CORPORATIONS, SECURITIES AND FINANCIAL SERVICES COMMITTEE

MEETING TO BE HELD ON JUNE 22, 2017

1. Section 607.08411 (General Standards for Officers)

Section 607.08411 provides guidance as to the duties of officers. It replaces common law principles of an agent's duties, which some argue do not provide clear guidance. This section is based on s. 8.42 of the Model Act, although the language in the proposed version of this statute is an amalgamation of the language in s. 8.42 of the Model Act and the language used in s. 607.0830 (General standards for directors).

In its deliberations, subcommittee members struggled with the issue of whether or not to include this provision in the statute. There were those on the subcommittee who felt that the topic should be left to agency law. There were others who felt that guidance on this topic would provide clear "rules of the road" for an officer's conduct. After extensive consideration over a long period of time, a decision was made to include this provision in the FBCA.

At this meeting, we will, once again, consider this topic. Also, assuming the decision remains to keep this provision in the statute, we will consider the language used in the proposed statute.

The current version of s. 607.08411, along with the commentary to that section, is Exhibit A to this Agenda and the corollary section of the Model Act (s. 8.42) is Exhibit B to this Agenda. Further, certain views were expressed on this topic by Stu Ames and Stu Cohn in an e-mail to the co-chairs on June 8, 2017. A copy of that e-mail is included in Exhibit C to this Agenda.

2. Section 607.10025 (Shares; combination or division)

Under s. 607.10025, a Florida corporation may effect a forward split or a reverse split by board action and without shareholder approval, provided the statutory requirements are followed. When adopted in 1993, this section only applied to corporations with less than 35 stockholders.

After discussion, a decision was made by the Subcommittee to eliminate the less than 35 shareholder requirement, since the protective provisions of this statute (particularly subsections (3) and (7)) make it impossible for this statute to be used for squeeze out transactions or to dilute the interests of minority shareholders. As a result, the limitation of this provision to use by corporations with more than 35 shareholders of record is no longer believed to serve a useful purpose.

At this meeting, the committee will consider whether it agrees with the decision to remove the less than 35 shareholder limitation from this section.

The current draft of s. 607.10025, along with the commentary to that section, is Exhibit D to this Agenda.

3. Grounds for Dissolution – Oppression of Minority Shareholders

Currently, s. 607.1430 provides, among other grounds for judicial dissolution, that the directors or those in control of the corporation have acted, are acting, or are reasonably expected to act in a manner that is illegal or fraudulent. The corollary section of the Model Act (s. 14.30) includes one additional ground for judicial dissolution, "oppression of minority shareholders." Oppression of minority shareholders is a particular action or actions directed towards a particular shareholder.

In 1994, when Florida's current judicial dissolution statute was adopted, there was a view that the concept of oppression was too vague and would present the possibility of vexatious litigation based on an uncertain standard. In contrast, advocates for including the oppression provision argued that oppression is capable of reasonable definition and that minority shareholders might not otherwise have an adequate basis for relief in squeeze-out situations such as loss of office, salary or dividends. Such advocates also argued that the failure to include "oppression" as a grounds for judicial dissolution has a definite chilling effect on the rights of minority shareholders in Florida.

It is believed that some Florida courts, by applying fiduciary principles, have gotten around the failure to include "oppression" as a ground for dissolution in order to provide an equitable remedy for a minority shareholder.

In point of fact, and while not a reason in and of itself to make a change, Florida is clearly out of the mainstream on this issue. Today, over 35 states have adopted oppression as a ground for judicial dissolution or an analogous provision (a summary memo on this topic prepared by Andrew Schwartz is included as Exhibit E to this Agenda). Further, some states have limited this particular right to seek judicial dissolution to only those shareholders who meet certain minimum ownership requirements (for example, (i) Maryland, Massachusetts and Georgia, all of which are Model Act states, have such requirements, requiring the ownership of 25%, 40%, and 20% of the outstanding shares respectively, (ii) California requires the ownership of 1/3rd of the outstanding shares, and (iii) New York sets a 20% ownership requirement).

The Uniform Revised Limited Liability Company Act also includes "oppression of minority members" as a ground for judicial dissolution. When Chapter 605 was adopted, it was decided to defer the question of including this ground for dissolution in the LLC statute pending consideration of the topic as part of the consideration of modifications to the FBCA, in an effort to address harmonization.

