

## Session 115 - (2003-2004)

**H\*4650 (Rat #0293, Act #0221 of 2004) General Bill, By Harrison, McLeod and Whipper**

**Similar (S 0834)**

**Summary:** Foreign corporations, mergers, partnerships

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 9 TO TITLE 33 SO AS TO PROVIDE FOR PROCEDURES FOR, AND THE LEGAL EFFECT OF, DOMESTICATION IN SOUTH CAROLINA OF A FOREIGN CORPORATION; BY ADDING ARTICLE 14 TO CHAPTER 41 OF TITLE 33 AND ARTICLE 12 TO CHAPTER 42 OF TITLE 33, SO AS TO PROVIDE FOR PROCEDURES FOR, AND THE LEGAL EFFECTS OF, THE MERGERS WITH OTHER ENTITIES OF A PARTNERSHIP AND A LIMITED PARTNERSHIP, RESPECTIVELY; BY ADDING SECTIONS 33-11-109 AND 33-11-110, SO AS TO PROVIDE FOR THE CONVERSION OF A PARTNERSHIP OR LIMITED PARTNERSHIP TO A CORPORATION, SECTIONS 33-11-111 AND 33-11-112, SO AS TO PROVIDE FOR A CONVERSION OF A CORPORATION TO A LIMITED LIABILITY COMPANY, AND SECTIONS 33-11-113 AND 33-11-114, SO AS TO PROVIDE FOR CONVERSION OF A CORPORATION TO A PARTNERSHIP OR A LIMITED PARTNERSHIP, AND SECTION 33-11-115, SO AS TO PROVIDE THAT THESE CONVERSIONS MAY BE UNDERTAKEN PURSUANT TO OTHER LAW; BY ADDING SECTIONS 33-44-908, 33-44-909, 33-44-910, 33-44-911, 33-44-912, 33-44-913, AND 33-44-914, SO AS TO PROVIDE FOR PROCEDURES FOR, AND THE LEGAL EFFECTS OF, CONVERSIONS OF A LIMITED LIABILITY COMPANY TO A CORPORATION, A LIMITED PARTNERSHIP, OR A PARTNERSHIP, RESPECTIVELY; BY ADDING SECTION 33-44-1208, SO AS TO PROVIDE FOR CIRCUMSTANCES UNDER WHICH A FOREIGN CORPORATION IS NOT REQUIRED TO OBTAIN AUTHORITY TO DO BUSINESS IN THIS STATE; BY ADDING SECTION 36-8-307, SO AS TO REQUIRE THE TRANSFEROR OF A SECURITY FOR VALUE TO PROVIDE DOCUMENTATION NECESSARY FOR REGISTRATION OF THE SECURITY; AND BY ADDING SECTION 33-10-110 SO AS TO PROVIDE FOR CONVERSION TO A PUBLIC OR MUTUAL BENEFIT NONPROFIT CORPORATION; TO AMEND SECTION 33-1-220, AS AMENDED, RELATING TO FILING, SERVICE, AND COPYING FEES PAYABLE TO THE SECRETARY OF STATE, SO AS TO INCLUDE FEES FOR FILING OF ARTICLES OF DOMESTICATION AND ARTICLES OF CONVERSION; TO AMEND SECTION 33-1-400, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE SOUTH CAROLINA BUSINESS CORPORATION ACT, SO AS TO INCLUDE DEFINITIONS FOR "LIMITED PARTNERSHIP" AND "PARTNERSHIP"; TO AMEND SECTION 33-1-410, RELATING TO WRITTEN NOTICE TO A SHAREHOLDER, SO AS TO PROVIDE FOR NOTICE INCLUDED IN A PROXY STATEMENT; TO AMEND SECTION 33-2-102, AS AMENDED, RELATING TO ARTICLES OF INCORPORATION, SO AS TO DELETE THE REQUIREMENT OF AN INITIAL ANNUAL REPORT; TO AMEND SECTION 33-4-104, AS AMENDED, RELATING TO THE FILING OF A NAME CHANGE BY A CORPORATION OWNING REAL PROPERTY, SO AS TO PROVIDE FOR FILING UPON THE CONVERSION OR DOMESTICATION OF A CORPORATION; TO AMEND SECTION 33-6-260, AS AMENDED, RELATING TO THE ISSUANCE OF CORPORATE SHARES WITHOUT A CERTIFICATE, SO AS TO REQUIRE A WRITTEN STATEMENT CONTAINING THE CERTIFICATION INFORMATION UPON THE ISSUE OR TRANSFER; TO AMEND SECTION 33-11-101, AS AMENDED, RELATING TO ENTITIES WITH WHICH A CORPORATION MAY MERGE, SO AS TO INCLUDE A DOMESTIC OR FOREIGN LIMITED LIABILITY COMPANY, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY; TO AMEND SECTIONS 33-11-105 AND 33-11-106, BOTH RELATING TO THE MERGER OF A SUBSIDIARY OF A CORPORATION AND THE EFFECT OF THE MERGER OR EXCHANGE OF STOCK, SO AS TO SUBSTITUTE "ENTITY" FOR "CORPORATION"; TO AMEND SECTION 33-13-102, AS AMENDED, RELATING TO A SHAREHOLDER'S RIGHT OF DISSENT AND PAYMENT UPON CERTAIN CORPORATE ACTIONS, SO AS TO DELETE A REFERENCE TO A NONPUBLIC CORPORATION AND TO PROVIDE FOR CONVERSION OF A CORPORATION INTO ANOTHER ENTITY; TO AMEND SECTION 33-14-107, RELATING TO UNKNOWN CLAIMS AGAINST A CORPORATION, SO AS TO INCREASE THE TIME FOR ENFORCING THE CLAIM TO TEN YEARS AFTER PUBLICATION OF NOTICE OF DISSOLUTION AND TO PROVIDE FOR A CLAIM ARISING AFTER DISSOLUTION; TO AMEND SECTION 33-14-200, AS AMENDED, AND SECTION 33-14-210, BOTH RELATING TO ADMINISTRATIVE DISSOLUTION OF A CORPORATION, BOTH SO AS TO CORRECT A CROSS-REFERENCE TO THE STATE INCOME TAX PROVISIONS; TO AMEND SECTION 33-15-101, AS AMENDED, RELATING TO ACTIVITIES NOT CONSTITUTING THE TRANSACTION OF BUSINESS BY A CORPORATION, SO AS TO INCLUDE THE MERE OWNERSHIP OF AN INTEREST IN A LIMITED LIABILITY COMPANY IN THIS STATE; TO AMEND SECTION 33-15-103, AS AMENDED, RELATING TO APPLICATION FOR A CERTIFICATE OF AUTHORITY FOR A FOREIGN CORPORATION TO DO BUSINESS IN THIS STATE, SO AS TO CORRECT A CROSS-REFERENCE; TO AMEND SECTIONS 33-15-300 AND 33-15-310, BOTH AS AMENDED, BOTH RELATING TO REVOCATION OF A CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION TO DO BUSINESS IN THIS STATE, BOTH SO AS TO CORRECT A CROSS-REFERENCE TO A STATE INCOME TAX PROVISION; TO AMEND SECTION 33-31-401 RELATING TO CORPORATE NAME, SO AS TO PROVIDE FOR USE OF

