 to read:

13 2517. “Surviving social purpose corporation” means a social
14 purpose corporation into which one or more other corporations or
15 one or more other business entities is merged.

16 SEC. 35. Section 2600 of the Corporations Code is amended
17 to read:

18 2600. (a) One or more natural persons, partnerships,
19 associations, social purpose corporations, or corporations, domestic
20 or foreign, may form a social purpose corporation under this
21 division by executing and filing articles of incorporation.

22 (b) If initial directors are named in the articles, each director
23 named in the articles shall sign and acknowledge the articles. If
24 initial directors are not named in the articles, the articles shall be
25 signed by one or more incorporators who shall be persons described
26 in subdivision (a).

27 (c) The corporate existence begins upon the filing of the articles
28 and continues perpetually, unless otherwise expressly provided by
29 law or in the articles.

30 SEC. 36. Section 2600.5 of the Corporations Code is amended
31 to read:

32 2600.5. (a) An existing business association organized as a
33 trust under the laws of this state or of a foreign jurisdiction may
34 incorporate under this division upon approval by its board of
35 trustees or similar governing body and approval by the affirmative
36 vote of two-thirds of the outstanding voting shares of beneficial
37 interest, or a greater proportion of the outstanding shares of
38 beneficial interest or the vote of those other classes of shares of
39 beneficial interest as may be specifically required by its declaration

1 of trust or bylaws, and the filing of articles with a certificate
2 attached pursuant to this chapter.

3 (b) In addition to the matters required to be set forth in the
4 articles pursuant to Section 2602, the articles filed pursuant to this
5 section shall state that an existing unincorporated association,
6 stating its name, is being incorporated by the filing of the articles.

7 (c) The articles filed pursuant to this section shall be signed by
8 the president, or any vice president, and the secretary, or any
9 assistant secretary, of the existing association and shall be
10 accompanied by a certificate signed and verified by those officers
11 signing the articles and stating that the incorporation of the
12 association has been approved by the trustees and by the required
13 vote of holders of shares of beneficial interest in accordance with
14 subdivision (a).

15 (d) Upon the filing of articles pursuant to this section, the social
16 purpose corporation shall succeed automatically to all of the rights
17 and property of the association being incorporated and shall be
18 subject to all of its debts and liabilities in the same manner as if
19 the social purpose corporation had itself incurred them. The
20 incumbent trustees of the association shall constitute the initial
21 directors of the social purpose corporation and shall continue in
22 office until the next annual meeting of the shareholders or their
23 earlier death, resignation, or removal. All rights of creditors and
24 all liens upon the property of the association shall be preserved
25 unimpaired. Any action or proceeding pending by or against the
26 association may be prosecuted to judgment, which shall bind the
27 social purpose corporation, or the social purpose corporation may
28 be proceeded against or substituted in its place.

29 (e) The filing for record in the office of the county recorder of
30 any county in this state in which any of the real property of the
31 association is located of a copy of the articles filed pursuant to this
32 section, certified by the Secretary of State, shall evidence record
33 ownership in the social purpose corporation of all interests of the
34 association in and to the real property located in that county.

35 SEC. 37. Section 2601 of the Corporations Code is amended
36 to read:

37 2601. (a) The Secretary of State shall not file articles setting
38 forth a name in which “bank,” “trust,” “trustee,” or related words
39 appear, unless the certificate of approval of the Commissioner of
40 Financial Institutions is attached to the articles. This subdivision

1 does not apply to the articles of any social purpose corporation
2 subject to the Banking Law on which is endorsed the approval of
3 the Commissioner of Financial Institutions.

4 (b) (1) The Secretary of State shall not file articles that set forth
5 a name that is likely to mislead the public or that is the same as,
6 or resembles so closely as to tend to deceive, the name of a
7 domestic corporation, the name of a domestic social purpose
8 corporation, or the name of a foreign corporation that is authorized
9 to transact intrastate business or has registered its name pursuant
10 to Section 2101, a name that a foreign corporation has assumed
11 under subdivision (b) of Section 2106, a name that will become
12 the record name of a corporation or social purpose corporation or
13 a foreign corporation upon the effective date of a filed corporate
14 instrument where there is a delayed effective date pursuant to
15 subdivision (c) of Section 110 or subdivision (c) of Section 5008,
16 or a name that is under reservation for another corporation or social
17 purpose corporation pursuant to this title, except that a social
18 purpose corporation may adopt a name that is substantially the
19 same as an existing corporation or social purpose corporation,
20 foreign or domestic, which is authorized to transact intrastate
21 business or has registered its name pursuant to Section 2101, upon
22 proof of consent by the domestic or foreign corporation or social
23 purpose corporation and a finding by the Secretary of State that
24 under the circumstances the public is not likely to be misled. The
25 use by a social purpose corporation of a name in violation of this
26 section may be enjoined notwithstanding the filing of its articles
27 by the Secretary of State.

28 (2) A corporation formed pursuant to this division before
29 January 1, 2015, may elect to change its status from a flexible
30 purpose corporation to a social purpose corporation by amending
31 its articles of incorporation to change its name to replace “flexible
32 purpose corporation” with “social purpose corporation” and to
33 replace the term “flexible purpose corporation” with “social
34 purpose corporation” as applicable in any statements contained in
35 the articles. For any flexible purpose corporation formed prior to
36 January 1, 2015, that has not amended its articles of incorporation
37 to change its status to a social purpose corporation, any reference
38 in this division to social purpose corporation shall be deemed a
39 reference to “flexible purpose corporation.”

1 (c) Any applicant may, upon payment of the fee prescribed in
 2 the Government Code, obtain from the Secretary of State a
 3 certificate of reservation of any name not prohibited by subdivision
 4 (b), and upon the issuance of the certificate the name stated in the
 5 certificate shall be reserved for a period of 60 days. The Secretary
 6 of State shall not, however, issue certificates reserving the same
 7 name for two or more consecutive 60-day periods to the same
 8 applicant or for the use or benefit of the same person, partnership,
 9 firm, corporation, or social purpose corporation. No consecutive
 10 reservations shall be made by or for the use or benefit of the same
 11 person, partnership, firm, corporation, or social purpose corporation
 12 of names so similar as to fall within the prohibitions of subdivision
 13 (b).

14 SEC. 38. Section 2602 of the Corporations Code is amended
 15 to read:

16 2602. The articles of incorporation shall set forth:

17 (a) The name of the social purpose corporation that shall contain
 18 the words “social purpose corporation” or an abbreviation of those
 19 words.

20 (b) (1) Either of the following statements, as applicable:

21 (A) “The purpose of this social purpose corporation is to engage
 22 in any lawful act or activity for which a social purpose corporation
 23 may be organized under Division 1.5 of the California Corporations
 24 Code, other than the banking business, the trust company business
 25 or the practice of a profession permitted to be incorporated by the
 26 California Corporations Code, for the benefit of the overall interests
 27 of the social purpose corporation and its shareholders and in
 28 furtherance of the following enumerated purposes ____.”

29 (B) “The purpose of this social purpose corporation is to engage
 30 in the profession of ____ (with the insertion of a profession
 31 permitted to be incorporated by the California Corporations Code)
 32 and any other lawful activities, other than the banking or trust
 33 company business, not prohibited to a social purpose corporation
 34 engaging in that profession by applicable laws and regulations,
 35 for the benefit of the overall interests of the social purpose
 36 corporation and its shareholders and in furtherance of the following
 37 enumerated purposes ____.”

38 (2) A statement that a purpose of the social purpose corporation,
 39 in addition to the purpose stated pursuant to paragraph (1), is to

1 engage in one or more of the following enumerated purposes, as
2 also specified in the statement set forth pursuant to paragraph (1):

3 (A) One or more charitable or public purpose activities that a
4 nonprofit public benefit corporation is authorized to carry out.

5 (B) The purpose of promoting positive effects of, or minimizing
6 adverse effects of, the social purpose corporation's activities upon
7 any of the following, provided that the corporation consider the
8 purpose in addition to or together with the financial interests of
9 the shareholders and compliance with legal obligations, and take
10 action consistent with that purpose:

11 (i) The social purpose corporation's employees, suppliers,
12 customers, and creditors.

13 (ii) The community and society.

14 (iii) The environment.

15 (3) (A) For any corporation organized under this division before
16 January 1, 2015, that has not elected to change its status to a social
17 purpose corporation, a statement that the corporation is organized
18 as a flexible purpose corporation under the Corporate Flexibility
19 Act of 2011. Such a corporation is not required to revise the
20 statements required in paragraphs (1) and (2) to conform to the
21 changes made by the act adding this subparagraph.

22 (B) For any corporation organized under this division on and
23 after January 1, 2015, or that has elected to change its status to a
24 social purpose corporation pursuant to paragraph (2) of subdivision
25 (b) of Section 2601, a statement that the corporation is organized
26 as a social purpose corporation under the Social Purpose
27 Corporations Act.

28 (4) If the social purpose corporation is a social purpose
29 corporation subject to the Banking Law (Division 1.1 (commencing
30 with Section 1000) of the Financial Code), the articles shall set
31 forth a statement of purpose that is prescribed by the applicable
32 provision of the Banking Law (Division 1.1 (commencing with
33 Section 1000) of the Financial Code).

34 (5) If the social purpose corporation is a social purpose
35 corporation subject to the Insurance Code as an insurer, the articles
36 shall additionally state that the business of the social purpose
37 corporation is to be an insurer.

38 (6) If the social purpose corporation is intended to be a
39 professional corporation within the meaning of the Moscone-Knox
40 Professional Corporation Act (Part 4 (commencing with Section

1 13400) of Division 3), the articles shall additionally contain the
2 statement required by Section 13404. The articles shall not set
3 forth any further or additional statement with respect to the
4 purposes or powers of the social purpose corporation, except by
5 way of limitation or except as expressly required by any law of
6 this state, other than this division, or any federal or other statute
7 or regulation, including the Internal Revenue Code and regulations
8 thereunder as a condition of acquiring or maintaining a particular
9 status for tax purposes.

10 (7) If the social purpose corporation is a close social purpose
11 corporation, a statement as required by subdivision (a) of Section
12 158.

13 (c) The name and street address in this state of the social purpose
14 corporation's initial agent for service of process in accordance
15 with subdivision (b) of Section 1502.

16 (d) The initial street address of the corporation.

17 (e) The initial mailing address of the corporation, if different
18 from the initial street address.

19 (f) If the social purpose corporation is authorized to issue only
20 one class of shares, the total number of shares that the social
21 purpose corporation is authorized to issue.

22 (g) If the social purpose corporation is authorized to issue more
23 than one class of shares, or if any class of shares is to have two or
24 more series, the articles shall state:

25 (1) The total number of shares of each class that the social
26 purpose corporation is authorized to issue and the total number of
27 shares of each series that the social purpose corporation is
28 authorized to issue or that the board is authorized to fix the number
29 of shares of any such series.

30 (2) The designation of each class and the designation of each
31 series or that the board may determine the designation of any such
32 series.

33 (3) The rights, preferences, privileges, and restrictions granted
34 to or imposed upon the respective classes or series of shares or the
35 holders thereof, or that the board, within any limits and restrictions
36 stated, may determine or alter the rights, preferences, privileges,
37 and restrictions granted to or imposed upon any wholly unissued
38 class of shares or any wholly unissued series of any class of shares.
39 As to any series the number of shares of which is authorized to be
40 fixed by the board, the articles may also authorize the board, within

1 the limits and restrictions stated in the article or in any resolution
2 or resolutions of the board originally fixing the number of shares
3 constituting any series, to increase or decrease, but not below the
4 number of shares of such series then outstanding, the number of
5 shares of any series subsequent to the issue of shares of that series.
6 If the number of shares of any series shall be so decreased, the
7 shares constituting that decrease shall resume the status which they
8 had prior to the adoption of the resolution originally fixing the
9 number of shares of that series.

10 SEC. 39. Section 2603 of the Corporations Code is amended
11 to read:

12 2603. The articles of incorporation may set forth:

13 (a) Any or all of the following provisions, which shall not be
14 effective unless expressly provided in the articles:

15 (1) Granting, with or without limitations, the power to levy
16 assessments upon the shares or any class of shares.

17 (2) Granting to shareholders preemptive rights to subscribe to
18 any or all issues of shares or securities.

19 (3) Special qualifications of persons who may be shareholders.

20 (4) A provision limiting the duration of the social purpose
21 corporation's existence to a specified date.

22 (5) A provision requiring, for any or all corporate actions, except
23 as provided in Section 303, subdivision (b) of Section 402.5,
24 subdivision (c) of Section 708, and Section 1900, the vote of a
25 larger proportion or of all of the shares of any class or series, or
26 the vote or quorum for taking action of a larger proportion or of
27 all of the directors, than is otherwise required by Division 1
28 (commencing with Section 100) or this division.

29 (6) So long as consistent with the purpose of the social purpose
30 corporation as set forth in the articles in accordance with
31 subdivision (b) of Section 2602, a provision limiting or restricting
32 the business in which the social purpose corporation may engage
33 or the powers which the social purpose corporation may exercise,
34 or both.

35 (7) A provision conferring upon the holders of any evidences
36 of indebtedness, issued or to be issued by the social purpose
37 corporation, the right to vote in the election of the directors and
38 on any other matters on which shareholders may vote.

39 (8) A provision conferring upon shareholders the right to
40 determine the consideration for which shares shall be issued.

1 (9) A provision requiring the approval of the shareholders
2 (Section 153) or the approval of the outstanding shares (Section
3 152) for any corporate action, even though not otherwise required
4 by Division 1 (commencing with Section 100) or this division.