At this meeting, the members of the CS&FS Committee will have an opportunity to share their thoughts on this issue.

4. If time permits, we will discuss the following topics that are not resolved in the current draft of FBCA:

   A. Use of "Must" vs. Shall" – There continue to be changes in the 2016 version of the Model Act with respect to the use of the words "must" vs. "shall." There also appears to be no absolute convention being followed in the Model Act. Should we

follow the Model Act changes in this regard, even though the Model Act is not consistent on this point? Even if we are not following the Model Act religiously in this regard, if we believe that something should be clearly identified as mandatory, should we decide to use the word "must" as our convention in all such cases and make necessary changes throughout the FBCA?

B. Pledging Shares in a Redemption Transaction – Section 607.06401(7) does not deal with how to pledge redeemed shares back to the redeemed shareholder as security for a debt in connection with the redemption. Should it? Should there be an exemption to having such shares treated as treasury shares as long as such shares remain pledged in this context?

C. Impact of Late Annual Report – What happens to the active status of a corporation during the period that it is late in the filing of its annual report but it is not yet administratively dissolved? Should the corporation still be considered to be in active status and should this be reflected on the active status certificate?

EXHIBIT A

607.08411 General standards for officers.

(1)An officer, when performing in such capacity, has the duty to act:

(a) In good faith; and

(b) In a manner the officer reasonably believes to be in the best interests of the corporation.

(2)An officer, when becoming informed in connection with their decision-making function, shall discharge his or her duties with the care that an ordinary prudent person in a like position would reasonably believe appropriate under similar circumstances.

(3) The duty of an officer includes the obligation:

(a) To inform the superior officer to whom, or the board of directors or the committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to such superior officer, board or committee; and

(b) To inform his or her superior officer, or another appropriate person within the corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

(4)In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection (6) to whom the responsibilities were properly delegated, formally or informally by course of conduct.

(5)In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (6).

(6)An officer is entitled to rely, in accordance with subsection (4) or (5), on:

(a) One or more other officers of the corporation or one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

(b) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters (i) within the

particular person's professional or expert competence or (ii) as to which the particular person merits confidence.

[(7) In discharging his or her duties, an officer may consider such factors as the officer deems relevant, or the board of directors has informed the officer to consider, including the long-term prospects and interests of the corporation and its shareholders, and the social, economic, legal, or other effects of any action on the employees, suppliers, customers of the corporation or its subsidiaries, the communities and society in which the corporation or its subsidiaries operate, and the economy of the state and the nation.]

(8)An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of s. 607.0831 that have relevance.

Commentary to s. 607.08411.

While this new section of the FBCA is modeled after s. 8.42 of the Model Act, it includes language intended to make it consistent with the language used in s. 607.0830 (general standards for directors).

Section 8.42 first became part of the Model Act in 1984 and was amended in 1999 and again in 2005. This section was excluded from the FBCA as adopted in 1989. The following commentary explained the rationale for the omission as follows:

> "Currently, Florida does not have a statute dictating standards of conduct for officers. These standards are currently imposed under common law and general contract law. Although Georgia has recently adopted a statute that is similar to Model Act Section 8.42, the Committee believes there is no need to adopt a similar statute at this time".

Today, 28 of the 34 Model Act jurisdictions, including Georgia, Massachusetts, North Carolina, Oregon, Pennsylvania, Washington DC, and Washington State, have adopted either the 1984 or updated versions of this Model Act provision. Further, the current version of the Model Act is far more robust than it was in the 1984 version of the Model Act, and the commentary is lengthy and detailed on this topic.

As a result, this provision has been added to the FBCA. It provides clear guidance to its audience (counselors to corporate officers and directors) with as little as possible left to interpretation, including a roadmap for courts as to the duties of officers. It replaces common law principles of an agent's duties, which arguably do not provide clear guidance. [Particularly, this section provides that the business judgment rule will normally apply to decisions within an officer's discretionary authority, which is important clarity in the law.] Further, the more specific guidance provided by this section could be helpful in determining an officer's entitlement to indemnification and in providing offensive and defensive arguments when an officer is named as a defendant in litigation (derivative or otherwise). Other aspects of this new provision that are considered to be of some significance are the specific requirements for "up the line" reporting and transparency, and the very specific (and corporate structure-related) definitions of reasonable "reliance", the latter of which is not necessarily believed to be part of traditional agency rules.