NAME AFTER CONVERSION; TO AMEND SECTION 33-31-1101, RELATING TO THE MERGER OF A NONPROFIT CORPORATION AND THE MERGER OF A BUSINESS CORPORATION, SO AS TO PROVIDE FOR MERGERS WITH A DOMESTIC OR FOREIGN LIMITED LIABILITY COMPANY, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY; TO AMEND SECTION 33-42-1690, RELATING TO ACTIVITIES NOT CONSIDERED THE TRANSACTION OF BUSINESS BY A LIMITED PARTNERSHIP, SO AS TO INCLUDE THE MERE OWNERSHIP OF AN INTEREST IN A LIMITED LIABILITY COMPANY IN THIS STATE; TO AMEND SECTION 33-44-208, RELATING TO CERTIFICATES OF EXISTENCE OR AUTHORITY OF A LIMITED LIABILITY COMPANY, SO AS TO DELETE REFERENCES TO ITS MOST RECENT ANNUAL REPORT; TO AMEND SECTION 33-44-404, AS AMENDED, RELATING TO MANAGEMENT ISSUES OF A LIMITED LIABILITY COMPANY REQUIRING CONSENT BY ALL MEMBERS, SO AS TO CORRECT A CROSS-REFERENCE; TO AMEND SECTION 33-44-410, RELATING TO ACTIONS BY A MEMBER OF A LIMITED LIABILITY COMPANY SO AS TO PROVIDE FOR ACTIONS BY A MANAGER OF THE COMPANY; TO AMEND SECTION 33-44-801, AS AMENDED, RELATING TO EVENTS GIVING RISE TO THE DISSOLUTION OF A LIMITED LIABILITY COMPANY, SO AS TO PROVIDE FOR THE EFFECT OF AN AGREEMENT CHANGING THE STATUTORY PROVISIONS FOR THE PURCHASE OF A DISTRIBUTIONAL INTEREST; TO AMEND SECTION 33-44-806, RELATING TO DISTRIBUTING OF ASSETS IN THE WINDING UP OF THE BUSINESS OF A LIMITED LIABILITY COMPANY, SO AS TO PROVIDE THAT THE DISTRIBUTION TO MEMBERS ACCORD WITH THEIR POSITIVE CAPITAL ACCOUNT BALANCES; TO AMEND SECTION 33-44-809, RELATING TO GROUNDS FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED LIABILITY COMPANY, SO AS TO DELETE THE REQUIREMENT FOR AN ANNUAL REPORT FILED WITH THE SECRETARY OF STATE; TO AMEND SECTION 33-44-903, RELATING TO THE EFFECT OF CONVERSION OF AN ENTITY TO A LIMITED LIABILITY COMPANY, SO AS TO REQUIRE A FILING GIVING NOTICE OF THE NAME CHANGE IF THE ENTITY OWNS REAL PROPERTY IN THIS STATE; TO AMEND SECTION 33-44-905, RELATING TO ARTICLES OF MERGER OF A LIMITED LIABILITY COMPANY, SO AS TO PROVIDE FOR A FOREIGN ENTITY AS A MERGING OR SURVIVING ENTITY OF THE MERGER; TO AMEND SECTION 33-44-1003, RELATING TO ACTIVITIES NOT CONSTITUTING THE TRANSACTION OF BUSINESS IN THIS STATE BY A FOREIGN CORPORATION, SO AS TO INCLUDE THE MERE OWNERSHIP OF AN INTEREST IN A LIMITED LIABILITY COMPANY IN THIS STATE; TO AMEND SECTION 33-44-1006, RELATING TO REVOCATION OF THE AUTHORITY OF A FOREIGN CORPORATION TO DO BUSINESS IN THIS STATE, SO AS TO DELETE THE REQUIREMENT OF FILING AN ANNUAL REPORT WITH THE SECRETARY OF STATE; TO AMEND SECTION 33-44-1204, RELATING TO FEES COLLECTIBLE BY THE SECRETARY OF STATE FROM A LIMITED LIABILITY COMPANY, SO AS TO DELETE THE FEE FOR FILING AN ANNUAL REPORT; TO AMEND SECTION 38-90-20, RELATING TO LICENSING REQUIREMENTS FOR A CAPTIVE INSURANCE COMPANY, SO AS TO REQUIRE LICENSING FOR OPERATION WITHIN THE STATE; TO AMEND SECTION 38-90-60, AS AMENDED, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS OF A CAPTIVE INSURANCE COMPANY, SO AS TO REQUIRE APPROVAL BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE BEFORE THE SECRETARY OF STATE ACTS IN CONNECTION WITH A CAPTIVE INSURANCE COMPANY; TO AMEND SECTION 12-20-40, RELATING TO INITIAL FILINGS WITH THE SECRETARY OF STATE BY A CORPORATION, SO AS TO INCLUDE A DOMESTICATING CORPORATION; AND TO REPEAL SECTION 33-14-410, RELATING TO ACTIONS AND JUDGMENTS AGAINST SHAREHOLDERS OF DISSOLVED CORPORATIONS, SECTION 33-42-320, RELATING TO MERGER AND CONSOLIDATION OF LIMITED PARTNERSHIPS, SECTION 33-44-211, RELATING TO FILING OF AN ANNUAL REPORT BY A FOREIGN OR DOMESTIC LIMITED LIABILITY COMPANY, AND SECTIONS 39-13-10 THROUGH 39-13-40, RELATING TO NAMES OF BUSINESS ESTABLISHMENTS. -

