

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 285

AN ACT

To repeal sections 347.179, 347.183, 358.460, and 358.470, RSMo, and to enact in lieu thereof eighteen new sections relating to the regulation of certain business organizations, with existing penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 347.179, 347.183, 358.460, and 358.470, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 347.044, 347.179, 347.183, 351.1400, 351.1403, 351.1409, 351.1412, 351.1415, 351.1418, 351.1421, 351.1424, 351.1427, 351.1430, 351.1433, 351.1435, 351.1440, 358.460, and 358.470, to read as follows:

347.044. 1. Every limited liability company organized pursuant to this chapter and every foreign limited liability company registered in this state shall file an information statement with the secretary of state.

2. The information statement shall include:

- (1) The name of the limited liability company or foreign limited liability company;
- (2) The company charter number assigned by the secretary of state;
- (3) The address of the principal place of business;
- (4) The address, including street and number, if any, of

the registered office and the name of the registered agent at such office; and

(5) If a foreign limited liability company, the state or other jurisdiction under whose law the company is formed.

3. The information statement shall be current as of the date the statement is filed with the secretary of state.

4. The limited liability company or foreign limited liability company shall file an information statement every five years, and the information statement shall be due on the fifteenth day of the month in which the anniversary of the date the limited liability company or foreign limited liability company organized or registered in Missouri occurs. For limited liability companies and foreign limited liability companies that organized or registered in an odd-numbered year before January 1, 2019, the first information statement shall be due in 2023. For limited liability companies and foreign limited liability companies that organized or registered in an even-numbered year before January 1, 2019, the first information statement shall be due in 2024.

5. The information statement shall be signed by an authorized person.

6. If the information statement does not contain the information required in this section, the secretary of state shall promptly notify the limited liability company or foreign limited liability company and return the information statement for completion. The entity shall return the completed information statement to the secretary within sixty days of the issuance of the notice.

7. Ninety days before the statement is due, the secretary of state shall send notice to each limited liability company or foreign limited liability company that the information statement is due. The notice shall be directed to the limited liability company's registered office as stated in the company's most recent filing with the secretary of state.

8. No domestic or foreign limited liability company shall be excused for its failure to comply with the provisions of this section by reason of failing to receive the notice under subsection 7 of this section.

347.179. 1. The secretary shall charge and collect:

(1) For filing the original articles of organization, a fee of [one hundred] ninety-five dollars;

(2) For filing the original articles of organization online, in an electronic format prescribed by the secretary of state, a fee of [forty-five] thirty-five dollars;

(3) Applications for registration of foreign limited liability companies and issuance of a certificate of registration to transact business in this state, a fee of one hundred dollars;

(4) Amendments to and restatements of articles of limited liability companies to application for registration of a foreign limited liability company or any other filing otherwise provided for, a fee of twenty dollars;

(5) Articles of termination of limited liability companies or cancellation of registration of foreign limited liability companies, a fee of twenty dollars or, if filed online in an electronic format prescribed by the secretary, a fee of ten dollars;

(6) For filing notice of merger or consolidation, a fee of twenty dollars;

(7) For filing a notice of winding up, a fee of twenty dollars or, if filed online in an electronic format prescribed by the secretary, a fee of ten dollars;

(8) For issuing a certificate of good standing, a fee of five dollars;

(9) For a notice of the abandonment of merger or consolidation, a fee of twenty dollars;

(10) For furnishing a copy of any document or instrument, a fee of fifty cents per page;

(11) For accepting an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of twenty dollars;

(12) For filing a statement of change of address of registered office or registered agent, or both, a fee of five dollars;

(13) For any service of notice, demand, or process upon the secretary as resident agent of a limited liability company, a fee of twenty dollars, which amount may be recovered as taxable costs by the party instituting such suit, action, or proceeding causing such service to be made if such party prevails therein;

(14) For filing an amended certificate of registration, a fee of twenty dollars; [and]

(15) For filing a statement of correction, a fee of five dollars;

(16) For filing an information statement for a domestic or foreign limited liability company, a fee of fifteen dollars or,

if filing online in an electronic format prescribed by the secretary, a fee of five dollars; and

(17) For filing a withdrawal of an erroneously or accidentally filed notice of winding up or articles of termination, a fee of ninety-five dollars.

2. Fees mandated in subdivisions (1) and (2) of subsection 1 of this section and for application for reservation of a name in subdivision (11) of subsection 1 of this section shall be waived if an organizer who is listed as a member in the operating agreement of the limited liability company is a member of the Missouri National Guard or any other active duty military, resides in the state of Missouri, and provides proof of such service to the secretary of state.