5 (10) Provisions eliminating or limiting the personal liability of
6 a director for monetary damages in an action brought by or in the
7 right of the social purpose corporation for breach of a director's
8 duties to the social purpose corporation and its shareholders, as
9 set forth in Section 2700, subject to the following:

10 (A) The provision may not eliminate or limit the liability of
11 directors (i) for acts or omissions that involve intentional
12 misconduct or a knowing and culpable violation of law, (ii) for
13 acts or omissions that a director believes to be contrary to the best
14 interests of the social purpose corporation or its shareholders and
15 its corporate purposes as expressed in its articles, or that involve
16 the absence of good faith on the part of the director, (iii) for any
17 transaction from which a director derived an improper personal
18 benefit, (iv) for acts or omissions that show a reckless disregard
19 for the director's duty to the social purpose corporation or its
20 shareholders in circumstances in which the director was aware, or
21 should have been aware, in the ordinary course of performing a
22 director's duties, of a risk of serious injury to the social purpose
23 corporation, its shareholders, or its corporate purposes as expressed
24 in its articles, (v) for acts or omissions that constitute an unexcused
25 pattern of inattention that amounts to an abdication of the director's
26 duty to the social purpose corporation, its shareholders, or its
27 corporate purposes as expressed in its articles pursuant to Section
28 2602, or (vi) under Section 310 or 2701.

29 (B) The provision shall not eliminate or limit the liability of a
30 director for any act or omission occurring prior to the date on which
31 the provision becomes effective.

32 (C) The provision shall not eliminate or limit the liability of an
33 officer for any act or omission as an officer, notwithstanding that
34 the officer is also a director or that his or her actions, if negligent
35 or improper, have been ratified by the directors.

36 (11) A provision authorizing, whether by bylaw, agreement, or
37 otherwise, the indemnification of agents of the social purpose
38 corporation for breach of duty to the social purpose corporation
39 and its shareholders, provided, however, that the provision may
40 not provide for indemnification of any agent for any acts or

1 omissions or transactions from which a director may not be relieved
2 of liability as described in subparagraphs (A), (B), and (C) of
3 paragraph (10).

4 Notwithstanding this subdivision, bylaws may require, for all
5 or any actions by the board, the affirmative vote of a majority of
6 the authorized number of directors. Nothing contained in this
7 subdivision shall affect the enforceability, as between the parties
8 thereto, of any lawful agreement not otherwise contrary to public
9 policy.

10 (b) Reasonable restrictions upon the right to transfer or
11 hypothecate shares of any class or classes or series, except that no
12 restriction shall be binding with respect to shares issued prior to
13 the adoption of the restriction unless the holders of those shares
14 voted in favor of the restriction.

15 (c) The names and addresses of the persons appointed to act as
16 initial directors.

17 (d) Any other provision, not in conflict with law, for the
18 management of the business and for the conduct of the affairs of
19 the social purpose corporation, including any provision that is
20 required or permitted by this division to be stated in the bylaws.

21 SEC. 40. Section 2604 of the Corporations Code is amended
22 to read:

23 2604. Subject to any limitation contained in the articles, to
24 compliance with any other applicable laws, and to consistency
25 with the special purpose of the social purpose corporation, any
26 social purpose corporation other than a social purpose corporation
27 subject to the Banking Law or a professional social purpose
28 corporation may engage in any business activity. A social purpose
29 corporation subject to the Banking Law or a professional social
30 purpose corporation may engage in any business activity not
31 prohibited by the respective statutes and regulations to which it is
32 subject.

33 SEC. 41. Section 2605 of the Corporations Code is amended
34 to read:

35 2605. Subject to any limitations contained in the articles, to
36 compliance with other provisions of this division and any other
37 applicable laws, and to consistency with the special purpose of the
38 social purpose corporation, a social purpose corporation shall have
39 all the powers of a natural person in carrying out its business
40 activities, including, without limitation, the power to:

- 1 (a) Adopt, use, and at will alter a corporate seal. Failure to affix
- 2 a seal does not affect the validity of any instrument.
- 3 (b) Adopt, amend, and repeal bylaws.
- 4 (c) Qualify to do business in any other state, territory,
- 5 dependency, or foreign country.
- 6 (d) Subject to the provisions of Section 510, issue, purchase,
- 7 redeem, receive, take or otherwise acquire, own, hold, sell, lend,
- 8 exchange, transfer or otherwise dispose of, pledge, use, and
- 9 otherwise deal in and with its own shares, bonds, debentures, and
- 10 other securities.
- 11 (e) Make donations, regardless of specific corporate benefit, for
- 12 the public welfare or for a community fund, hospital, charitable,
- 13 educational, scientific, civic, or similar purposes.
- 14 (f) Pay pensions, and establish and carry out pension,
- 15 profit-sharing, share bonus, share purchase, share option, savings,
- 16 thrift, and other retirement, incentive, and benefit plans, trusts, and
- 17 provisions for any or all of the directors, officers, and employees
- 18 of the social purpose corporation or any of its subsidiaries or
- 19 affiliates, and to indemnify and purchase and maintain insurance
- 20 on behalf of any fiduciary of these plans, trusts, or provisions.
- 21 (g) Subject to the provisions of Section 315, assume obligations,
- 22 enter into contracts, including contracts of guaranty or suretyship,
- 23 incur liabilities, borrow and lend money and otherwise use its
- 24 credit, and secure any of its obligations, contracts, or liabilities by
- 25 mortgage, pledge, or other encumbrance of all or any part of its
- 26 property, franchises, and income.
- 27 (h) Participate with others in any partnership, joint venture, or
- 28 other association, transaction, or arrangement of any kind, whether
- 29 or not that participation involves sharing or delegation of control
- 30 with or to others.
- 31 SEC. 42. Section 2700 of the Corporations Code is amended
- 32 to read:
- 33 2700. (a) A director shall perform the duties of a director,
- 34 including duties as a member of any committee of the board upon
- 35 which the director may serve, in good faith, in a manner the director
- 36 believes to be in the best interests of the social purpose corporation
- 37 and its shareholders, and with that care, including reasonable
- 38 inquiry, as an ordinarily prudent person in a like position would
- 39 use under similar circumstances.

1 (b) In performing the duties of a director, a director shall be
2 entitled to rely upon information, opinions, reports, or statements,
3 including financial statements and other financial data, in each
4 case prepared or presented by any of the following:

5 (1) An officer or employee of the social purpose corporation
6 whom the director believes to be reliable and competent in the
7 matters presented.

8 (2) Counsel, independent accountants, or other persons as to
9 matters which the director believes to be within that person's
10 professional or expert competence.

11 (3) A committee of the board upon which the director does not
12 serve, as to matters within its designated authority, which
13 committee the director believes to merit confidence, so long as the
14 director acts in good faith, after reasonable inquiry when the need
15 therefor is indicated by the circumstances and without knowledge
16 that would cause that reliance to be unwarranted.

17 (c) In discharging his or her duties, a director shall consider
18 those factors, and give weight to those factors, as the director
19 deems relevant, including the overall prospects of the social
20 purpose corporation, the best interests of the social purpose
21 corporation and its shareholders, and the purposes of the social
22 purpose corporation as set forth in its articles.

23 (d) A person who performs the duties of a director in accordance
24 with subdivisions (a), (b), and (c) shall have no liability based
25 upon any alleged failure to discharge the person's obligations as
26 a director. The liability of a director for monetary damages may
27 be eliminated or limited by a social purpose corporation's articles
28 to the extent provided in paragraph (10) of subdivision (a) of
29 Section 2603.

30 (e) Notwithstanding any of the purposes set forth in its articles,
31 a social purpose corporation shall not be deemed to hold any of
32 its assets for the benefit of any party other than its shareholders.
33 However, nothing in this division shall be construed as negating
34 existing charitable trust principles or the Attorney General's
35 authority to enforce any charitable trust created.

36 (f) Nothing in this section, express or implied, is intended to
37 create or grant or shall create or grant any right in or for any person
38 or any cause of action by or for any person, and a director shall
39 not be responsible to any party other than the social purpose
40 corporation and its shareholders.

1 SEC. 43. Section 2701 of the Corporations Code is amended
2 to read:

3 2701. (a) Subject to Section 2700, directors of a social purpose
4 corporation who approve any of the following corporate actions
5 shall be jointly and severally liable to the social purpose
6 corporation for the benefit of all of the creditors or shareholders
7 entitled to institute an action under subdivision (c):

8 (1) The making of any distribution to its shareholders to the
9 extent that it is contrary to the provisions of Sections 500 to 503,
10 inclusive.

11 (2) The distribution of assets to shareholders after institution of
12 dissolution proceedings of the social purpose corporation, without
13 paying or adequately providing for all known liabilities of the
14 social purpose corporation, excluding any claims not filed by
15 creditors within the time limit set by the court in a notice given to
16 creditors under Chapter 18 (commencing with Section 1800) of
17 Division 1, Chapter 20 (commencing with Section 1900) of
18 Division 1, and Chapter 20 (commencing with Section 2000).

19 (3) The making of any loan or guaranty contrary to Section
20 2715.

21 (b) A director who is present at a meeting of the board, or any
22 committee of the board, at which an action specified in subdivision
23 (a) is taken and who abstains from voting, shall be deemed to have
24 approved the action.

25 (c) Suit may be brought in the name of the social purpose
26 corporation to enforce the liability as follows:

27 (1) Under paragraph (1) of subdivision (a) against any or all
28 directors liable, by the persons entitled to sue under subdivision
29 (b) of Section 506.

30 (2) Under paragraph (2) or (3) of subdivision (a) against any or
31 all directors liable, by any one or more creditors of the social
32 purpose corporation whose debts or claims arose prior to the time
33 of any of the corporate actions specified in paragraph (2) or (3) of
34 subdivision (a) and who have not consented to the corporate action,
35 regardless of whether they have reduced their claims to judgment.

36 (3) Under paragraph (3) of subdivision (a) against any or all
37 directors liable, by any one or more holders of shares outstanding
38 at the time of any corporate action specified in paragraph (3) of
39 subdivision (a) who have not consented to the corporate action,
40 without regard to the provisions of Section 2900.

1 (d) The damages recoverable from a director under this section
2 shall be the amount of the illegal distribution, or if the illegal
3 distribution consists of property, the fair market value of that
4 property at the time of the illegal distribution, plus interest thereon
5 from the date of the distribution at the legal rate on judgments until
6 paid, together with all reasonably incurred costs of appraisal or
7 other valuation, if any, of that property or loss suffered by the
8 social purpose corporation as a result of the illegal loan or guaranty,
9 respectively, but not exceeding the liabilities of the social purpose
10 corporation owed to nonconsenting creditors at the time of the
11 violation and the injury suffered by nonconsenting shareholders.

12 (e) Any director sued under this section may implead all other
13 directors liable and may compel contribution, either in that action
14 or in an independent action against directors not joined in that
15 action.

16 (f) Directors liable under this section shall also be entitled to
17 be subrogated to the rights of the social purpose corporation:

18 (1) With respect to paragraph (1) of subdivision (a), against
19 shareholders who received the distribution.

20 (2) With respect to paragraph (2) of subdivision (a), against
21 shareholders who received the distribution of assets.

22 (3) With respect to paragraph (3) of subdivision (a), against the
23 person who received the loan or guaranty.

24 Any director sued under this section may file a cross-complaint
25 against the person or persons who are liable to the director as a
26 result of the subrogation provided for in this subdivision or may
27 proceed against them in an independent action.

28 SEC. 44. Section 2702 of the Corporations Code is amended
29 to read:

30 2702. (a) For the purposes of this section:

31 (1) "Agent" means any person who is or was a director, officer,
32 employee, or other agent of the social purpose corporation, or is
33 or was serving at the request of the social purpose corporation as
34 a director, officer, employee, or agent of another foreign or
35 domestic corporation, partnership, joint venture, trust, or other
36 enterprise, or was a director, officer, employee, or agent of a
37 foreign or domestic corporation which was a predecessor
38 corporation of the social purpose corporation or of another
39 enterprise at the request of the predecessor corporation.

1 (2) “Proceeding” means any threatened, pending, or completed
2 action or proceeding, whether civil, criminal, administrative, or
3 investigative.

4 (3) “Expenses” includes without limitation attorneys’ fees and
5 any expenses of establishing a right to indemnification under
6 subdivision (b).

7 (b) Subject to the standards and restrictions, if any, set forth in
8 its articles or bylaws, and subject to the limitations required by
9 paragraph (11) of subdivision (a) of Section 2603, a social purpose
10 corporation may indemnify and hold harmless any agent or any
11 other person from and against any and all claims and demands
12 whatsoever.

13 (c) Expenses incurred in defending any proceeding may be
14 advanced by the social purpose corporation prior to the final
15 disposition of the proceeding. The provisions of subdivision (a)
16 of Section 315 do not apply to advances made pursuant to this
17 subdivision.

18 (d) A social purpose corporation may purchase and maintain
19 insurance on behalf of any of its agents against any liability
20 asserted against or incurred by the agent in that capacity or arising
21 out of the agent’s status as an agent regardless of whether the social
22 purpose corporation would have the power to indemnify the agent
23 against that liability under this section. The fact that a social
24 purpose corporation owns all or a portion of the shares of the
25 company issuing a policy of insurance shall not render this
26 subdivision inapplicable if either of the following conditions are
27 satisfied:

28 (1) The insurance provided by this subdivision is limited as
29 indemnification is required to be limited by paragraph (11) of
30 subdivision (a) of Section 2603.