EXHIBIT B

§ 8.42. STANDARDS OF CONDUCT FOR OFFICERS

(a) An officer, when performing in such capacity, has the duty to act:
  (1) in good faith;
  (2) with the care that a person in a like position would reasonably exercise under similar circumstances; and
  (3) in a manner the officer reasonably believes to be in the best interests of the corporation.

(b) The duty of an officer includes the obligation:
  (1) to inform the superior officer to whom, or the board of directors or the board committee to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to such superior officer, board or committee; and
  (2) to inform his or her superior officer, or another appropriate person within the corporation, or the board of directors, or a board committee, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

(c) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on:
  (1) the performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or
  (2) information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters (i) within the particular person's professional or expert competence or (ii) as to which the particular person merits confidence.

(d) An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 8.31 that have relevance.

OFFICIAL COMMENT

Under section 8.42(a), an officer, when performing in such officer's official capacity, has to meet standards of conduct generally specified for directors under section 8.30. This section is not intended to modify, diminish or qualify the duties or standards of conduct that may be imposed upon specific officers by other law or regulation.

Common law has generally recognized a duty on the part of officers and key employees to disclose to their superiors material information relevant to the affairs of the corporation. This duty is implicit in, and embraced under, the broader standard of section 8.42(a), but section 8.42(b) sets forth this disclosure obligation explicitly. Section 8.42(b)(1) specifies that business information shall be transmitted through the officer's regular reporting channels. Section 8.42(b)(2) specifies the reporting

responsibility differently with respect to actual or probable material violations of law or material breaches of duty. The use of the term "appropriate" in subsection (b)(2) accommodates any normative standard that the corporation may have prescribed for reporting potential violations of law or duty to a specified person, such as an ombudsperson, ethics officer, internal auditor, general counsel or the like, as well as situations where there is no designated person but the officer's immediate superior is not appropriate (for example, because the officer believes that individual is complicit in the unlawful activity or breach of duty).

Section 8.42(b)(1) should not be interpreted so broadly as to discourage efficient delegation of functions. It addresses the flow of information to the board of directors and to superior officers necessary to enable them to perform their decision-making and oversight functions. See the Official Comment to section 8.31. The officer's duties under subsection (b) may not be negated by agreement; however, their scope under section 8.42(b)(1) may be shaped by prescribing the scope of an officer's functional responsibilities.

With respect to the duties under section 8.42(b)(2), codes of conduct or codes of ethics may prescribe the circumstances in which and mechanisms by which officers and employees may discharge their duty to report material information to superior officers or the board of directors, or to other designated persons.

The term "material" modifying violations of law or breaches of duty in subsection (b)(2) denotes a qualitative as well as quantitative standard. It relates not only to the potential direct financial impact on the corporation, but also to the nature of the violation or breach. For example, an embezzlement of $10,000, or even less, would be material because of the seriousness of the offense, even though the amount involved would ordinarily not be material to the financial position or results of operations of the corporation.

The duty under subsection (b)(2) is triggered by an officer's subjective belief that a material violation of law or breach of duty actually or probably has occurred or is likely to occur. This duty is not triggered by objective knowledge concepts, such as whether the officer should have concluded that such misconduct was occurring. The subjectivity of the trigger under subsection (b)(2), however, does not excuse officers from their obligations under subsection (a) to act in good faith and with due care in the performance of the functions assigned to them, including oversight duties within their respective areas of responsibility. There may be occasions when the principles applicable under section 8.30(c) limiting the duty of disclosure by directors where a duty of confidentiality is overriding may also apply to officers. See the Official Comment to section 8.30(c).

An officer's ability to rely on others in meeting the standards prescribed in section 8.42 may be more limited, depending upon the circumstances of the particular case, than the measure and scope of reliance permitted a director under section 8.30, in view of the greater obligation the officer may have to be familiar with the affairs of the corporation. The proper delegation of responsibilities by an officer, separate and apart from the exercise of judgment as to the delegatee's reliability and competence, is concerned with the procedure employed. This will involve, in the usual case, sufficient communication such that the delegatee understands the scope of the assignment and, in turn, manifests to the officer a willingness and commitment to undertake its performance. The entitlement to rely upon employees assumes that a delegating officer will maintain a sufficient level of communication with the officer's subordinates to fulfill his or her supervisory responsibilities. The definition of "employee" in section 1.40 includes an officer; accordingly, section 8.42 contemplates the delegation of responsibilities to other officers as well as to non-officer employees.