347.183. In addition to the other powers of the secretary established in sections 347.010 to 347.187, the secretary shall, as is reasonably necessary to enable the secretary to administer sections 347.010 to 347.187 efficiently and to perform the secretary's duties, have the following powers including, but not limited to:

(1) The power to examine the books and records of any limited liability company to which sections 347.010 to 347.187 apply, and it shall be the duty of any manager, member or agent of such limited liability company having possession or control of such books and records to produce such books and records for examination on demand of the secretary or his designated employee; except that no person shall be subject to any criminal prosecution on account of any matter or thing which may be disclosed by examination of any limited liability company books

and records, which they may produce or exhibit for examination; or on account of any other matter or thing concerning which they may make any voluntary and truthful statement in writing to the secretary or his designated employee. All facts obtained in the examination of the books and records of any limited liability company, or through the voluntary sworn statement of any manager, member, agent or employee of any limited liability company, shall be treated as confidential, except insofar as official duty may require the disclosure of same, or when such facts are material to any issue in any legal proceeding in which the secretary or his designated employee may be a party or called as witness, and, if the secretary or his designated employee shall, except as provided in this subdivision, disclose any information relative to the private accounts, affairs, and transactions of any such limited liability company, he shall be guilty of a class C misdemeanor. If any manager, member or registered agent in possession or control of such books and records of any such limited liability company shall refuse a demand of the secretary or his designated employee, to exhibit the books and records of such limited liability company for examination, such person shall be guilty of a class B misdemeanor;

(2) The power to cancel or disapprove any articles of organization or other filing required under sections 347.010 to 347.187, if the limited liability company fails to comply with the provisions of sections 347.010 to 347.187 by failing to file required documents under sections 347.010 to 347.187, by failing to maintain a registered agent, by failing to pay the required filing fees, by using fraud or deception in effecting any filing,

by filing a required document containing a false statement, or by violating any section or sections of the criminal laws of Missouri, the federal government or any other state of the United States. Thirty days before such cancellation shall take effect, the secretary shall notify the limited liability company with written notice, either personally or by certified mail, deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent in office, or to one of the limited liability company's members or managers. Written notice of the secretary's proposed cancellation to the limited liability company, domestic or foreign, shall specify the reasons for such action. The limited liability company may appeal this notice of proposed cancellation to the circuit court of the county in which the registered office of such limited liability company is or is proposed to be situated by filing with the clerk of such court a petition setting forth a copy of the articles of organization or other relevant documents and a copy of the proposed written cancellation thereof by the secretary, such petition to be filed within thirty days after notice of such cancellation shall have been given, and the matter shall be tried by the court, and the court shall either sustain the action of the secretary or direct him to take such action as the court may deem proper. An appeal from the circuit court in such a case shall be allowed as in civil action. The limited liability company may provide information to the secretary that would allow the secretary to withdraw the notice of proposed cancellation. This information may consist of, but need not be limited to, corrected statements and documents, new filings, affidavits and

certified copies of other filed documents;

(3) The power to rescind cancellation provided for in subdivision (2) of this section upon compliance with either of the following:

(a) The affected limited liability company provides the necessary documents and affidavits indicating the limited liability company has corrected the conditions causing the proposed cancellation or the cancellation; or

(b) The limited liability company provides the correct statements or documentation that the limited liability company is not in violation of any section of the criminal code; and

(4) The power to charge late filing fees for any filing fee required under sections 347.010 to 347.187 and the power to impose civil penalties as provided in section 347.053. Late filing fees shall be assessed at a rate of ten dollars for each thirty-day period of delinquency;

(5) (a) The power to administratively cancel [an]:

a. Articles of organization if the limited liability company's period of duration stated in articles of organization expires or if the limited liability company fails to timely file its information statement in accordance with section 347.044; or

b. The registration of a foreign limited liability company if the foreign limited liability company fails to timely file its information statement in accordance with section 347.044.

(b) Not less than thirty days before such administrative cancellation shall take effect, the secretary shall notify the domestic or foreign limited liability company with written notice, either personally or by mail. If mailed, the notice

shall be deemed delivered five days after it is deposited in the United States mail in a sealed envelope addressed to such limited liability company's last registered agent and office or to one of the limited liability company's managers or members.

(c) If the limited liability company does not timely file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number of years or perpetual, or demonstrate to the reasonable satisfaction of the secretary that the period of duration determined by the secretary is incorrect, within sixty days after service of the notice is perfected by posting with the United States Postal Service, then the secretary shall cancel the articles of organization by signing an administrative cancellation that recites the grounds for cancellation and its effective date. The secretary shall file the original of the administrative cancellation and serve a copy on the limited liability company as provided in section 347.051.