31 (2) (A) The company issuing the insurance policy is organized,
32 licensed, and operated in a manner that complies with the insurance
33 laws and regulations applicable to its jurisdiction of organization.

34 (B) The company issuing the policy provides procedures for
35 processing claims that do not permit that company to be subject
36 to the direct control of the social purpose corporation that
37 purchased that policy.

38 (C) The policy issued provides for some manner of risk sharing
39 between the issuer and purchaser of the policy, on one hand, and
40 some unaffiliated person or persons, on the other, such as by

1 providing for more than one unaffiliated owner of the company
2 issuing the policy or by providing that a portion of the coverage
3 furnished will be obtained from some unaffiliated insurer or
4 reinsurer.

5 (e) This section does not apply to any proceeding against any
6 trustee, investment manager, or other fiduciary of an employee
7 benefit plan in that person’s capacity as such, even though the
8 person may also be an agent as defined in subdivision (a) of the
9 employer social purpose corporation. A social purpose corporation
10 shall have power to indemnify a trustee, investment manager, or
11 other fiduciary to the extent permitted by subdivision (f) of Section
12 2605.

13 SEC. 45. Section 2800 of the Corporations Code is amended
14 to read:

15 2800. (a) All certificates representing shares of a social purpose
16 corporation shall contain, in addition to any other statements
17 required by this section, the following conspicuous language on
18 the face of the certificate.

19
20 “This entity is a social purpose corporation organized under
21 Division 1.5 of the California Corporations Code. The articles of
22 this corporation state one or more purposes required by law. Refer
23 to the articles on file with the Secretary of State, and the bylaws
24 and any agreements on file with the secretary of the corporation,
25 for further information.”

26
27 (b) There shall also appear on the certificate, the initial
28 transaction statement, and written statements, unless stated or
29 summarized under subdivision (a) or (b) of Section 417, the
30 statements required by all of the following, to the extent applicable:

31 (1) The fact that the shares are subject to restrictions upon
32 transfer.

33 (2) If the shares are assessable or are not fully paid, a statement
34 that they are assessable or the statements required by subdivision
35 (d) of Section 409 if they are not fully paid.

36 (3) The fact that the shares are subject to a voting agreement
37 under subdivision (a) of Section 706 or an irrevocable proxy under
38 subdivision (e) of Section 705 or restrictions upon voting rights
39 contractually imposed by the social purpose corporation.

40 (4) The fact that the shares are redeemable.

1 (5) The fact that the shares are convertible and the period for
2 conversion.

3 Statements or references to statements on the face of the
4 certificate, the initial transaction statement, and written statements
5 required by paragraph (1) or (2) shall be conspicuous.

6 (c) Unless stated on the certificate, the initial transaction
7 statement, and written statements as required by subdivision (a),
8 no restriction upon transfer, no right of redemption and no voting
9 agreement under subdivision (a) of Section 706, no irrevocable
10 proxy under subdivision (e) of Section 705, and no voting
11 restriction imposed by the social purpose corporation shall be
12 enforceable against a transferee of the shares without actual
13 knowledge of the restriction, right, agreement, or proxy. With
14 regard only to liability to assessment or for the unpaid portion of
15 the subscription price, unless stated on the certificate as required
16 by subdivision (a), that liability shall not be enforceable against a
17 transferee of the shares. For the purpose of this subdivision,
18 “transferee” includes a purchaser from the social purpose
19 corporation.

20 (d) All certificates representing shares of a close social purpose
21 corporation shall contain, in addition to any other statements
22 required by this section, the following conspicuous legend on the
23 face thereof:

24
25 “This social purpose corporation is a close social purpose
26 corporation. The number of holders of record of its shares of all
27 classes cannot exceed ____ (a number not in excess of 35). Any
28 attempted voluntary inter vivos transfer which would violate this
29 requirement is void. Refer to the articles, bylaws, and any
30 agreements on file with the secretary of the social purpose
31 corporation for further restrictions.”

32
33 (e) Any attempted voluntary inter vivos transfer of the shares
34 of a close social purpose corporation that would result in the
35 number of holders of record of its shares exceeding the maximum
36 number specified in its articles is void if the certificate contains
37 the legend required by subdivision (c).

38 (f) Notwithstanding any other subdivision, the certificates
39 representing shares of a corporation formed pursuant to this
40 division as a “flexible purpose corporation” before January 1,

1 2015, shall continue to be valid even if the certificates reference
2 a “flexible purpose corporation.” A corporation formed pursuant
3 to this division before January 1, 2015, may, but is not required
4 to, reissue certificates to replace “flexible purpose corporation”
5 with “social purpose corporation” as applicable. Any reference to
6 a “flexible purpose corporation” or any abbreviation of that term
7 in certificates representing shares of a corporation formed pursuant
8 to this division before January 1, 2015, shall also be a reference
9 to “social purpose corporation.”

10 SEC. 46. Section 2900 of the Corporations Code is amended
11 to read:

12 2900. (a) As used in this section:

13 (1) “Social purpose corporation” includes an unincorporated
14 association.

15 (2) “Board” includes the managing body of an unincorporated
16 association.

17 (3) “Shareholder” includes a member of an unincorporated
18 association.

19 (4) “Shares” includes memberships in an unincorporated
20 association.

21 (b) Shareholders of a social purpose corporation may maintain
22 a derivative lawsuit to enforce the requirements set forth in
23 subdivision (c) of Section 2700.

24 (c) No action may be instituted or maintained in right of any
25 domestic or foreign social purpose corporation under this section
26 by any party other than a shareholder of the social purpose
27 corporation.

28 (d) No action may be instituted or maintained in right of any
29 domestic or foreign social purpose corporation by any holder of
30 shares or of voting trust certificates of the social purpose
31 corporation unless both of the following conditions exist:

32 (1) The plaintiff alleges in the complaint that plaintiff was a
33 shareholder, of record or beneficially, or the holder of voting trust
34 certificates at the time of the transaction or any part thereof of
35 which plaintiff complains or that plaintiff’s shares or voting trust
36 certificates thereafter devolved upon plaintiff by operation of law
37 from a holder who was a holder at the time of the transaction or
38 any part thereof complained of. Any shareholder who does not
39 meet these requirements may nevertheless be allowed, in the
40 discretion of the court, to maintain the action on a preliminary

1 showing to and determination by the court, by motion and after a
2 hearing, at which the court shall consider the evidence by affidavit
3 or testimony, as it deems material, of all of the following:

4 (A) There is a strong prima facie case in favor of the claim
5 asserted on behalf of the social purpose corporation.

6 (B) No other similar action has been or is likely to be instituted.

7 (C) The plaintiff acquired the shares before there was disclosure
8 to the public or to the plaintiff of the wrongdoing of which plaintiff
9 complains.

10 (D) Unless the action can be maintained the defendant may
11 retain a gain derived from defendant's willful breach of a fiduciary
12 duty.

13 (E) The requested relief will not result in unjust enrichment of
14 the social purpose corporation or any shareholder of the social
15 purpose corporation.

16 (2) The plaintiff alleges in the complaint with particularity
17 plaintiff's efforts to secure from the board the action as plaintiff
18 desires, or the reasons for not making that effort, and alleges further
19 that plaintiff has either informed the social purpose corporation or
20 the board in writing of the ultimate facts of each cause of action
21 against each defendant or delivered to the social purpose
22 corporation or the board a true copy of the complaint which
23 plaintiff proposes to file.

24 (e) In any action referred to in subdivision (c), at any time within
25 30 days after service of summons upon the social purpose
26 corporation or upon any defendant who is an officer or director of
27 the social purpose corporation, or held that office at the time of
28 the acts complained of, the social purpose corporation or the
29 defendant may move the court for an order, upon notice and
30 hearing, requiring the plaintiff to furnish a bond as hereinafter
31 provided. The motion shall be based upon one or both of the
32 following grounds:

33 (1) There is no reasonable possibility that the prosecution of
34 the cause of action alleged in the complaint against the moving
35 party will benefit the social purpose corporation or its shareholders.

36 (2) The moving party, if other than the social purpose
37 corporation, did not participate in the transaction complained of
38 in any capacity.

1 The court on application of the social purpose corporation or
2 any defendant may, for good cause shown, extend the 30-day
3 period for an additional period or periods not exceeding 60 days.

4 (f) At the hearing upon any motion pursuant to subdivision (d),
5 the court shall consider the evidence, written or oral, by witnesses
6 or affidavit, as may be material to the ground or grounds upon
7 which the motion is based, or to a determination of the probable
8 reasonable expenses, including attorney's fees, of the social
9 purpose corporation and the moving party that will be incurred in
10 the defense of the action. If the court determines, after hearing the
11 evidence adduced by the parties, that the moving party has
12 established a probability in support of any of the grounds upon
13 which the motion is based, the court shall fix the amount of the
14 bond, not to exceed fifty thousand dollars (\$50,000), to be
15 furnished by the plaintiff for reasonable expenses, including
16 attorney's fees, which may be incurred by the moving party and
17 the social purpose corporation in connection with the action,
18 including expenses for which the social purpose corporation may
19 become liable pursuant to Section 2702. A ruling by the court on
20 the motion shall not be a determination of any issue in the action
21 or of the merits thereof. If the court, upon the motion, makes a
22 determination that a bond shall be furnished by the plaintiff as to
23 any one or more defendants, the action shall be dismissed as to
24 the defendant or defendants, unless the bond required by the court
25 has been furnished within such reasonable time as may be fixed
26 by the court.

27 (g) If the plaintiff, either before or after a motion is made
28 pursuant to subdivision (d), or any order or determination pursuant
29 to the motion, furnishes a bond in the aggregate amount of fifty
30 thousand dollars (\$50,000) to secure the reasonable expenses of
31 the parties entitled to make the motion, the plaintiff shall be deemed
32 to have complied with the requirements of this section and with
33 any order for a bond theretofore made, and any motion then
34 pending shall be dismissed and no further or additional bond shall
35 be required.

36 (h) If a motion is filed pursuant to subdivision (d), no pleadings
37 need be filed by the social purpose corporation or any other
38 defendant and the prosecution of the action shall be stayed until
39 10 days after the motion has been disposed of.

1 SEC. 47. Section 3000 of the Corporations Code is amended
2 to read:

3 3000. (a) A proposed amendment to the articles of a social
4 purpose corporation shall be approved by the outstanding shares
5 of a class, regardless of whether that class is entitled to vote thereon
6 by the provisions of the articles, if the amendment would:

7 (1) Increase or decrease the aggregate number of authorized
8 shares of that class, other than an increase as provided in either
9 subdivision (b) of Section 405 or subdivision (b) of Section 902.

10 (2) Effect an exchange, reclassification, or cancellation of all
11 or part of the shares of that class, including a reverse stock split
12 but excluding a stock split.

13 (3) Effect an exchange, or create a right of exchange, of all or
14 part of the shares of another class into the shares of that class.

15 (4) Change the rights, preferences, privileges, or restrictions of
16 the shares of that class.

17 (5) Create a new class of shares having rights, preferences, or
18 privileges prior to the shares of that class, or increase the rights,
19 preferences, or privileges or the number of authorized shares of
20 any class having rights, preferences, or privileges prior to the shares
21 of that class.

22 (6) In the case of preferred shares, divide the shares of any class
23 into series having different rights, preferences, privileges, or
24 restrictions or authorize the board to do so.

25 (7) Cancel or otherwise affect dividends on the shares of that
26 class that have accrued but have not been paid.

27 (b) A proposed amendment shall be approved by an affirmative
28 vote of at least two-thirds of the outstanding shares of each class,
29 or a greater vote if required in the articles, regardless of whether
30 that class is entitled to vote thereon by the provisions of the articles,
31 if the amendment would materially alter any special purpose of
32 the social purpose corporation stated in the articles pursuant to
33 paragraph (2) of subdivision (b) of Section 2602, regardless of
34 whether that purpose, as amended, would comply with the
35 provisions of that paragraph.

36 (c) Different series of the same class shall not constitute different
37 classes for the purpose of voting by classes except when a series
38 is adversely affected by an amendment in a different manner than
39 other shares of the same class.

1 (d) In addition to approval by a class as provided in subdivisions
2 (a) and (b), a proposed amendment shall also be approved by the
3 outstanding voting shares (Section 152).

4 SEC. 48. Section 3001 of the Corporations Code is amended
5 to read:

6 3001. (a) A social purpose corporation may, by amendment
7 of its articles pursuant to this section, change its status to that of
8 a nonprofit public benefit corporation, nonprofit mutual benefit
9 corporation, nonprofit religious corporation, or cooperative
10 corporation.

11 (b) The amendment of the articles to change its status to a
12 nonprofit corporation shall revise the statement of purpose, delete
13 the authorization for shares and any other provisions relating to
14 authorized or issued shares, make other changes as may be
15 necessary or desired, and, if any shares have been issued, provide
16 either for the cancellation of those shares or for the conversion of
17 those shares to memberships of the nonprofit corporation. The
18 amendment of the articles to change status to a cooperative
19 corporation shall revise the statement of purpose, make other
20 changes as may be necessary or desired, and, if any shares have
21 been issued, provide for the cancellation of those shares or for the
22 change of those shares to memberships of the cooperative
23 corporation, if necessary.

24 (c) If shares have been issued, an amendment to change status
25 to a nonprofit corporation shall be approved by all of the
26 outstanding shares of all classes regardless of limitations or
27 restrictions on their voting rights and an amendment to change
28 status to a cooperative corporation shall be approved by the
29 outstanding shares of each class regardless of limitations or
30 restrictions on their voting rights.

31 (d) If an amendment pursuant to this section is included in a
32 merger agreement, the provisions of this section shall apply, except
33 that any provision for cancellation or conversion of shares shall
34 be in the merger agreement rather than in the amendment of the
35 articles.