ratified title

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|-----------------|---------------|---|
| <b>01/29/04</b> | <b>House</b>  | <b>Introduced and read first time HJ-11</b>                       |
| <b>01/29/04</b> | <b>House</b>  | <b>Referred to Committee on Judiciary HJ-15</b>                   |
| <b>02/18/04</b> | <b>House</b>  | <b>Member(s) request name added as sponsor: McLeod</b>            |
| <b>02/18/04</b> | <b>House</b>  | <b>Committee report: Favorable with amendment Judiciary HJ-17</b> |
| <b>02/25/04</b> | <b>House</b>  | <b>Member(s) request name added as sponsor: Whipper</b>           |
| <b>02/25/04</b> | <b>House</b>  | <b>Amended HJ-41</b>  |
| <b>02/25/04</b> | <b>House</b>  | <b>Read second time HJ-43</b>                                     |
| <b>02/26/04</b> | <b>House</b>  | <b>Read third time and sent to Senate HJ-17</b>                   |
| <b>02/26/04</b> | <b>Senate</b> | <b>Introduced and read first time SJ-9</b>                        |
| <b>02/26/04</b> | <b>Senate</b> | <b>Referred to Committee on Judiciary SJ-9</b>                    |
| <b>04/06/04</b> | <b>Senate</b> | <b>Committee report: Favorable with amendment Judiciary SJ-10</b> |
| <b>04/07/04</b> | <b>Senate</b> | <b>Amended SJ-44</b>  |
| <b>04/13/04</b> | <b>Senate</b> | <b>Read second time SJ-7</b>                                      |

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| 04/13/04 | Senate | Ordered to third reading with notice of amendments SJ-7     |
| 04/14/04 | Senate | Read third time and returned to House with amendments SJ-27 |
| 04/20/04 | House  | Concurred in Senate amendment and enrolled HJ-37            |
| 04/27/04 |        | Ratified R 293  |
| 04/29/04 |        | Signed By Governor  |
| 05/04/04 |        | Scrivener's error corrected                                 |
| 05/06/04 |        | Copies available  |
| 05/06/04 |        | Effective date 04/29/04                                     |
| 05/18/04 |        | Act No. 221   |