(d) A limited liability company whose articles of organization has been administratively cancelled continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 347.147 and notify claimants under section 347.141.

(e) The administrative cancellation of an articles of organization does not terminate the authority of its registered agent.

(f) If a limited liability company does not timely file an information statement in accordance with section 347.044 within sixty days after service of the notice is perfected by posting

with the United States Postal Service or fails to demonstrate to the reasonable satisfaction of the secretary that the information statement was timely filed, the secretary shall cancel the articles of organization by signing an administrative cancellation that states the grounds for cancellation and the effective date of the cancellation. The secretary shall file the original administrative cancellation and serve a copy to the limited liability company as provided under section 347.051.

(g) If a foreign limited liability company does not timely file an information statement in accordance with section 347.044 within sixty days after service of the notice is perfected by posting with the United States Postal Service or fails to demonstrate to the reasonable satisfaction of the secretary that the information statement was timely filed, the secretary shall cancel the registration of the foreign limited liability company by signing an administrative cancellation that states the grounds for cancellation and the effective date of the cancellation. The secretary shall file the original administrative cancellation and serve a copy to the foreign limited liability company as provided in section 347.051. A foreign limited liability company whose registration has been administratively cancelled may continue its existence but shall not conduct any business in this state except to wind up and liquidate its business and affairs in this state;

(6) (a) The power to rescind an administrative cancellation and reinstate the articles of organization.

(b) Except as otherwise provided in the operating agreement, a limited liability company whose articles of organization has been administratively cancelled under

subdivision (5) of this section may file an articles of amendment in accordance with section 347.041 to extend the duration of the limited liability company, which may be any number or perpetual.

(c) A limited liability company whose articles of organization has been administratively cancelled under subdivision (5) of this section may apply to the secretary for reinstatement. The applicant shall:

a. Recite the name of the limited liability company and the effective date of its administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, as applicable, and be accompanied by documentation satisfactory to the secretary evidencing the same;

c. State that the limited liability company's name satisfies the requirements of section 347.020;

d. Be accompanied by a reinstatement fee in the amount of [one hundred] ninety-five dollars, or such greater amount as required by state regulation, plus any delinquent fees, penalties, and other charges as determined by the secretary to then be due.

(d) If the secretary determines that the application contains the information and is accompanied by the fees required in paragraph (c) of this subdivision and that the information and fees are correct, the secretary shall rescind the cancellation and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original articles of organization, and serve a copy on the limited liability company as provided in section 347.051.

(e) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative cancellation of the articles of organization and the limited liability company may continue carrying on its business as if the administrative cancellation had never occurred.

(f) In the event the name of the limited liability company was reissued by the secretary to another entity prior to the time application for reinstatement was filed, the limited liability company applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 347.020 and that has been approved by appropriate action of the limited liability company for changing the name thereof.

(g) If the secretary denies a limited liability company's application for reinstatement following administrative cancellation of the articles of organization, he or she shall serve the limited liability company as provided in section 347.051 with a written notice that explains the reason or reasons for denial.

(h) The limited liability company may appeal a denial of reinstatement as provided for in subdivision (2) of this section.

[(7)] (i) This subdivision [(6) of this section] shall apply to any limited liability company whose articles of organization was cancelled because such limited liability company's period of duration stated in the articles of organization expired on or after August 28, 2003[.];

(7) The power to rescind an administrative cancellation and reinstate the registration of a foreign limited liability

company. The following procedures apply to any such reinstatement:

(a) A foreign limited liability company whose registration was administratively cancelled under subdivision (5) of this section may apply to the secretary for reinstatement. The application shall:

a. State the name of the foreign limited liability company and the date of the administrative cancellation;

b. State that the grounds for cancellation either did not exist or have been eliminated, with supporting documentation satisfactory to the secretary;

c. State that the foreign limited liability company's name satisfies the requirements of section 347.020; and

d. Include a reinstatement fee in the amount of ninety-five dollars and any delinquent fees, penalties, or other charges as the secretary determines are due, provided that the secretary may provide by rule for a larger reinstatement fee;

(b) If the secretary determines that the application satisfies the requirements under paragraph (a) of this subdivision, the secretary shall rescind the cancellation and prepare a certificate of reinstatement that includes the effective date of reinstatement and shall deliver a copy to the foreign limited liability company as provided under section 347.051;

(c) If reinstatement is granted, the administrative cancellation shall be retroactively voided, and the foreign limited liability company may conduct its business as if the administrative cancellation never occurred;

(d) If the name of the foreign limited liability company was issued to another entity before the application for reinstatement was filed, the foreign limited liability company applying for reinstatement may elect to reinstate using a new name that complies with the requirements under section 347.020 and is approved by appropriate action of the foreign limited liability company for changing its name;