36 (e) Notwithstanding subdivision (c), if a social purpose
37 corporation is a mutual water company within the meaning of
38 Section 2705 of the Public Utilities Code and under the terms of
39 the status change each outstanding share is converted to a
40 membership of a nonprofit mutual benefit corporation, an

1 amendment to change status to a nonprofit mutual benefit
2 corporation shall be approved by the outstanding shares of each
3 class regardless of limitations or restrictions on their voting rights.

4 SEC. 49. Section 3002 of the Corporations Code is amended
5 to read:

6 3002. (a) A social purpose corporation may, by amendment
7 of its articles pursuant to this section, change its status to that of
8 a business corporation.

9 (b) The amendment of the articles to change status to a business
10 corporation shall revise the statement of purpose to delete any
11 provisions in the articles that are permitted by Section 2602, but
12 that are not permitted to be in the articles of a domestic corporation.

13 (c) If shares have been issued, an amendment to change status
14 to a business corporation shall be approved by an affirmative vote
15 of at least two-thirds of the outstanding shares of each class, or a
16 greater vote if required in the articles, regardless of whether that
17 class is entitled to vote thereon by the provisions of the articles.
18 If the status change is approved, shareholders with dissenting
19 shares, as defined in subdivision (b) of Section 1300, may exercise
20 dissenters' rights pursuant to Section 3305 and Chapter 13
21 (commencing with Section 1300) of Division 1.

22 (d) If an amendment pursuant to this section is included in a
23 merger agreement, the provisions of this section shall apply, except
24 that any provision for cancellation or conversion of shares shall
25 be in the merger agreement rather than in the amendment of the
26 articles.

27 SEC. 50. Section 3100 of the Corporations Code is amended
28 to read:

29 3100. (a) A social purpose corporation may sell, lease, convey,
30 exchange, transfer, or otherwise dispose of all or substantially all
31 of its assets when the principal terms of the transaction are
32 approved by the board and are approved by an affirmative vote of
33 at least two-thirds of the outstanding shares of each class, or a
34 greater vote if required in the articles, regardless of whether that
35 class is entitled to vote thereon by the provisions of the articles,
36 either before or after approval by the board and before the
37 transaction. A transaction constituting a reorganization shall be
38 subject to Chapter 12 (commencing with Section 1200) of Division
39 1 and Chapter 10 (commencing with Section 3400) of this division
40 and shall not be subject to this section, other than subdivision (d).

1 A transaction constituting a conversion shall be subject to Chapter
2 11.5 (commencing with Section 1150) of Division 1 and Chapter
3 9 (commencing with Section 3300) of this division and shall not
4 be subject to this section.

5 (b) Notwithstanding approval of two-thirds of the outstanding
6 shares, the board may abandon the proposed transaction without
7 further action by the shareholders, subject to the contractual rights,
8 if any, of third parties.

9 (c) The sale, lease, conveyance, exchange, transfer, or other
10 disposition may be made upon those terms and conditions and for
11 that consideration as the board may deem in the best interests of
12 the social purpose corporation. The consideration may be money,
13 securities, or other property.

14 (d) If the acquiring party in a transaction pursuant to subdivision
15 (a) or subdivision (g) of Section 2001 is in control of or under
16 common control with the disposing social purpose corporation,
17 the principal terms of the sale shall be approved by at least 90
18 percent of the voting power of the disposing social purpose
19 corporation unless the disposition is to a domestic or foreign other
20 business entity or social purpose corporation, the articles of
21 incorporation of which specify materially the same purposes, in
22 consideration of the nonredeemable common shares or
23 nonredeemable equity securities of the acquiring party or its parent.

24 (e) Subdivision (d) shall not apply to a transaction if the
25 Commissioner of Corporations, the Commissioner of Financial
26 Institutions, the Insurance Commissioner, or the Public Utilities
27 Commission has approved the terms and conditions of the
28 transaction and the fairness of those terms and conditions pursuant
29 to Section 25142, Section 696.5 of the Financial Code, Section
30 838.5 of the Insurance Code, or Section 822 of the Public Utilities
31 Code.

32 SEC. 51. Section 3200 of the Corporations Code is amended
33 to read:

34 3200. If any disappearing social purpose corporation in a
35 merger is a close social purpose corporation and the surviving
36 social purpose corporation is not a close social purpose corporation,
37 the merger shall be approved by an affirmative vote of at least
38 two-thirds of the outstanding shares of each class, or a greater vote
39 if required in the articles, regardless of whether that class is entitled
40 to vote thereon by the provisions of the articles, of the disappearing

1 social purpose corporation. The articles may provide for a lesser
2 vote, but not less than a majority of the outstanding shares of each
3 class.

4 SEC. 52. Section 3201 of the Corporations Code is amended
5 to read:

6 3201. If any disappearing corporation in a merger is a social
7 purpose corporation and the surviving entity is not a social purpose
8 corporation, or is a social purpose corporation the articles of
9 incorporation of which set forth materially different purposes, the
10 merger shall be approved by an affirmative vote of at least
11 two-thirds of the outstanding shares of each class, or a greater vote
12 if required in the articles, regardless of whether that class is entitled
13 to vote thereon by the provisions of the articles, of the disappearing
14 social purpose corporation. If the merger is approved, shareholders
15 with dissenting shares, as defined in subdivision (b) of Section
16 1300, may exercise dissenters' rights pursuant to Section 3305 and
17 Chapter 13 (commencing with Section 1300) of Division 1.

18 SEC. 53. Section 3202 of the Corporations Code is amended
19 to read:

20 3202. If a disappearing social purpose corporation in a merger
21 is a social purpose corporation governed by this division and the
22 surviving corporation is a nonprofit public benefit corporation, a
23 nonprofit mutual benefit corporation, or a nonprofit religious
24 corporation, the merger shall be approved by all of the outstanding
25 shares of all classes of the disappearing social purpose corporation,
26 regardless of limitations or restrictions on their voting rights,
27 notwithstanding any provision of Chapter 10 (commencing with
28 Section 3400).

29 SEC. 54. Section 3203 of the Corporations Code is amended
30 to read:

31 3203. (a) Any one or more social purpose corporations may
32 merge with one or more other business entities. One or more
33 domestic social purpose corporations not organized under this
34 division and one or more foreign corporations may be parties to
35 the merger. Notwithstanding this section, the merger of any number
36 of social purpose corporations with any number of other business
37 entities may be effected only if:

38 (1) In a merger in which a domestic social purpose corporation
39 not organized under this division or a domestic other business

1 entity is a party, it is authorized by the laws under which it is
2 organized to effect the merger.

3 (2) In a merger in which a foreign corporation is a party, it is
4 authorized by the laws under which it is organized to effect the
5 merger.

6 (3) In a merger in which a foreign other business entity is a
7 party, it is authorized by the laws under which it is organized to
8 effect the merger.

9 (b) Each social purpose corporation and each other party that
10 desires to merge shall approve, and shall be a party to, an
11 agreement of merger. Other persons, including a parent party, may
12 be parties to the agreement of merger. The board of each social
13 purpose corporation that desires to merge, and, if required, the
14 shareholders, shall approve the agreement of merger. The
15 agreement of merger shall be approved on behalf of each party by
16 those persons required to approve the merger by the laws under
17 which it is organized. The agreement of merger shall state:

18 (1) The terms and conditions of the merger.

19 (2) The name and place of incorporation or organization of each
20 party to the merger and the identity of the surviving party.

21 (3) The amendments, if any, subject to Sections 900, 902, 907,
22 and 3002 to the articles of the surviving social purpose corporation,
23 if applicable, to be effected by the merger. If any amendment
24 changes the name of the surviving social purpose corporation, if
25 applicable, the new name may be, subject to subdivision (b) of
26 Section 2601, the same as or similar to the name of a disappearing
27 party to the merger.

28 (4) The manner of converting the shares of each constituent
29 social purpose corporation into shares, interests, or other securities
30 of the surviving party. If any shares of any constituent social
31 purpose corporation are not to be converted solely into shares,
32 interests, or other securities of the surviving party, the agreement
33 of merger shall state (A) the cash, rights, securities, or other
34 property that the holders of those shares are to receive in exchange
35 for the shares, which cash, rights, securities, or other property may
36 be in addition to or in lieu of shares, interests, or other securities
37 of the surviving party, or (B) that the shares are canceled without
38 consideration.

39 (5) Any other details or provisions required by the laws under
40 which any party to the merger is organized, including, if a domestic

1 corporation is a party to the merger, Section 3203, if a public
2 benefit corporation or a religious corporation is a party to the
3 merger, Section 6019.1, if a mutual benefit corporation is a party
4 to the merger, Section 8019.1, if a consumer cooperative
5 corporation is a party to the merger, Section 12540.1, if a domestic
6 limited partnership is a party to the merger, Section 15911.12, if
7 a domestic partnership is a party to the merger, Section 16911,
8 and if a domestic limited liability company is a party to the merger,
9 Section 17551.

10 (6) Any other details or provisions as are desired, including,
11 without limitation, a provision for the payment of cash in lieu of
12 fractional shares or for any other arrangement with respect thereto
13 consistent with the provisions of Section 407.

14 (c) Each share of the same class or series of any constituent
15 social purpose corporation, other than the cancellation of shares
16 held by a party to the merger or its parent, or a wholly owned
17 subsidiary of either, in another constituent social purpose
18 corporation, shall, unless all shareholders of the class or series
19 consent and except as provided in Section 407, be treated equally
20 with respect to any distribution of cash, rights, securities, or other
21 property. Notwithstanding paragraph (4) of subdivision (b), the
22 nonredeemable common shares of a constituent social purpose
23 corporation may be converted only into nonredeemable common
24 shares of a surviving social purpose corporation or a parent party
25 or nonredeemable equity securities of a surviving party other than
26 a social purpose corporation if another party to the merger or its
27 parent owns, directly or indirectly, prior to the merger shares of
28 that corporation representing more than 50 percent of the voting
29 power of that social purpose corporation, unless all of the
30 shareholders of the class consent and except as provided in Section
31 407.

32 (d) Notwithstanding its prior approval, an agreement of merger
33 may be amended prior to the filing of the agreement of merger or
34 the certificate of merger, as is applicable, if the amendment is
35 approved by the board of each constituent social purpose
36 corporation and, if the amendment changes any of the principal
37 terms of the agreement, by the outstanding shares, if required by
38 Chapter 10 (commencing with Section 3400), in the same manner
39 as the original agreement of merger. If the agreement of merger
40 as so amended and approved is also approved by each of the other

1 parties to the agreement of merger, the agreement of merger as so
2 amended shall then constitute the agreement of merger.

3 (e) The board of a constituent social purpose corporation may,
4 in its discretion, abandon a merger, subject to the contractual rights,
5 if any, of third parties, including other parties to the agreement of
6 merger, without further approval by the outstanding shares, at any
7 time before the merger is effective.

8 (f) Each constituent social purpose corporation shall sign the
9 agreement of merger by its chairperson of the board, president, or
10 a vice president and also by its secretary or an assistant secretary
11 acting on behalf of their respective corporations.

12 (g) (1) If the surviving party is a domestic social purpose
13 corporation, or if a domestic corporation or a foreign corporation,
14 a public benefit corporation, a mutual benefit corporation, a
15 religious corporation, or a corporation organized under the
16 Consumer Cooperative Corporation Law (Part 2 (commencing
17 with Section 12200) of Division 3) is a party to the merger, after
18 required approvals of the merger by each constituent social purpose
19 corporation through approval of the board and any approval of the
20 outstanding shares required by Chapter 10 (commencing with
21 Section 3400) and by the other parties to the merger, the surviving
22 party shall file a copy of the agreement of merger with an officers'
23 certificate of each constituent domestic social purpose corporation
24 and foreign social purpose corporation attached stating the total
25 number of outstanding shares of each class entitled to vote on the
26 merger, and identifying any other person or persons whose approval
27 is required, that the agreement of merger in the form attached or
28 its principal terms, as required, were approved by that social
29 purpose corporation by a vote of a number of shares of each class
30 that equaled or exceeded the vote required, specifying each class
31 entitled to vote and the percentage vote required of each class and,
32 if applicable, by that other person or persons whose approval is
33 required, or that the merger agreement was entitled to be and was
34 approved by the board alone, as provided in Section 3401, in the
35 case of a social purpose corporation subject to that section. If equity
36 securities of a parent party are to be issued in the merger, the
37 officers' certificate of that controlled party shall state either that
38 no vote of the shareholders of the parent party was required or that
39 the required vote was obtained. In lieu of an officers' certificate,
40 a certificate of merger, on a form prescribed by the Secretary of