Although under subsection (d), performance meeting the subsection's standards of conduct

will eliminate an officer's exposure to any liability to the corporation or its shareholders, failure by an officer to meet the subsection's standards will not automatically result in liability. Deficient performance of duties by an officer, depending upon the facts and circumstances, will normally be dealt with through intracorporate disciplinary procedures, such as reprimand, compensation adjustment, delayed promotion, demotion or discharge. These procedures may be subject to (and limited by) the terms of an officer's employment agreement. See section 8.44.

In some cases, failure to observe relevant standards of conduct can give rise to an officer's liability to the corporation or its shareholders. A court review of challenged conduct will involve an evaluation of the particular facts and circumstances in light of applicable law. In this connection, section 8.42(d) recognizes that relevant principles of section 8.31, such as duties to deal fairly with the corporation and its shareholders and the challenger's burden of establishing proximately caused harm, should be taken into account. In addition, the business judgment rule will normally apply to decisions within an officer's discretionary authority. Liability to others can also arise from an officer's own acts or omissions (*e.g.*, violations of law or tort claims) and, in some cases, an officer with supervisory responsibilities can have risk exposure in connection with the acts or omissions of others.

The Official Comment to section 8.30 supplements this Official Comment to the extent that it can be appropriately viewed as generally applicable to officers as well as directors.

EXHIBIT C

E-Mail from Stu Cohn to Gary Teblum and Phil Schwartz on June 8, 2017

Dear Phil and Gary,

Stu Ames raised an issue with me regarding the our committee's commentary to the proposed 8:41 [proposed s. 607.08411] which states "Particularly, the statute implicitly adopts the business judgment rule with respect to the conduct of officers, which is important clarity in the law."

Stu pointed out that this statement goes beyond the Official Commentary to the MBCA, which in 8:42 states that "...the business judgment rule will normally apply to decisions *within an officer's discretionary authority*." Your commentary dropped the modifier and is therefore broader. More importantly, however, there is considerable doubt whether the business judgment rule applies to officers in any circumstance. Our commentary to 607.0841 discusses that and cites one case that expresses uncertainty on that point. As far as we know, there is no Florida case (nor Delaware) that expressly applies the BJR to officers (qua officers). On the contrary, there is substantial academic commentary arguing otherwise. Attached is a forthcoming article by Prof. Deborah DeMott at Duke (a national expert on agency and fiduciary duties) noting that the BJR has not and probably should not be applicable to officers (others have said the same). The principal reason for not affording this protection is that officers are agents of the corporation unlike directors, and under agency law officers have much more specifically defined obligations. The BJR was intended to give protection to directors who are in a much different legal position than officers.

As drafted, the proposed 8:41 [proposed s. 607.08411] says nothing about the standard for imposing liability upon officers who fail in their obligations (the opening sentence of (d) speaks of compliance, not non-compliance). I believe that the MBCA commentary is wrong (it lacks any citation) and I would urge you to reconsider making any statement about the BJR in the context of agents. There is no authority for the conclusion either in the language of the proposal or in case law. Even repeating the more modest MBCA statement is problematic, as there is no authority for the OC's conclusion.

Stu

EXHIBIT D

607.10025 Shares; combination or division.

(1) A corporation may effect a division or combination of its shares in the manner as provided in this section. For purposes of this section, the terms "division" and "combination" mean dividing or combining shares of any issued and outstanding class or series into a greater or lesser number of shares of the same class or series.

(2) Unless the articles of incorporation provide otherwise, a division or combination may be effected solely by the action of the board of directors. In effecting a share combination or division, the board shall have authority to amend the articles to:

(a) Increase or decrease the par value of shares;

(b) Increase or decrease the number of authorized shares; or

(c) Make any other changes necessary or appropriate to assure that the rights or preferences of each holder of outstanding shares of all classes and series will not be adversely affected by the combination or division.

The board shall not have the authority to amend the articles, and shareholder approval of any amendment shall be required pursuant to s. 607.1003, if, as a result of the amendment, the rights or preferences of the holders of any outstanding class or series will be adversely affected, or the percentage of authorized shares remaining unissued after the share division or combination will exceed the percentage of authorized shares that was unissued before the division or combination.