(e) If the secretary denies a foreign limited liability company's application for reinstatement, the secretary shall serve the foreign limited liability company with a written notice as provided under section 347.051 that explains the reason for denial; and

(f) The foreign limited liability company may appeal a denial of reinstatement by using the procedure provided under subdivision (2) of this section; and

(8) The power to reinstate a limited liability company that erroneously or accidentally filed a notice of winding up or notice of termination. The following procedures apply to any such reinstatement:

(a) A limited liability company whose articles of organization were terminated due to an erroneously or accidentally filed notice of winding up or notice of termination may apply to the secretary for reinstatement by filing a withdrawal of notice of winding up or withdrawal of notice of termination. The application shall:

a. State the name of the limited liability company and the filing date of the erroneous or accidental notice;

b. State the grounds for erroneously or accidentally filing

the notice, with supporting documentation satisfactory to the secretary;

c. State that the limited liability company's name satisfies the requirements under section 347.020; and

d. Include a reinstatement fee in the amount of ninety-five dollars and any delinquent fees, penalties, or other charges as the secretary determines are due, provided that the secretary may provide by rule for a larger reinstatement fee;

(b) If the secretary determines that the application satisfies the requirements under paragraph (a) of this subdivision, the secretary shall rescind the notice of winding up or notice of termination and prepare a certificate of reinstatement that includes the effective date of reinstatement, file the original articles of organization, and deliver a copy to the limited liability company as provided under section 347.051;

(c) If reinstatement is granted, the termination of the articles of organization shall be retroactively voided, and the limited liability company may conduct its business as if the administrative cancellation never occurred;

(d) If the name of the limited liability company was issued to another entity before the application for reinstatement was filed, the limited liability company applying for the reinstatement may elect to reinstate using a new name that complies with the requirements under section 347.020 and is approved by appropriate action of the limited liability company for changing its name;

(e) If the secretary of state denies a limited liability company's application for reinstatement, the secretary shall

serve the limited liability company with a written notice as provided under section 347.051 that explains the reason for denial; and

(f) The limited liability company may appeal a denial of reinstatement by using the procedure provided under subdivision (2) of this section.

351.1400. As used in sections 351.1400 to 351.1435, the following terms mean:

(1) "Benefit corporation", a corporation that:

(a) Has elected to become subject to sections 351.1400 to 351.1435;

(b) Has not terminated its status as a benefit corporation under section 351.1412; and

(c) Is a general corporation formed under the provisions of sections 351.010 to 351.720;

(2) "Benefit director", the director elected by the benefit corporation under section 351.1421;

(3) "Benefit enforcement proceeding", any claim, action, or proceeding for:

(a) Failure of a benefit corporation to pursue or create a general public benefit or a specific public benefit purpose set forth in its articles of incorporation; or

(b) A violation of any obligation, duty, or standard of conduct under sections 351.1400 to 351.1435;

(4) "Benefit officer", the individual designated as the benefit officer of a benefit corporation under section 351.1427;

(5) "General public benefit", a material positive impact on society and the environment, taken as a whole, from the business

and operations of a benefit corporation, assessed taking into account the impacts of the benefit corporation as reported against a third-party standard, provided that "general public benefit" shall not include abortion services, human cloning, or prohibited human research, as those terms are defined in section 196.1127;

(6) "Independent", having no material relationship with a benefit corporation or a subsidiary of the benefit corporation, provided that serving as benefit director or benefit officer of a benefit corporation shall not constitute a material relationship. A material relationship between an individual and a benefit corporation or any of its subsidiaries shall be conclusively presumed to exist if:

(a) The individual is, or has been within the last three years, an employee other than a benefit officer of the benefit corporation or its subsidiary;

(b) An immediate family member of the individual is, or has been within the last three years, an executive officer other than a benefit officer of the benefit corporation or its subsidiary; or

(c) There is beneficial or record ownership of five percent or more of the outstanding shares of the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the benefit corporation had been exercised, by:

a. The individual; or

b. An entity:

(i) Of which the individual is a director, an officer, or a manager; or

(ii) In which the individual owns beneficially or of record five percent or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised;

(7) "Minimum status vote", a vote that satisfies the following conditions:

(a) If a business corporation, in addition to any other approval or vote required by the articles of incorporation or bylaws of the benefit corporation:

a. The shareholders of every class or series are entitled to vote on the corporate action, regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of any class or series; and

b. The corporate action is approved by vote of the shareholders of each class or series entitled to cast at least two-thirds of the votes that all shareholders of the class or series are entitled to cast on the action; or