1 State, shall be filed for each constituent other business entity. The
2 certificate of merger shall be executed and acknowledged by each
3 domestic constituent limited liability company by all managers of
4 the limited liability company, unless a lesser number is specified
5 in its articles or organization or operating agreement, and by each
6 domestic constituent limited partnership by all general partners,
7 unless a lesser number is provided in its certificate of limited
8 partnership or partnership agreement, and by each domestic
9 constituent general partnership by two partners, unless a lesser
10 number is provided in its partnership agreement, and by each
11 foreign constituent limited liability company by one or more
12 managers and by each foreign constituent general partnership or
13 foreign constituent limited partnership by one or more general
14 partners, and by each constituent reciprocal insurer by the
15 chairperson of the board, president, or vice president, and by the
16 secretary or assistant secretary, or, if a constituent reciprocal insurer
17 has not appointed those officers, by the chairperson of the board,
18 president, or vice president, and by the secretary or assistant
19 secretary of the constituent reciprocal insurer's attorney-in-fact,
20 and by each other party to the merger by those persons required
21 or authorized to execute the certificate of merger by the laws under
22 which that party is organized, specifying for that party the provision
23 of law or other basis for the authority of the signing persons. The
24 certificate of merger shall set forth, if a vote of the shareholders,
25 members, partners, or other holders of interests of the constituent
26 other business entity was required, a statement setting forth the
27 total number of outstanding interests of each class entitled to vote
28 on the merger and that the agreement of merger in the form
29 attached or its principal terms, as required, were approved by a
30 vote of the number of interests of each class that equaled or
31 exceeded the vote required, specifying each class entitled to vote
32 and the percentage vote required of each class, and any other
33 information required to be set forth under the laws under which
34 the constituent other business entity is organized, including, if a
35 domestic limited partnership is a party to the merger, subdivision
36 (a) of Section 15911.14, if a domestic partnership is a party to the
37 merger, subdivision (b) of Section 16915, and, if a domestic limited
38 liability company is a party to the merger, subdivision (a) of
39 Section 17552. The certificate of merger for each constituent
40 foreign other business entity, if any, shall also set forth the statutory

1 or other basis under which that foreign other business entity is
2 authorized by the laws under which it is organized to effect the
3 merger. The merger and any amendment of the articles of the
4 surviving social purpose corporation, if applicable, contained in
5 the agreement of merger shall be effective upon filing of the
6 agreement of merger with an officer's certificate of each constituent
7 domestic corporation and foreign corporation and a certificate of
8 merger for each constituent other business entity, subject to
9 subdivision (c) of Section 110 and subject to the provisions of
10 subdivision (j), and the several parties thereto shall be one entity.
11 If a domestic reciprocal insurer organized after 1974 to provide
12 medical malpractice insurance is a party to the merger, the
13 agreement of merger or certificate of merger shall not be filed until
14 there has been filed the certificate issued by the Insurance
15 Commissioner approving the merger pursuant to Section 1555 of
16 the Insurance Code. The Secretary of State may certify a copy of
17 the agreement of merger separate from the officers' certificates
18 and certificates of merger attached thereto.

19 (2) If the surviving entity is an other business entity, and no
20 public benefit corporation, mutual benefit corporation, religious
21 corporation, or corporation organized under the Consumer
22 Cooperative Corporation Law (Part 2 (commencing with Section
23 12200) of Division 3) is a party to the merger, after required
24 approvals of the merger by each constituent social purpose
25 corporation through approval of the board and any approval of the
26 outstanding shares required by Chapter 10 (commencing with
27 Section 3400) and by the other parties to the merger, the parties
28 to the merger shall file a certificate of merger in the office of, and
29 on a form prescribed by, the Secretary of State. The certificate of
30 merger shall be executed and acknowledged by each constituent
31 domestic and foreign social purpose corporation by its chairperson
32 of the board, president, or a vice president and also by its secretary
33 or an assistant secretary and by each domestic constituent limited
34 liability company by all managers of the limited liability company,
35 unless a lesser number is specified in its articles of organization
36 or operating agreement, and by each domestic constituent limited
37 partnership by all general partners, unless a lesser number is
38 provided in its certificate of limited partnership or partnership
39 agreement, and by each domestic constituent general partnership
40 by two partners, unless a lesser number is provided in its

1 partnership agreement, and by each foreign constituent limited
2 liability company by one or more managers and by each foreign
3 constituent general partnership or foreign constituent limited
4 partnership by one or more general partners, and by each
5 constituent reciprocal insurer by the chairperson of the board,
6 president, or vice president, and by the secretary or assistant
7 secretary, or, if a constituent reciprocal insurer has not appointed
8 those officers, by the chairperson of the board, president, or vice
9 president, and by the secretary or assistant secretary of the
10 constituent reciprocal insurer's attorney-in-fact. The certificate of
11 merger shall be signed by each other party to the merger by those
12 persons required or authorized to execute the certificate of merger
13 by the laws under which that party is organized, specifying for
14 that party the provision of law or other basis for the authority of
15 the signing persons. The certificate of merger shall set forth all of
16 the following:

17 (A) The name, place of incorporation or organization, and the
18 Secretary of State's file number, if any, of each party to the merger,
19 separately identifying the disappearing parties and the surviving
20 party.

21 (B) If the approval of the outstanding shares of a constituent
22 social purpose corporation was required by Chapter 10
23 (commencing with Section 3400), a statement setting forth the
24 total number of outstanding shares of each class entitled to vote
25 on the merger and that the principal terms of the agreement of
26 merger were approved by a vote of the number of shares of each
27 class entitled to vote and the percentage vote required of each
28 class.

29 (C) The future effective date or time, not more than 90 days
30 subsequent to the date of filing of the merger, if the merger is not
31 to be effective upon the filing of the certificate of merger with the
32 Secretary of State.

33 (D) A statement, by each party to the merger that is a domestic
34 corporation not organized under this division, a foreign corporation
35 or foreign other business entity, or an other business entity, of the
36 statutory or other basis under which that party is authorized by the
37 laws under which it is organized to effect the merger.

38 (E) Any other information required to be stated in the certificate
39 of merger by the laws under which each respective party to the
40 merger is organized, including, if a domestic limited liability

1 company is a party to the merger, subdivision (a) of Section 17552,
2 if a domestic partnership is a party to the merger, subdivision (b)
3 of Section 16915, and, if a domestic limited partnership is a party
4 to the merger, subdivision (a) of Section 15911.14.

5 (F) Any other details or provisions that may be desired.

6 Unless a future effective date or time is provided in a certificate
7 of merger, in which event the merger shall be effective at that
8 future effective date or time, a merger shall be effective upon the
9 filing of the certificate of merger with the Secretary of State and
10 the several parties thereto shall be one entity. The surviving other
11 business entity shall keep a copy of the agreement of merger at its
12 principal place of business which, for purposes of this subdivision,
13 shall be the office referred to in Section 17057 if a domestic limited
14 liability company, at the business address specified in paragraph
15 (5) of subdivision (a) of Section 17552 if a foreign limited liability
16 company, at the office referred to in subdivision (a) of Section
17 16403 if a domestic general partnership, at the business address
18 specified in subdivision (f) of Section 16911 if a foreign
19 partnership, at the office referred to in subdivision (a) of Section
20 15901.14 if a domestic limited partnership, or at the business
21 address specified in paragraph (5) of subdivision (a) of Section
22 15911.14 if a foreign limited partnership. Upon the request of a
23 holder of equity securities of a party to the merger, a person with
24 authority to do so on behalf of the surviving other business entity
25 shall promptly deliver to that holder, a copy of the agreement of
26 merger. A waiver by that holder of the rights provided in the
27 foregoing sentence shall be unenforceable. If a domestic reciprocal
28 insurer organized after 1974 to provide medical malpractice
29 insurance is a party to the merger the agreement of merger or
30 certificate of merger shall not be filed until there has been filed
31 the certificate issued by the Insurance Commissioner approving
32 the merger in accordance with Section 1555 of the Insurance Code.

33 (h) (1) A copy of an agreement of merger certified on or after
34 the effective date by an official having custody thereof has the
35 same force in evidence as the original and, except as against the
36 state, is conclusive evidence of the performance of all conditions
37 precedent to the merger, the existence on the effective date of the
38 surviving party to the merger, and the performance of the
39 conditions necessary to the adoption of any amendment to the
40 articles, if applicable, contained in the agreement of merger.

1 (2) For all purposes for a merger in which the surviving entity
2 is a domestic other business entity and the filing of a certificate of
3 merger is required by paragraph (2) of subdivision (g), a copy of
4 the certificate of merger duly certified by the Secretary of State is
5 conclusive evidence of the merger of the constituent corporations,
6 either by themselves or together with the other parties to the
7 merger, into the surviving other business entity.

8 (i) (1) Upon a merger pursuant to this section, the separate
9 existences of the disappearing parties to the merger cease and the
10 surviving party to the merger shall succeed, without other transfer,
11 to all the rights and property of each of the disappearing parties to
12 the merger and shall be subject to all the debts and liabilities of
13 each in the same manner as if the surviving party to the merger
14 had itself incurred them.

15 (2) All rights of creditors and all liens upon the property of each
16 of the constituent social purpose corporations and other parties to
17 the merger shall be preserved unimpaired, provided that those liens
18 upon property of a disappearing party shall be limited to the
19 property affected thereby immediately prior to the time the merger
20 is effective.

21 (3) Any action or proceeding pending by or against any
22 disappearing social purpose corporation or disappearing party to
23 the merger may be prosecuted to judgment, which shall bind the
24 surviving party, or the surviving party may be proceeded against
25 or substituted in its place.

26 (4) Nothing in this section shall be construed to affect the
27 liability a general partner of a disappearing limited partnership or
28 general partnership may have in connection with the debts and
29 liabilities of the disappearing limited partnership or general
30 partnership existing prior to the time the merger is effective.

31 (j) (1) The merger of domestic social purpose corporations with
32 foreign corporations or foreign other business entities in a merger
33 in which one or more other business entities is a party shall comply
34 with subdivision (a) and this subdivision.

35 (2) If the surviving party is a domestic social purpose
36 corporation or domestic other business entity, the merger
37 proceedings with respect to that party and any domestic
38 disappearing social purpose corporation shall conform to the
39 provisions of this section. If the surviving party is a foreign
40 corporation or foreign other business entity, then, subject to the

1 requirements of subdivision (c), Section 407, Chapter 10
2 (commencing with Section 3400), and Chapter 13 (commencing
3 with Section 1300) of Division 1, and, if applicable, corresponding
4 provisions of the Nonprofit Corporation Law (Division 2
5 (commencing with Section 5002)) or the Consumer Cooperative
6 Corporation Law (Part 2 (commencing with Section 12200) of
7 Division 3), with respect to any domestic constituent corporations,
8 Chapter 13 (commencing with Section 17600) of Title 2.5 with
9 respect to any domestic constituent limited liability companies,
10 Article 6 (commencing with Section 16601) of Chapter 5 of Title
11 2 with respect to any domestic constituent general partnerships,
12 and Article 11.5 (commencing with Section 15911.20) of Chapter
13 5.5 of Title 2 with respect to any domestic constituent limited
14 partnerships, the merger proceedings may be in accordance with
15 the laws of the state or place of incorporation or organization of
16 the surviving party.

17 (3) If the surviving party is a domestic social purpose
18 corporation or domestic other business entity, the certificate of
19 merger or the agreement of merger with attachments shall be filed
20 as provided in subdivision (g) and thereupon, subject to subdivision
21 (c) of Section 110 or paragraph (2) of subdivision (g), as applicable,
22 the merger shall be effective as to each domestic constituent social
23 purpose corporation and domestic constituent other business entity.

24 (4) If the surviving party is a foreign corporation or foreign
25 other business entity, the merger shall become effective in
26 accordance with the law of the jurisdiction in which the surviving
27 party is organized, but, except as provided in paragraph (5), the
28 merger shall be effective as to any domestic disappearing social
29 purpose corporation as of the time of effectiveness in the foreign
30 jurisdiction upon the filing in this state of a copy of the agreement
31 of merger with an officers' certificate of each constituent foreign
32 and domestic social purpose corporation and a certificate of merger
33 of each constituent other business entity attached, which officers'
34 certificates and certificates of merger shall conform to the
35 requirements of paragraph (1) of subdivision (g). If one or more
36 domestic other business entities is a disappearing party in a merger
37 pursuant to this subdivision in which a foreign other business entity
38 is the surviving entity, a certificate of merger required by the laws
39 under which that domestic other business entity is organized,
40 including subdivision (a) of Section 15911.14, subdivision (b) of

1 Section 16915, or subdivision (a) of Section 17552, as is applicable,
2 shall also be filed at the same time as the filing of the agreement
3 of merger.

4 (5) If the date of the filing in this state pursuant to this
5 subdivision is more than six months after the time of the
6 effectiveness in the foreign jurisdiction, or if the powers of a
7 domestic disappearing social purpose corporation are suspended
8 at the time of effectiveness in the foreign jurisdiction, the merger
9 shall be effective as to the domestic disappearing social purpose
10 corporation as of the date of filing in this state.

11 (6) In a merger described in paragraph (3) or (4), each foreign
12 disappearing social purpose corporation that is qualified for the
13 transaction of intrastate business shall by virtue of the filing
14 pursuant to this subdivision, subject to subdivision (c) of Section
15 110, automatically surrender its right to transact intrastate business
16 in this state. The filing of the agreement of merger or certificate
17 of merger, as is applicable, pursuant to this subdivision, by a
18 disappearing foreign other business entity registered for the
19 transaction of intrastate business in this state shall, by virtue of
20 that filing, subject to subdivision (c) of Section 110, automatically
21 cancel the registration for that foreign other business entity, without
22 the necessity of the filing of a certificate of cancellation.

23 SEC. 55. Section 3300 of the Corporations Code is amended
24 to read:

25 3300. For purposes of this chapter, the following definitions
26 shall apply:

27 (a) “Converted social purpose corporation” means a social
28 purpose corporation that results from a conversion of an other
29 business entity or a foreign other business entity or a foreign
30 corporation pursuant to Section 3307.

31 (b) “Converted entity” means a domestic other business entity
32 that results from a conversion of a social purpose corporation under
33 this chapter.

34 (c) “Converting social purpose corporation” means a social
35 purpose corporation that converts into a domestic other business
36 entity pursuant to this chapter.

37 (d) “Converting entity” means an other business entity or a
38 foreign other business entity or foreign corporation that converts
39 into a social purpose corporation pursuant to Section 3307.

