

2019 TEXAS LEGISLATIVE UPDATE ON AMENDMENTS TO TEXAS BUSINESS ORGANIZATIONS CODE AND TEXAS BUSINESS AND COMMERCE CODE

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Summary of Bills

- Senate Bill No. 1859 – partnerships, LLCs, electronic data systems and delayed effectiveness of filings
- Senate Bill No. 1969 – ratification of void or voidable acts of nonprofit corporations
- Senate Bill No. 1971 – corporations, vesting agreements and two step offer-mergers
- House Bill No. 3603 – derivative proceedings of for-profit corporations, LLCs and limited partnerships
- House Bill No. 3609 – assumed name certificates in Texas Business and Commerce Code (“TBCC”)
- All bills sponsored by Senator Kelly Hancock and Representative Trey Martinez Fischer
- All bills effective September 1, 2019

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Assumed Name Filings

- Only Texas and Virginia have a dual filing requirement at the state and local level for Assumed Name Certificates
- HB 3609 amends TBCC Chapter 71 to eliminate filings of Assumed Name Certificates with county clerks for domestic or foreign filing entities:
 - Limited Partnerships
 - Limited Liability Companies
 - Corporations
 - Limited Liability Partnerships
 - Foreign Filing Entities
- County level filings continue to be required for:
 - Joint Ventures
 - General Partnerships
 - Real Estate Investment Trusts
 - Estates and Trusts
 - Sole Proprietors

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Authorizing Use of Electronic Data Systems

- SB1859 and SB1971 make revisions to Texas Business Organizations Code (“TBOC”) to recognize electronic record-keeping by Texas entities
- Definition of “electronic data system” added – includes blockchain or distributed ledger technology
- Remove language that could be construed to require maintenance of records at an entity’s registered office or principal place of business – Records can be maintained through electronic data systems
- Definition of “share transfer records” added that recognizes electronic record-keeping
 - Third-party transfer agents and electronic data systems can prepare required annual meeting shareholder lists and send specified notices

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