(b) If a domestic entity other than a business corporation, in addition to any other required approval, vote, or consent:

a. The holders of every class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity are entitled to vote on the action, regardless of any otherwise applicable limitation on the voting or consent rights of any class or series; and

b. The action is approved by the affirmative vote of the holders entitled to cast at least two-thirds of the votes or consents that all of those holders are entitled to cast on the action;

(8) "Specific public benefit", includes:

- (a) Providing low-income or underserved individuals or communities with beneficial products or services;
- (b) Promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;
- (c) Protecting or restoring the environment;
- (d) Improving human health;
- (e) Promoting the arts, sciences, or advancement of knowledge;
- (f) Increasing the flow of capital to entities with a purpose to benefit society or the environment; and
- (g) Conferring any other particular benefit on society or the environment;

"Specific public benefit" shall not include abortion services, human cloning, or prohibited human research, as those terms are defined in section 196.1127;

(9) "Subsidiary", in relation to a person, an entity in which the person owns beneficially or of record fifty percent or more of the outstanding equity interests;

(10) "Third-party standard", a recognized standard for defining, reporting, and assessing corporate social and environmental performance. Such standard shall:

(a) Assess the effect of the business and its operations upon the interests listed in paragraphs (b), (c), (d), and (e) of subdivision (1) of subsection 1 of section 351.1418;

(b) Be developed by an entity that is not controlled by the

benefit corporation;

(c) Be developed by an entity that both:

- a. Has access to necessary expertise to assess overall corporate social and environmental performance; and
- b. Uses a balanced multistakeholder approach to develop the standard, including a reasonable public comment period; and

(d) Keep the following information publicly available:

- a. The criteria considered when measuring the overall social and environmental performance of a business;
- b. The relative weightings, if any, of those criteria;
- c. The identity of the directors, officers, material owners, and the governing body of the entity that developed, and controls revisions to, the standard;
- d. The process by which revisions to the standard and changes to the membership of the governing body are made; and
- e. An accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest.

351.1403. 1. Sections 351.1400 to 351.1435 shall be applicable to all benefit corporations.

2. All provisions of sections 351.010 to 351.720 relating to the administration, enforcement, interpretation, or amendment of such sections shall be applicable to sections 351.1400 to 351.1435, provided that in all cases in which the provisions of sections 351.1400 to 351.1435 are contrary to or inconsistent with the provisions of 351.010 to 351.720, the provisions of sections 351.1400 to 351.1435 shall take precedence over the

provisions of sections 351.010 to 351.720.

3. A provision of the articles of incorporation or bylaws of a benefit corporation shall not limit, be inconsistent with, or supersede any provision of sections 351.1400 to 351.1435.

351.1409. 1. Any existing corporation formed under the provisions of sections 351.010 to 351.720 may become a benefit corporation by amending its articles of incorporation to include a statement that the corporation is a benefit corporation. Such amendment shall be adopted by at least the minimum status vote.

2. For any entity that is a party to a merger or consolidation or is the exchanging entity in a share exchange, if the surviving, new, or resulting entity in the merger, consolidation, or share exchange is intended to be a benefit corporation, such plan of merger, consolidation, or share exchange shall be adopted by at least the minimum status vote in order to be effective.

351.1412. 1. A benefit corporation may terminate its status as such and cease to be subject to sections 351.1400 to 351.1435 by amending its articles of incorporation to remove the statement that the corporation is a benefit corporation. Such amendment shall be adopted by at least the minimum status vote.

2. If a plan of merger, conversion, or share exchange would have the effect of terminating the status of a business corporation as a benefit corporation, the plan shall not be effective unless adopted by at least the minimum status vote.

3. Any sale, lease, exchange, or other disposition of all or substantially all of the assets of a benefit corporation, unless the transaction is in the usual and regular course of

business, shall not be effective unless the transaction is approved by at least the minimum status vote.

351.1415. 1. A benefit corporation shall create a general public benefit that shall be in addition to its purpose under sections 351.010 to 351.720 and any specific purpose set forth in the articles of incorporation in accordance with subsection 2 of this section.

2. The articles of incorporation of a benefit corporation may identify one or more specific public benefit purposes in addition to its purposes under sections 351.010 to 351.720 and subsection 1 of this section.

3. A benefit corporation may amend its articles of incorporation to add, amend, or delete the identification of a specific public benefit. Such amendment shall be adopted by at least the minimum status vote.