1 (e) “Domestic other business entity” has the meaning provided
2 in Section 167.7.

3 (f) “Foreign other business entity” has the meaning provided in
4 Section 171.07.

5 (g) “Other business entity” has the meaning provided in Section
6 174.5.

7 SEC. 56. Section 3301 of the Corporations Code is amended
8 to read:

9 3301. (a) A social purpose corporation may be converted into
10 a domestic other business entity pursuant to this chapter if, pursuant
11 to the proposed conversion, each of the following conditions is
12 met:

13 (1) Each share of the same class or series of the converting
14 social purpose corporation shall, unless all the shareholders of the
15 class or series consent, be treated equally with respect to any cash,
16 rights, securities, or other property to be received by, or any
17 obligations or restrictions to be imposed on, the holder of that
18 share.

19 (2) The conversion is approved by an affirmative vote of at least
20 two-thirds of the outstanding shares of each class, or a greater vote
21 if required in the articles, regardless of whether that class is entitled
22 to vote thereon by the provisions of the articles.

23 (3) Nonredeemable common shares of the converting social
24 purpose corporation shall be converted only into nonredeemable
25 equity securities of the converted entity unless all of the
26 shareholders of the class consent.

27 (4) Paragraph (1) shall not restrict the ability of the shareholders
28 of a converting social purpose corporation to appoint one or more
29 managers, if the converted entity is a limited liability company,
30 or one or more general partners, if the converted entity is a limited
31 partnership, in the plan of conversion or in the converted entity’s
32 governing documents.

33 (b) Notwithstanding subdivision (a), the conversion of a social
34 purpose corporation into a domestic other business entity may be
35 effected only if both of the following conditions are met:

36 (1) The law under which the converted entity will exist expressly
37 permits the formation of that entity pursuant to a conversion.

38 (2) The social purpose corporation complies with any and all
39 other requirements of any other law that applies to conversion to
40 the converted entity.

1 SEC. 57. Section 3302 of the Corporations Code is amended
2 to read:

3 3302. (a) A social purpose corporation that desires to convert
4 to a domestic other business entity shall approve a plan of
5 conversion. The plan of conversion shall state all of the following:

6 (1) The terms and conditions of the conversion.

7 (2) The jurisdiction of the organization of the converted entity
8 and of the converting social purpose corporation and the name of
9 the converted entity after conversion.

10 (3) The manner of converting the shares of each of the
11 shareholders of the converting social purpose corporation into
12 securities of, or interests in, the converted entity.

13 (4) The provisions of the governing documents for the converted
14 entity, including the articles and bylaws, partnership agreement
15 or limited liability company articles of organization and operating
16 agreement, to which the holders of interests in the converted entity
17 are to be bound.

18 (5) Any other details or provisions that are required by the laws
19 under which the converted entity is organized, or that are desired
20 by the converting social purpose corporation.

21 (b) The plan of conversion shall be approved by the board of
22 the converting social purpose corporation, and the principal terms
23 of the plan of the conversion shall be approved by at least
24 two-thirds of the outstanding shares of each class, or a greater vote
25 if required in the articles, regardless of whether that class is entitled
26 to vote thereon by the provisions of the articles of the converting
27 social purpose corporation. The approval of at least two-thirds of
28 the outstanding shares may be given before or after approval by
29 the board. If the plan is approved, shareholders with dissenting
30 shares, as defined in subdivision (b) of Section 1300, may exercise
31 dissenters' rights pursuant to Section 3305 and Chapter 13
32 (commencing with Section 1300) of Division 1.

33 (c) If the social purpose corporation is converting into a general
34 or limited partnership or into a limited liability company, then in
35 addition to the approval of the shareholders set forth in subdivision
36 (b), the plan of conversion shall be approved by each shareholder
37 who will become a general partner or manager, as applicable, of
38 the converted entity pursuant to the plan of conversion unless the
39 shareholders have dissenters' rights pursuant to Section 3305 and
40 Chapter 13 (commencing with Section 1300) of Division 1.

1 (d) Upon the effectiveness of the conversion, all shareholders
2 of the converting social purpose corporation, except those that
3 exercise dissenters' rights as provided in Section 3305 and Chapter
4 13 (commencing with Section 1300) of Division 1, shall be deemed
5 parties to any agreement or agreements constituting the governing
6 documents for the converted entity adopted as part of the plan of
7 conversion, regardless of whether a shareholder has executed the
8 plan of conversion or those governing documents for the converted
9 entity. Any adoption of governing documents made pursuant
10 thereto shall be effective at the effective time or date of the
11 conversion.

12 (e) Notwithstanding its prior approval by the board and the
13 outstanding shares, or either of them, a plan of conversion may be
14 amended before the conversion takes effect if the amendment is
15 approved by the board and, if it changes any of the principal terms
16 of the plan of conversion, by the shareholders of the converting
17 social purpose corporation in the same manner and to the same
18 extent as was required for approval of the original plan of
19 conversion.

20 (f) A plan of conversion may be abandoned by the board of a
21 converting social purpose corporation, or by the shareholders of
22 a converting social purpose corporation if the abandonment is
23 approved by the outstanding shares, in each case in the same
24 manner as required for approval of the plan of conversion, subject
25 to the contractual rights of third parties, at any time before the
26 conversion is effective.

27 (g) The converted entity shall keep the plan of conversion at
28 the principal place of business of the converted entity if the
29 converted entity is a domestic partnership, or at the office at which
30 records are to be kept under Section 15901.14 if the converted
31 entity is a domestic limited partnership, or at the office at which
32 records are to be kept under Section 17701.13 if the converted
33 entity is a domestic limited liability company. Upon the request
34 of a shareholder of a converting social purpose corporation, the
35 authorized person on behalf of the converted entity shall promptly
36 deliver to the shareholder, at the expense of the converted entity,
37 a copy of the plan of conversion. A waiver by a shareholder of the
38 rights provided in this subdivision shall be unenforceable.

39 SEC. 58. Section 3303 of the Corporations Code is amended
40 to read:

1 3303. (a) After the approval, as provided in Section 3302, of
2 a plan of conversion by the board and the outstanding shares of a
3 social purpose corporation converting into a domestic other
4 business entity, the converting social purpose corporation shall
5 cause the filing of all documents required by law to effect the
6 conversion and create the converted entity, which documents shall
7 include a certificate of conversion or a statement of conversion as
8 required by Section 3304, and the conversion shall thereupon be
9 effective.

10 (b) A copy of the statement of partnership authority, certificate
11 of limited partnership, or articles of organization complying with
12 Section 3304, duly certified by the Secretary of State on or after
13 the effective date, shall be conclusive evidence of the conversion
14 of the social purpose corporation.

15 SEC. 59. Section 3304 of the Corporations Code is amended
16 to read:

17 3304. (a) To convert a social purpose corporation:

18 (1) If the social purpose corporation is converting into a
19 domestic limited partnership, a statement of conversion shall be
20 completed on the certificate of limited partnership for the converted
21 entity.

22 (2) If the social purpose corporation is converting into a
23 domestic partnership, a statement of conversion shall be completed
24 on the statement of partnership authority for the converted entity,
25 or if no statement of partnership authority is filed, then a certificate
26 of conversion shall be filed separately.

27 (3) If the social purpose corporation is converting into a
28 domestic limited liability company, a statement of conversion shall
29 be completed on the articles of organization for the converted
30 entity.

31 (b) Any statement or certificate of conversion of a converting
32 social purpose corporation shall be executed and acknowledged
33 by those officers of the converting social purpose corporation as
34 would be required to sign an officers' certificate, and shall set forth
35 all of the following:

36 (1) The name and the Secretary of State's file number of the
37 converting social purpose corporation.

38 (2) A statement of the total number of outstanding shares of
39 each class entitled to vote on the conversion, that the principal
40 terms of the plan of conversion were approved by a vote of the

1 number of shares of each class which equaled or exceeded the vote
2 required under Section ~~3602~~ 3302, specifying each class entitled
3 to vote and the percentage vote required of each class.

4 (3) The name, form, and jurisdiction of organization of the
5 converted entity.

6 (c) The certificate of conversion shall be on a form prescribed
7 by the Secretary of State.

8 (d) The filing with the Secretary of State of a statement of
9 conversion on an organizational document or a certificate of
10 conversion as set forth in subdivision (a) shall have the effect of
11 the filing of a certificate of dissolution by the converting social
12 purpose corporation and no converting social purpose corporation
13 that has made the filing is required to file a certificate of election
14 under Section 1901 or a certificate of dissolution under Section
15 1905 as a result of that conversion.

16 (e) Upon the effectiveness of a conversion pursuant to this
17 chapter, a converted entity that is a domestic partnership, domestic
18 limited partnership, or domestic limited liability company shall
19 be deemed to have assumed the liability of the converting social
20 purpose corporation to prepare and file or cause to be prepared
21 and filed all tax and information returns otherwise required of the
22 converting social purpose corporation under the Corporation Tax
23 Law (Part 11 (commencing with Section 23001) of Division 2 of
24 the Revenue and Taxation Code) and to pay any tax liability
25 determined to be due pursuant to that law.

26 *SEC. 59.5. Section 3304 of the Corporations Code is amended*
27 *to read:*

28 3304. (a) To convert a ~~flexible~~ *social* purpose corporation:

29 (1) If the ~~flexible~~ *social* purpose corporation is converting into
30 a domestic limited partnership, a statement of conversion shall be
31 completed on the certificate of limited partnership for the converted
32 entity.

33 (2) If the ~~flexible~~ *social* purpose corporation is converting into
34 a domestic partnership, a statement of conversion shall be
35 completed on the statement of partnership authority for the
36 converted entity, or if no statement of partnership authority is filed,
37 then a certificate of conversion shall be filed separately.

38 (3) If the ~~flexible~~ *social* purpose corporation is converting into
39 a domestic limited liability company, a statement of conversion

1 shall be completed on the articles of organization for the converted
2 entity.

3 ~~(4) If the flexible purpose corporation is converting into a~~
4 ~~domestic corporation, a statement of conversion shall be completed~~
5 ~~on the articles for the converted entity.~~

6 (b) Any statement or certificate of conversion of a converting
7 ~~flexible~~ *social* purpose corporation shall be executed and
8 acknowledged by those officers of the converting ~~flexible~~ *social*
9 purpose corporation as would be required to sign an officers'
10 certificate, and shall set forth all of the following:

11 (1) The name and the Secretary of State's file number of the
12 converting ~~flexible~~ *social* purpose corporation.

13 (2) A statement of the total number of outstanding shares of
14 each class entitled to vote on the conversion, that the principal
15 terms of the plan of conversion were approved by a vote of the
16 number of shares of each class which equaled or exceeded the vote
17 required under Section ~~3602~~ 3302, specifying each class entitled
18 to vote and the percentage vote required of each class.

19 (3) The name, form, and jurisdiction of organization of the
20 converted entity.

21 *(4) The name and street address of the converted entity's agent*
22 *for service of process. If a corporation qualified under Section*
23 *1505 is designated as the agent, no address for it shall be set forth.*

24 (c) The certificate of conversion shall be on a form prescribed
25 by the Secretary of State.

26 (d) The filing with the Secretary of State of a statement of
27 conversion on an organizational document or a certificate of
28 conversion as set forth in subdivision (a) shall have the effect of
29 the filing of a certificate of dissolution by the converting ~~flexible~~
30 *social* purpose corporation and no converting ~~flexible~~ *social*
31 purpose corporation that has made the filing is required to file a
32 certificate of election under Section 1901 or a certificate of
33 dissolution under Section 1905 as a result of that conversion.

34 (e) Upon the effectiveness of a conversion pursuant to this
35 chapter, a converted entity that is a domestic partnership, domestic
36 limited ~~partnership~~ *partnership*, or domestic limited liability
37 company shall be deemed to have assumed the liability of the
38 converting ~~flexible~~ *social* purpose corporation to prepare and file
39 or cause to be prepared and filed all tax and information returns
40 otherwise required of the converting ~~flexible~~ *social* purpose

1 corporation under the Corporation Tax Law (Part 11 (commencing
2 with Section 23001) of Division 2 of the Revenue and Taxation
3 Code) and to pay any tax liability determined to be due pursuant
4 to that law.

5 SEC. 60. Section 3305 of the Corporations Code is amended
6 to read:

7 3305. The shareholders with dissenting rights, as defined in
8 subdivision (b) of Section 1300, of a converting social purpose
9 corporation shall have all of the rights under Chapter 13
10 (commencing with Section 1300) of Division 1 of the shareholders
11 of a corporation involved in a reorganization requiring the approval
12 of its outstanding shares, and the converting social purpose
13 corporation shall have all of the obligations under Chapter 13
14 (commencing with Section 1300) of Division 1 of a corporation
15 involved in the reorganization. Solely for purposes of applying the
16 provisions of Chapter 13 (commencing with Section 1300) of
17 Division 1, and not for purposes of this chapter, a conversion
18 pursuant to Section 3301 or 3307 shall be deemed to constitute a
19 reorganization.

20 SEC. 61. Section 3307 is added to the Corporations Code, to
21 read:

22 3307. (a) An other business entity or a foreign other business
23 entity or a foreign corporation may be converted into a social
24 purpose corporation pursuant to this chapter only if the converting
25 entity is authorized by the laws under which it is organized to
26 effect the conversion.

27 (b) An other business entity or a foreign other business entity
28 or a foreign corporation that desires to convert into a social purpose
29 corporation shall approve a plan of conversion or other instrument
30 as is required to be approved to effect the conversion pursuant to
31 the laws under which that entity is organized.