351.1418. 1. In discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board, and individual directors of a benefit corporation:

(1) Shall consider the effects of any action or inaction upon:

(a) The shareholders of the benefit corporation;
(b) The employees and workforce of the benefit corporation, its subsidiaries, and its suppliers;

(c) The interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;

(d) Community and societal factors, including those of each

community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;

(e) The local and global environment;

(f) The short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and

(g) The ability of the benefit corporation to accomplish its general public benefit purpose and any specific public benefit purpose;

(2) May consider other pertinent factors or the interests of any other group deemed appropriate; and

(3) Shall not be required to give priority to the interests of a particular person or group over the interests of any other person or group unless the benefit corporation has stated in its articles of incorporation its intention to give priority to certain interests related to its accomplishment of its general public benefit purpose or specific public benefit purpose.

2. A director shall not be personally liable for monetary damages for:

(1) Any action or inaction in the course of performing the duties of a director under subsection 1 of this section if the director was not interested with respect to the action or inaction; or

(2) Failure of the benefit corporation to pursue or create a general public benefit or specific public benefit.

3. A director shall not have a duty to any person that is a

beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

4. A director who makes a business judgment in good faith fulfills the duty under this section if the director:

(1) Is not interested in the subject of the business judgment;

(2) Is informed with respect to the subject of the business judgment to the extent the director reasonably believes to be appropriate under the circumstances; and

(3) Reasonably believes that the business judgment is in the best interests of the benefit corporation.

351.1421. 1. The board of directors of a benefit corporation may include a director, who:

(1) Shall be designated the benefit director; and

(2) Shall have, in addition to the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this section.

2. The benefit director shall be elected, and may be removed, in the same manner that directors of any board of directors for a corporation are removed under sections 351.010 to 351.526 and shall be an individual who is independent. The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director consistent with this subsection.

3. The benefit corporation shall include in its annual benefit report to shareholders a report that shall address all of the following:

(1) Whether the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report;

(2) Whether the directors and officers complied with subsection 1 of section 351.1418 and subsection 1 of section 351.1424, respectively; and

(3) Whether the benefit corporation or its directors or officers failed to act or comply in the manner described in subdivisions (1) and (2) of this subsection and, if so, a description of the ways in which the benefit corporation or its directors or officers failed to act or comply.

4. The act or inaction of an individual in the capacity of a benefit director shall constitute for all purposes an act or inaction of that individual in the capacity of a director of the benefit corporation.

5. Regardless if the articles of incorporation or bylaws of a benefit corporation include a provision eliminating or limiting the personal liability of directors authorized by section 351.055, a benefit director shall not be personally liable for an act or inaction in his or her capacity as a benefit director unless the act or inaction constitutes self-dealing, willful misconduct, or a knowing violation of law.

351.1424. 1. Each officer of a benefit corporation shall consider the interests and factors described in subsection 1 of

section 351.1418 in the manner provided in subsection 1 of
section 351.1418 if:

(1) The officer has discretion to act with respect to a
matter; and

(2) It reasonably appears to the officer that the matter
may have a material effect on the creation by the benefit
corporation of a general public benefit or a specific public
benefit identified in the articles of incorporation of the
benefit corporation.

2. Except as provided in the articles of incorporation, an
officer is not personally liable for monetary damages for:

(1) Any action or inaction in the course of performing the
duties of an officer under subsection 1 of this section if the
officer was not interested with respect to the action or
inaction; or

(2) Failure of the benefit corporation to pursue or create
a general public benefit or specific public benefit.

3. An officer does not have a duty to a person that is a
beneficiary of the general public benefit purpose or a specific
public benefit purpose of a benefit corporation arising from the
status of the person as a beneficiary.

4. An officer who makes a business judgment in good faith
fulfills the duty under this section if the officer:

(1) Is not interested in the subject of the business
judgment;

(2) Is informed with respect to the subject of the business
judgment to the extent the officer reasonably believes to be
appropriate under the circumstances; and

(3) Reasonably believes that the business judgment is in the best interests of the benefit corporation.

351.1427. 1. A benefit corporation may have an officer designated as the benefit officer.

2. A benefit officer shall have:

(1) The powers and duties relating to the purpose of the corporation to create a general public benefit or specific public benefit provided:

(a) By the bylaws; or

(b) Absent controlling provisions in the bylaws, by resolutions or orders of the board of directors; and

(2) The duty to prepare the benefit report required by section 351.1433.

351.1430. 1. A benefit corporation shall prepare an annual benefit report including all of the following:

(1) A narrative description of:

(a) The ways in which the benefit corporation pursued a general public benefit during the year and the extent to which a general public benefit was created;

(b) Both:

a. The ways in which the benefit corporation pursued a specific public benefit that the articles of incorporation state is the purpose of the benefit corporation to create; and

b. The extent to which that specific public benefit was created;

(c) Any circumstances that have hindered the creation by the benefit corporation of a general public benefit or specific public benefit; and

(d) The process and rationale for selecting or changing the third-party standard used to prepare the benefit report;

(2) An assessment of the overall social and environmental performance of the benefit corporation against a third-party standard:

(a) Applied consistently with any application of that standard in prior benefit reports; or

(b) Accompanied by an explanation of the reasons for:

a. Any inconsistent application; or

b. The change to that standard from the one used in the immediately prior report;

(3) The name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;

(4) The compensation paid by the benefit corporation during the year to each director in the capacity of a director;

(5) The statement of the benefit director described in subsection 3 of section 351.1424;

(6) A statement of any connection between the organization that established the third-party standard, or its directors, officers, or any holder of five percent or more of the governance interests in the organization, and the benefit corporation or its directors, officers, or any holder of five percent or more of the outstanding shares of the benefit corporation, including any financial or governance relationship that might materially affect the credibility of the use of the third-party standard; and

(7) If the benefit corporation has dispensed with or restricted the discretion or powers of the board of directors, a

description of the persons who exercise the powers, duties, and rights and have the immunities of the board of directors.

2. If, during the year covered by a benefit report, a benefit director resigned from or refused to stand for reelection to the position of benefit director, or was removed from the position of benefit director, and the benefit director furnished the benefit corporation with any written correspondence concerning the circumstances surrounding the resignation, refusal, or removal, the benefit report shall include that correspondence as an exhibit.

3. Neither the benefit report nor the assessment of the performance of the benefit corporation in the benefit report required by subdivision (2) of subsection 1 of this section needs to be audited or certified by a third-party standards provider.

351.1433. 1. A benefit corporation shall send its annual benefit report to each shareholder:

(1) Within one hundred twenty days following the end of the fiscal year of the benefit corporation; or
(2) At the same time that the benefit corporation delivers any other annual report to its shareholders.

2. A benefit corporation shall post all of its benefit reports on the public portion of its website, if any, but the compensation paid to directors and financial or proprietary information included in the benefit reports may be omitted from the benefit reports as posted.

3. If a benefit corporation does not have a website, the benefit corporation shall provide a copy of its most recent benefit report, without charge, to any person that requests a

copy, but the compensation paid to directors and financial or proprietary information included in the benefit report may be omitted from the copy of the benefit report provided.

351.1435. 1. (1) Except in a benefit enforcement proceeding, no person may bring an action or assert a claim against a benefit corporation or its directors or officers with respect to a:

(a) Failure to pursue or create a general public benefit or a specific public benefit set forth in its articles of incorporation; or

(b) Violation of an obligation, duty, or standard of conduct under sections 351.1400 to 351.1435.

(2) A benefit corporation shall not be liable for monetary damages under sections 351.1400 to 351.1435 for any failure of the benefit corporation to pursue or create a general public benefit or a specific public benefit.

2. A benefit enforcement proceeding may be commenced or maintained only:

(1) Directly by the benefit corporation; or

(2) Derivatively by:

(a) A person or group of persons that owned beneficially or of record at least two percent of the total number of shares of a class or series outstanding at the time of the act or inaction;

(b) A director;

(c) A person or group of persons that owned beneficially or of record five percent or more of the outstanding equity interests in an entity of which the benefit corporation is a subsidiary at the time of the act or inaction; or

(d) Other persons as specified in the articles of incorporation or bylaws of the benefit corporation.

3. For purposes of this section, a person is the beneficial owner of shares or equity interests if the shares or equity interests are held in a voting trust or by a nominee on behalf of the beneficial owner.

351.1440. Nothing in sections 351.1400 to 351.1435 shall authorize public funds to be expended, paid, or granted to or on behalf of an existing or proposed research project that involves abortion services, human cloning, or prohibited human research, as those terms are defined in section 196.1127.

358.460. 1. The exclusive right to the use of a name of a registered limited liability partnership or foreign registered limited liability partnership may be reserved by:

(1) Any person intending to become a registered limited liability partnership or foreign registered limited liability partnership under this chapter and to adopt that name; and

(2) Any registered limited liability partnership or foreign registered limited liability partnership which proposes to change its name.

2. The reservation of a specified name shall be made by filing with the secretary of state an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the secretary of state finds that the name is available for use by a registered limited liability partnership or foreign registered limited liability partnership, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of sixty days. A

name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application.

Upon the one hundred eighty-first day the name shall cease reserve status and shall not be placed back in such status. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be cancelled by filing with the secretary of state a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be cancelled and the name and address of the applicant or transferee.