32 (c) The conversion of an other business entity or a foreign other
33 business entity or a foreign corporation shall be approved by the
34 number or percentage of the partners, members, shareholders, or
35 other holders of interest of the converting entity that is required
36 by the laws under which that entity is organized, or a greater or
37 lesser percentage as may be set forth in the converting entity's
38 partnership agreement, articles of organization, operating
39 agreement, articles of incorporation, or other governing document
40 in accordance with applicable laws.

1 (d) The conversion by an other business entity or a foreign other
2 business entity or a foreign corporation shall be effective under
3 this chapter upon the filing with the Secretary of State of the
4 articles of incorporation of the converted corporation, containing
5 a statement of conversion that complies with subdivision (e).
6 (e) A statement of conversion of an entity converting into a
7 social purpose corporation pursuant to this chapter shall set forth
8 all of the following:
9 (1) The name, form, and jurisdiction of organization of the
10 converting entity.
11 (2) The Secretary of State’s file number, if any, of the converting
12 entity.
13 (3) If the converting entity is a foreign other business entity or
14 a foreign corporation, the statement of conversion shall contain
15 the following:
16 (A) A statement that the converting entity is authorized to effect
17 the conversion by the laws under which it is organized.
18 (B) A statement that the converting entity has approved a plan
19 of conversion or other instrument as is required to be approved to
20 effect the conversion pursuant to the laws under which the
21 converting entity is organized.
22 (C) A statement that the conversion has been approved by the
23 number or percentage of the partners, members, shareholders, or
24 other holders of interest of the converting entity that is required
25 by the laws under which that entity is organized, or a greater or
26 lesser percentage as may be set forth in the converting entity’s
27 partnership agreement, articles of organization, operating
28 agreement, articles of incorporation, or other governing document
29 in accordance with applicable laws.
30 (f) The filing with the Secretary of State of articles of
31 incorporation containing a statement pursuant to subdivision (e)
32 shall have the effect of the filing of a certificate of cancellation by
33 a converting foreign limited liability company or foreign limited
34 partnership, and no converting foreign limited liability company
35 or foreign limited partnership that has made the filing is required
36 to file a certificate of cancellation under Section 17708.06 or
37 15909.07 as a result of that conversion. If a converting entity is a
38 foreign corporation qualified to transact business in this state, the
39 foreign corporation shall, by virtue of the filing, automatically
40 surrender its right to transact intrastate business.

1 SEC. 62. Section 3400 of the Corporations Code is amended
2 to read:

3 3400. A reorganization or a share exchange tender offer shall
4 be approved by the board of all of the following:

5 (a) Each constituent social purpose corporation in a merger
6 reorganization.

7 (b) The acquiring social purpose corporation in an exchange
8 reorganization.

9 (c) The acquiring social purpose corporation and the social
10 purpose corporation whose property and assets are acquired in a
11 sale-of-assets reorganization.

12 (d) The acquiring social purpose corporation in a share exchange
13 tender offer.

14 (e) The social purpose corporation in control of any constituent
15 or acquiring domestic or foreign social purpose corporation or
16 other business entity under subdivision (a), (b), or (c) and whose
17 equity securities are issued, transferred, or exchanged in the
18 reorganization, hereafter a “parent party.”

19 SEC. 63. Section 3401 of the Corporations Code is amended
20 to read:

21 3401. (a) The principal terms of a reorganization shall be
22 approved by the outstanding shares of each class of each social
23 purpose corporation the approval of whose board is required under
24 Section 3400, except as provided in subdivision (b) and except
25 that, unless otherwise provided in the articles, no approval of any
26 class of outstanding preferred shares of the surviving or acquiring
27 social purpose corporation or parent party shall be required if the
28 rights, preferences, privileges, and restrictions granted to or
29 imposed upon that class of shares remain unchanged, subject to
30 the provisions of subdivision (c). For the purpose of this
31 subdivision, two classes of common shares differing only as to
32 voting rights shall be considered as a single class of shares.

33 (b) No approval of the outstanding shares is required by
34 subdivision (a) if the social purpose corporation, or its shareholders
35 immediately before the reorganization, or both, shall own,
36 immediately after the reorganization, equity securities, other than
37 any warrant or right to subscribe to or purchase those equity
38 securities, of the surviving or acquiring social purpose corporation
39 or a parent party possessing more than five-sixths of the voting
40 power of the surviving or acquiring social purpose corporation or

1 parent party. In making the determination of ownership by the
2 shareholders of a social purpose corporation, immediately after
3 the reorganization, of equity securities pursuant to the preceding
4 sentence, equity securities that they owned immediately before
5 the reorganization as shareholders of another party to the
6 transaction shall be disregarded. For the purpose of this section,
7 the voting power of a social purpose corporation shall be calculated
8 by assuming the conversion of all equity securities convertible,
9 immediately or at some future time, into shares entitled to vote
10 but not assuming the exercise of any warrant or right to subscribe
11 to or purchase those shares.

12 (c) Notwithstanding subdivisions (a) and (b), the principal terms
13 of a reorganization shall be approved by the outstanding shares of
14 the surviving social purpose corporation in a merger reorganization,
15 as otherwise required by Chapter 10 (commencing with Section
16 3400), if any amendment is made to its articles that would
17 otherwise require that approval.

18 (d) Notwithstanding subdivisions (a) and (b), the principal terms
19 of a reorganization shall be approved by the affirmative vote of at
20 least two-thirds of each class, or a greater vote if required in the
21 articles, of the outstanding shares of any class of a social purpose
22 corporation that is a party to a merger or sale-of-assets
23 reorganization if holders of shares of that class receive shares of
24 the surviving or acquiring social purpose corporation or parent
25 party having different rights, preferences, privileges, or restrictions
26 than those surrendered. Shares in a foreign corporation received
27 in exchange for shares in a domestic social purpose corporation
28 shall be deemed to have different rights, preferences, privileges,
29 and restrictions within the meaning of the preceding sentence.

30 (e) Notwithstanding subdivisions (a) and (b), the principal terms
31 of a reorganization shall be approved by the affirmative vote of at
32 least two-thirds of each class, or a greater vote if required in the
33 articles, of the outstanding shares of any social purpose corporation
34 that is a close social purpose corporation if the reorganization
35 would result in the holders receiving shares or other interests of a
36 corporation or other business entity that is not a close social
37 purpose corporation. The articles may provide for a lesser vote,
38 but not less than a majority of the outstanding shares of each class.

39 (f) Notwithstanding subdivisions (a) and (b), the principal terms
40 of a reorganization shall be approved by a vote of at least two-thirds

1 of the outstanding shares of each class, or a greater vote if required
2 in the articles, of a social purpose corporation that is a party to a
3 merger reorganization, regardless of whether that class is entitled
4 to vote thereon by the provisions of the articles, if holders of shares
5 of that class receive interests of a surviving other business entity
6 in the merger that is not a social purpose corporation, or receive
7 interests of a surviving social purpose corporation the articles of
8 incorporation of which specify a materially different purpose as
9 part of the reorganization.

10 (g) Notwithstanding subdivisions (a) and (b), the principal terms
11 of a reorganization shall be approved by all shareholders of any
12 class or series if, as a result of the reorganization, the holders of
13 that class or series become personally liable for any obligations
14 of a party to the reorganization, unless all holders of that class or
15 series have the dissenters' rights provided in Chapter 13
16 (commencing with Section 1300) of Division 1.

17 (h) Any approval required by this section may be given before
18 or after the approval by the board. Notwithstanding approval
19 required by this section, the board may abandon the proposed
20 reorganization without further action by the shareholders, subject
21 to the contractual rights, if any, of third parties.

22 SEC. 64. Section 3500 of the Corporations Code is amended
23 to read:

24 3500. (a) The board of a social purpose corporation shall cause
25 an annual report to be sent to the shareholders not later than 120
26 days after the close of the fiscal year. The annual report shall
27 contain (1) a balance sheet as of the end of that fiscal year and an
28 income statement and a statement of cashflows for that fiscal year,
29 accompanied by any report thereon of independent accountants
30 or, if there is no report, the certificate of an authorized officer of
31 the social purpose corporation that the statements were prepared
32 without audit from the books and records of the corporation, and
33 (2) the information required by subdivision (b).

34 (b) The board shall cause to be provided with the annual report,
35 a management discussion and analysis (special purpose MD&A)
36 concerning the social purpose corporation's stated purpose or
37 purposes as set forth in its articles pursuant to paragraph (2) of
38 subdivision (b) of Section 2602, and, to the extent consistent with
39 reasonable confidentiality requirements, shall cause the special
40 purpose MD&A to be made publicly available by posting it on the

1 social purpose corporation's Internet Web site or providing it
2 through similar electronic means. The special purpose MD&A
3 shall include the information specified in this subdivision and any
4 other information that the social purpose corporation's officers
5 and directors believe to be reasonably necessary or appropriate to
6 an understanding of the social purpose corporation's efforts in
7 connection with its special purpose or purposes. The special
8 purpose MD&A shall also include the following information:

9 (1) Identification and discussion of the overall objectives of the
10 social purpose corporation relating to its special purpose or
11 purposes, and an identification and explanation of any changes
12 made in those special purpose objectives during the fiscal year.

13 (2) Identification and discussion of the material actions taken
14 by the social purpose corporation during the fiscal year to achieve
15 its special purpose objectives, the impact of those actions, including
16 the causal relationships between the actions and the reported
17 outcomes, and the extent to which those actions achieved the
18 special purpose objectives for the fiscal year.

19 (3) Identification and discussion of material actions, including
20 the intended impact of those actions, that the social purpose
21 corporation expects to take in the short term and long term with
22 respect to achievement of its special purpose objectives.

23 (4) A description of the process for selecting, and an
24 identification and description of, the financial, operating, and other
25 measures used by the social purpose corporation during the fiscal
26 year for evaluating its performance in achieving its special purpose
27 objectives, including an explanation of why the social purpose
28 corporation selected those measures and identification and
29 discussion of the nature and rationale for any material changes in
30 those measures made during the fiscal year.

31 (5) Identification and discussion of any material operating and
32 capital expenditures incurred by the social purpose corporation
33 during the fiscal year in furtherance of achieving the special
34 purpose objectives, a good faith estimate of any additional material
35 operating or capital expenditures the social purpose corporation
36 expects to incur over the next three fiscal years in order to achieve
37 its special purpose objectives, and other material expenditures of
38 resources incurred by the social purpose corporation during the
39 fiscal year, including employee time, in furtherance of achieving
40 the special purpose objectives, including a discussion of the extent

1 to which that capital or use of other resources serves purposes
2 other than and in addition to furthering the achievement of the
3 special purpose objectives.

4 (c) Except as may otherwise be excused pursuant to subdivision
5 (h) of Section 1501.5, the reports specified in subdivisions (a) and
6 (b) shall be sent to the shareholders at least 15 days, or, if sent by
7 bulk mail, 35 days, prior to the annual meeting of shareholders to
8 be held during the next fiscal year. This requirement shall not limit
9 the requirement for holding an annual meeting as required by
10 Section 600.

11 (d) If no annual report for the last fiscal year has been sent to
12 shareholders, the social purpose corporation shall, upon the written
13 request of any shareholder made more than 120 days after the end
14 of that fiscal year, deliver or mail to the person making the request
15 within 30 days following the request, the statements required by
16 subdivisions (a) and (b) for that fiscal year.

17 (e) A shareholder or shareholders holding at least 5 percent of
18 the outstanding shares of any class of a social purpose corporation
19 may make a written request to the social purpose corporation for
20 an income statement of the social purpose corporation for the
21 three-month, six-month, or nine-month period of the current fiscal
22 year ended more than 30 days prior to the date of the request and
23 a balance sheet of the social purpose corporation as at the end of
24 that period and, in addition, if no annual report for the most recent
25 fiscal year has been sent to the shareholders, the statements referred
26 to in subdivisions (a) and (b) relating to that fiscal year. The
27 statements shall be delivered or mailed to the person making the
28 request within 30 days following the request. A copy of the
29 statements shall be kept on file in the principal office of the social
30 purpose corporation for 12 months and shall be exhibited at all
31 reasonable times to any shareholder demanding an examination
32 of the statements or a copy shall be mailed to the shareholder. The
33 quarterly income statements and balance sheets referred to in this
34 subdivision shall be accompanied by the report thereon, if any, of
35 any independent accountants engaged by the social purpose
36 corporation or the certificate of an authorized officer of the social
37 purpose corporation that the financial statements were prepared
38 without audit from the books and records of the social purpose
39 corporation.

1 SEC. 65. Section 3501 of the Corporations Code is amended
2 to read:

3 3501. (a) The board shall cause a special purpose current report
4 to be sent to the shareholders not later than 45 days following the
5 occurrence of any one or more of the events specified in
6 subdivision (b) or (c), and, to the extent consistent with reasonable
7 confidentiality requirements, shall cause the special purpose current
8 report to be made publicly available by posting it on the social
9 purpose corporation's Internet Web site or providing it through
10 similar electronic means.

11 (b) Unless previously reported in the most recent annual report,
12 the special purpose current report shall identify and discuss, in
13 reasonable detail, any expenditure or group of related or planned
14 expenditures, excluding compensation of officers and directors,
15 made in furtherance of the special purpose objectives, whether an
16 operating expenditure, a capital expenditure, or some other
17 expenditure of corporate resources, including, but not limited to,
18 employee time, whether the expenditure was direct or indirect,
19 and whether the expenditure was categorized as overhead or
20 otherwise where the expenditure has or is likely to have a material
21 adverse impact on the social purpose corporation's results of
22 operations or financial condition for a quarterly or annual fiscal
23 period.