3. A fee in the amount of [twenty-five] twenty dollars shall be paid to the secretary of state upon receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation pursuant to this section. All moneys from the payment of this fee shall be deposited into the general revenue fund.

358.470. 1. Each registered limited liability partnership and each foreign registered limited liability partnership shall have and maintain in the state of Missouri:

(1) A registered office, which may, but need not be, a place of its business in the state of Missouri; and

(2) A registered agent for service of process on the registered limited liability partnership or foreign registered limited liability partnership, which agent may be either an individual resident of the state of Missouri whose business

office is identical with the registered limited liability partnership's or foreign registered limited liability partnership's registered office, or a domestic corporation, or a foreign corporation authorized to do business in the state of Missouri, having a business office identical with such registered office or the registered limited liability partnership or foreign registered limited liability partnership itself.

2. A registered agent may change the address of the registered office of the registered limited liability partnerships or foreign registered limited liability partnerships for which the agent is the registered agent to another address in the state of Missouri by paying a fee in the amount of ten five dollars~~1~~, and a further fee in the amount of two dollars] for each registered limited liability partnership or foreign registered limited liability partnership affected thereby, to the secretary of state and filing with the secretary of state a certificate, executed by such registered agent, setting forth the names of all the registered limited liability partnerships or foreign registered limited liability partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such registered limited liability partnerships or foreign registered limited liability partnerships, and further certifying to the new address to which such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the registered limited liability partnerships or foreign registered limited liability partnerships recited in the certificate. Upon

the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the same under the secretary of state's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the state of Missouri of each of the registered limited liability partnerships or foreign registered limited liability partnerships recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a registered limited liability partnership or foreign registered limited liability partnership, such registered agent shall file with the secretary of state a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the registered limited liability partnerships or foreign registered limited liability partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such registered limited liability partnerships or foreign registered limited liability partnerships, and shall pay a fee in the amount of [twenty-five] five dollars[, and a further fee in the amount of two dollars] for each registered limited liability partnership or foreign registered limited liability partnership affected thereby, to the secretary of state. Upon the filing of such certificate, the secretary of state shall furnish to the registered agent a certified copy of the same under the secretary of state's hand and seal of office. Filing a certificate under

this section shall be deemed to be an amendment of the application, renewal application or notice filed pursuant to subsection 19 of section 358.440, as the case may be, of each registered limited liability partnership or foreign registered limited liability partnership affected thereby, and each such registered limited liability partnership or foreign registered limited liability partnership shall not be required to take any further action with respect thereto to amend its application, renewal application or notice filed, as the case may be, pursuant to section 358.440. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each registered limited liability partnership or foreign registered limited liability partnership affected thereby.

3. The registered agent of one or more registered limited liability partnerships or foreign registered limited liability partnerships may resign and appoint a successor registered agent by paying a fee in the amount of [fifty] five dollars[, and a further fee in the amount of two dollars] for each registered limited liability partnership or foreign registered limited liability partnership affected thereby, to the secretary of state and filing a certificate with the secretary of state, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected registered limited liability partnership or foreign registered limited liability partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the

registered agent of such registered limited liability partnerships or foreign registered limited liability partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such registered limited liability partnership's or foreign registered limited liability partnership's registered office in the state of Missouri. The secretary of state shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the application, renewal application or notice filed pursuant to subsection 19 of section 358.440, as the case may be, of each registered limited liability partnership or foreign registered limited liability partnership affected thereby, and each such registered limited liability partnership or foreign registered limited liability partnership shall not be required to take any further action with respect thereto, to amend its application, renewal application or notice filed pursuant to subsection 19 of section 358.440, as the case may be, pursuant to section 358.440.

4. The registered agent of a registered limited liability partnership or foreign registered limited liability partnership may resign without appointing a successor registered agent by paying a fee in the amount of [ten] five dollars to the secretary of state and filing a certificate with the secretary of state stating that it resigns as registered agent for the registered limited liability partnership or foreign registered limited liability partnership identified in the certificate, but such

resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or the president, a vice president or the secretary thereof if a corporation, that at least thirty days prior to and on or about the date of the filing of the certificate, notices were sent by certified or registered mail to the registered limited liability partnership or foreign registered limited liability partnership for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the state of Missouri, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such registered limited liability partnership or foreign registered limited liability partnership, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the registered limited liability partnership or foreign registered limited liability partnership for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such registered limited liability partnership or foreign registered limited liability partnership fails to obtain and designate a new registered agent prior to the expiration of the period of one hundred twenty days after the filing by the registered agent of the certificate of resignation, the application, renewal application or notice filed pursuant to subsection 19 of section 358.440 of such registered limited liability partnership or

foreign registered limited liability partnership shall be deemed to be cancelled.