24 (c) Unless previously reported in the most recent annual report,
25 the special purpose current report shall identify and discuss, in
26 reasonable detail, any decision by the board or action by
27 management to do either of the following:

28 (1) Withhold expenditures or a group of related or planned
29 expenditures, whether temporarily or permanently, that were to
30 have been made in furtherance of the special purpose as
31 contemplated in the most recent annual report, whether those
32 planned expenditures were an operating expenditure, a capital
33 expenditure, or some other expenditure of corporate resources,
34 including, but not limited to, employee time, whether the planned
35 expenditure was direct or indirect, and whether the planned
36 expenditure to be made would have been categorized as overhead
37 or otherwise, in any case, where the planned expenditure was likely
38 to have had a material positive impact on the social purpose
39 corporation's impact in furtherance of its special purpose
40 objectives, as contemplated in the most recent annual report.

1 (2) Determine that the special purpose has been satisfied or
2 should no longer be pursued, whether temporarily or permanently.

3 SEC. 66. Section 3502 of the Corporations Code is amended
4 to read:

5 3502. (a) Nothing contained in subdivision (b) of Section 3500
6 or Section 3501 shall require a detailing or itemization of every
7 relevant expenditure incurred, or planned or action taken or
8 planned, by the corporation. Management and the board shall use
9 their discretion in providing that information, including the
10 reasonable detail that a reasonable investor would consider
11 important in understanding the corporation's objectives, actions,
12 impacts, measures, rationale, and results of operations as they
13 relate to the nature and achievement of the special purpose
14 objectives.

15 (b) Where best practices emerge for providing the information
16 required by subdivision (b) of Section 3500 or Section 3501, use
17 of those best practices shall create a presumption that the social
18 purpose corporation caused all the information required by those
19 provisions to be provided. This presumption can only be rebutted
20 by showing that the reporting contained either a misstatement of
21 a material fact or omission of a material fact.

22 (c) Notwithstanding subdivision (b) of Section 3500 and Section
23 3501, under no circumstances shall the social purpose corporation
24 be required to provide information that would result in a violation
25 of state or federal securities laws or other applicable laws.

26 (d) The social purpose corporation and its officers and directors
27 are expressly excluded from liability for any and all forward
28 looking statements supplied in the report required by subdivision
29 (b) of Section 3500 and Section 3501, so long as those statements
30 are supplied in good faith. Statements are deemed to be forward
31 looking as that term is defined in the federal securities laws.

32 (e) The special purpose MD&A and any special purpose current
33 report shall be written in plain English and shall be provided in an
34 efficient and understandable manner, avoiding repetition and
35 disclosure of immaterial information.

36 (f) Unless otherwise provided by the articles or bylaws, and if
37 approved by the board of directors, the reports specified in Sections
38 3500 and 3501 and any accompanying material sent pursuant to
39 this section may be sent by electronic transmission by the
40 corporation.

1 (g) The financial statements of any social purpose corporation
2 with fewer than 100 holders of record of its shares, determined as
3 provided in Section 605, required to be furnished by Sections 3500
4 and 3501 are not required to be prepared in conformity with
5 generally accepted accounting principles if they reasonably set
6 forth the assets and liabilities and the income and expense of the
7 social purpose corporation and disclose the accounting basis used
8 in their preparation.

9 (h) The requirements described in Section 3500 shall be satisfied
10 if a corporation with an outstanding class of securities registered
11 under Section 12 of the Securities Exchange Act of 1934 both
12 complies with Section 240.14a-16 of Title 17 of the Code of
13 Federal Regulations, as amended from time to time, with respect
14 to the obligation of a corporation to furnish an annual report to
15 shareholders pursuant to Section 240.14a-3(b) of Title 17 of the
16 Code of Federal Regulations, and includes the information required
17 by subdivision (b) of Section 3500 in the annual report.

18 (i) The requirements described in Section 3501 shall be satisfied
19 if a corporation with an outstanding class of securities registered
20 under Section 12 of the Securities Exchange Act of 1934 both
21 complies with Section 240.13a-13 of Title 17 of the Code of
22 Federal Regulations, as amended from time to time, with respect
23 to the obligation of a corporation to furnish a quarterly report to
24 shareholders, and includes the information required by subdivision
25 (b) of Section 3501 in the quarterly report.

26 (j) In addition to the penalties provided for in this division, the
27 superior court of the proper county shall enforce the duty of making
28 and mailing or delivering the information and financial statements
29 required by Sections 3500 and 3501 and, for good cause shown,
30 may extend the time therefor.

31 (k) In any action or proceeding with respect to Section 3500 or
32 3501, if the court finds the failure of the social purpose corporation
33 to comply with the requirements of those sections to have been
34 without justification, the court may award an amount sufficient to
35 reimburse the shareholder for the reasonable expenses incurred by
36 the shareholder, including attorney's fees, in connection with the
37 action or proceeding.

38 (l) Section 3500 and Section 3501 apply to any domestic social
39 purpose corporation and also to a foreign social purpose

1 corporation having its principal executive office in this state or
2 customarily holding meetings of its board in this state.

3 (m) All reports and notices required by Section 3500 and Section
4 3501 shall be maintained by the social purpose corporation, in an
5 electronic form for a period of not less than 10 years.

6 SEC. 67. Section 3503 of the Corporations Code is amended
7 to read:

8 3503. Any officers, directors, employees, or agents of a social
9 purpose corporation who do any of the following shall be liable
10 jointly and severally for all the damages resulting therefrom to the
11 social purpose corporation or any person injured by those actions
12 who relied on those actions or to both:

13 (a) Make, issue, deliver, or publish any prospectus, report,
14 including the reports required pursuant to Sections 3500 and 3501,
15 circular, certificate, financial statement, balance sheet, public
16 notice, or document respecting the social purpose corporation or
17 its shares, assets, liabilities, capital, dividends, business, earnings,
18 or accounts which is false in any material respect, knowing it to
19 be false, or participate in the making, issuance, delivery, or
20 publication thereof with knowledge that the same is false in a
21 material respect.

22 (b) Make or cause to be made in the books, minutes, records,
23 or accounts of a social purpose corporation any entry that is false
24 in any material particular knowing it to be false.

25 (c) Remove, erase, alter, or cancel any entry in any books or
26 records of the social purpose corporation, with intent to deceive.

27 (d) With respect to the reports required pursuant to subdivision
28 (b) of Section 3500 and Section 3501, omit to state any material
29 fact necessary in order to make the statements contained therein,
30 in light of the circumstances under which those statements were
31 made, not misleading in a material respect, knowing the omission
32 to be misleading.

33 SEC. 68. Section 5813.5 of the Corporations Code is amended
34 to read:

35 5813.5. (a) A public benefit corporation may amend its articles
36 to change its status to that of a mutual benefit corporation, a social
37 purpose corporation, a religious corporation, a business corporation,
38 or a cooperative corporation by complying with this section and
39 the other sections of this chapter.

1 The Secretary of State shall notify the Franchise Tax Board, in
2 the manner and at the times agreed upon by the Secretary of State
3 and the Franchise Tax Board, of any amendments to a public
4 benefit corporation's articles.

5 (b) If the public benefit corporation has any assets, an
6 amendment to change its status to a mutual benefit corporation,
7 business corporation, social purpose corporation, or cooperative
8 corporation shall be approved in advance in writing by the Attorney
9 General. If the public benefit corporation has no assets, the
10 Attorney General shall be given a copy of the amendment at least
11 20 days before the amendment is filed.

12 (c) Amended articles authorized by this section shall include
13 the provisions which would have been required (other than the
14 initial street address and initial mailing address of the corporation
15 and the name of the initial agent for service of process if a
16 statement has been filed pursuant to Section 6210), and may in
17 addition only include those provisions which would have been
18 permitted, in original articles filed by the type of corporation
19 (mutual benefit, religious, business, social purpose, or cooperative)
20 into which the public benefit corporation is changing its status.

21 (d) In the case of a change of status to a business corporation,
22 social purpose corporation, or cooperative corporation, if the
23 Franchise Tax Board has issued a determination exempting the
24 corporation from tax as provided in Section 23701 of the Revenue
25 and Taxation Code, the corporation shall be subject to Section
26 23221 of the Revenue and Taxation Code upon filing the certificate
27 of amendment.

28 SEC. 69. Section 7813.5 of the Corporations Code is amended
29 to read:

30 7813.5. (a) A mutual benefit corporation may amend its articles
31 to change its status to that of a public benefit corporation, a
32 religious corporation, a business corporation, a social purpose
33 corporation, or a cooperative corporation by complying with this
34 section and the other sections of this chapter.

35 (b) Except as authorized by Section 7811 or unless the
36 corporation has no members, an amendment to change its status
37 to a public benefit corporation or religious corporation shall: (i)
38 be approved by the members (Section 5034), and the fairness of
39 the amendment to the members shall be approved by the
40 Commissioner of Corporations pursuant to Section 25142; (ii) be

1 approved by the members (Section 5034) in an election conducted
2 by written ballot pursuant to Section 7513 in which no negative
3 votes are cast; or (iii) be approved by 100 percent of the voting
4 power.

5 (c) Amended articles authorized by this section shall include
6 the provisions which would have been required (other than the
7 initial street address and initial mailing address of the corporation
8 and the name of the initial agent for service of process if a
9 statement has been filed pursuant to Section 8210), and may in
10 addition only include those provisions which would have been
11 permitted, in original articles filed by the type of corporation
12 (public benefit, religious, business, social purpose, or cooperative)
13 into which the mutual benefit corporation is changing its status.

14 (d) At the time of filing a certificate of amendment to change
15 status to a public benefit corporation, the Secretary of State shall
16 forward a copy of the filed certificate to the Attorney General.

17 (e) In the case of a change of status to a business corporation,
18 social purpose corporation, or a cooperative corporation, if the
19 Franchise Tax Board has issued a determination exempting the
20 corporation from tax as provided in Section 23701 of the Revenue
21 and Taxation Code, the corporation shall be subject to Section
22 23221 of the Revenue and Taxation Code upon filing the certificate
23 of amendment.

24 SEC. 70. Section 9621 of the Corporations Code is amended
25 to read:

26 9621. (a) A religious corporation may amend its articles to
27 change its status to that of (1), a public benefit corporation, by
28 complying with this section and the other sections of Chapter 8
29 (commencing with Section 5810) of Part 2 (made applicable
30 pursuant to Section 9620) or (2), a mutual benefit corporation,
31 business corporation, a social purpose corporation, or cooperative
32 corporation by complying with Chapter 8 (commencing with
33 Section 5810) of Part 2.

34 (b) Amended articles authorized by this section shall include
35 the provisions which would have been required (other than the
36 initial street address and initial mailing address of the corporation
37 and the name of the initial agent for service of process if a
38 statement has been filed pursuant to Section 6210, made applicable
39 pursuant to Section 9660) and may in addition only include those
40 provisions which would have been permitted, in original articles

1 filed by the type of corporation (public benefit, mutual benefit,
2 business, social purpose, or cooperative) into which the religious
3 corporation is changing its status.

4 SEC. 71. Section 12504 of the Corporations Code is amended
5 to read:

6 12504. (a) A corporation may amend its articles to change its
7 status to that of a nonprofit public benefit corporation, a nonprofit
8 mutual benefit corporation, a nonprofit religious corporation, a
9 business corporation, or a social purpose corporation by complying
10 with this section and the other sections of this chapter.

11 (b) Except as authorized by Section 12501 or unless the
12 corporation has no members, an amendment to change its status
13 to a nonprofit public benefit corporation or a nonprofit religious
14 corporation shall: (1) be approved by the members (Section 12224),
15 and the fairness of the amendment to the members shall be
16 approved by the Commissioner of Corporations pursuant to Section
17 25142; or (2) be approved by the members (Section 12224) in an
18 election conducted by written ballot pursuant to Section 12463 in
19 which no negative votes are cast; or (3) be approved by 100 percent
20 of the voting power.

21 (c) Amended articles authorized by this section shall include
22 the provisions which would have been required (other than the
23 initial street address and initial mailing address of the corporation
24 and the name of the initial agent for service of process if a
25 statement has been filed pursuant to Section 12570), and may in
26 addition only include those provisions which would have been
27 permitted, in original articles filed by the type of corporation
28 (nonprofit public benefit, nonprofit mutual benefit, nonprofit
29 religious, business, or social purpose) into which the corporation
30 is changing its status.

31 (d) At the time of filing a certificate of amendment to change
32 status to a nonprofit public benefit corporation, the Secretary of
33 State shall forward a copy of the filed certificate to the Attorney
34 General.

35 *SEC. 72. Section 10.5 of this bill incorporates amendments to*
36 *Section 1155 of the Corporations Code proposed by both this bill*
37 *and Senate Bill 1041. It shall only become operative if (1) both*
38 *bills are enacted and become effective on or before January 1,*
39 *2015, (2) each bill amends Section 1155 of the Corporations Code,*

1 *and (3) this bill is enacted after Senate Bill 1041, in which case*
2 *Section 10 of this bill shall not become operative.*
3 *SEC. 73. Section 59.5 of this bill incorporates amendments to*
4 *Section 3304 of the Corporations Code proposed by both this bill*
5 *and Senate Bill 1041. It shall only become operative if (1) both*
6 *bills are enacted and become effective on or before January 1,*
7 *2015, (2) each bill amends Section 3304 of the Corporations Code,*
8 *and (3) this bill is enacted after Senate Bill 1041, in which case*
9 *Section 59 of this bill shall not become operative.*

O