(3) Fractional shares created by a division or combination effected under this section may not be redeemed for cash under s. 607.0604.

(4) If a division or combination is effected by a board action without shareholder approval and includes an amendment to the articles of incorporation, there shall be executed in accordance with s. 607.0120 on behalf of the corporation and filed in the office of the ~~D~~department ~~of State~~ articles of amendment which shall set forth:

(a) The name of the corporation.

(b) The date of adoption by the board of directors of the resolution approving the division or combination.

(c) That the amendment to the articles of incorporation does not adversely affect the rights or preferences of the holders of outstanding shares of any class or series and does not result in the percentage of authorized shares that remain unissued after the division or combination exceeding the percentage of authorized shares that were unissued before the division or combination.

(d) The class or series and number of shares subject to the division or combination and the number of shares into which the shares are to be divided or combined.

(e) The amendment of the articles of incorporation made in connection with the division or combination.

(f) If the division or combination is to become effective at a time subsequent to the time of filing, the date, which may not exceed 90 days after the date of filing, when the division or combination becomes effective.

(5) Within 30 days after effecting a division or combination without shareholder approval, the corporation shall give written notice to its shareholders setting forth the material terms of the division or combination.

(6) If a division or combination is effected by action of the board and of the shareholders, there shall be executed on behalf of the corporation and filed with the ~~D~~department ~~of State~~ articles of amendment as provided in s. 607.1003, which articles shall set forth, in addition to the information required by s. 607.1003, the information required in subsection (4).

(7) Upon the effectiveness of a combination, the authorized shares of the classes or series affected by the combination shall be reduced by the same percentage by which the issued shares of such class or series were reduced as a result of the combination, unless the articles of incorporation otherwise provide or the combination was approved by the shareholders pursuant to s. 607.1003.

~~(8) This section applies only to corporations with more than 35 shareholders of record.~~

Commentary to s. 607.10025:

This section of the FBCA was added to the statute in 1993. It is not in the Model Act. It was added to the FBCA to allow forward stock splits and reverse stock splits without shareholder approval. The statute contains protective provisions to avoid squeeze-outs, forced buy-outs of fractional shares, and dilution, along with a provision in subsection (2)(c) precluding the board from acting without shareholder approval where the division or combination would adversely affect pre-existing shareholder rights.

Section (8) has been eliminated. Since the protective provisions of this statute (particularly subsections (3) and (7) make it impossible for this statute to be used for squeeze out transactions or to dilute the interests of minority shareholders, the limitation of this provision to use in corporations with more than 35 shareholders of record is no longer believed to serve a useful purpose.

EXHIBIT E

attached

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Memorandum

From: Andrew E. Schwartz

To: Members of the Chapter 607 sub-committee of the Florida Bar Business Law Section

Date: May 24, 2017

Subject: Involuntary Dissolution

Section 14.30(b)(2)(ii) of the Model Act allows, upon the initiation of a proceeding by a shareholder, for a court to dissolve a corporation if it is established that "the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive or fraudulent". This memorandum surveys the statutes in each state and looks at their handling of that section.

State	Statute	Section
Alabama	Follows the Model Act verbatim.	10A-2-14.30(2)(ii)
Alaska	Has no oppression provision. Allows for judicial dissolution on petition "if it appears necessary for the protection of any parties in interest."	10.06.618
Arizona	Follows the Model Act verbatim.	10-1430(B)(2)
Arkansas	Follows the Model Act verbatim.	4-27-1430(b)(2)(ii)
California	Allows for judicial dissolution where "those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or persistent unfairness toward any shareholders or its property."	1800(b)(4)

State	Statute	Section
Colorado	Follows the Model Act verbatim.	7-114-301(2)(b)
Connecticut	Follows the Model Act verbatim.	33-896(1)(B)
Delaware	Does not specifically allow for dissolution upon a proceeding by a shareholder. The Court of Chancery may revoke or forfeit the charter of any corporation "for abuse, misuse or nonuse of its corporate powers/"	284(a)
District of Columbia	Follows the Model Act verbatim.	29-312.20(2)(B)
Georgia	Follows the Model Act in allowing for judicial dissolution for oppression upon the petition of shareholders, but adds that the action must be "in connection with the operation or management of the business and affairs of the corporation, and the proceeding is initiated by the holders of at least 20 percent or more of all outstanding shares of a corporation/"	14-2-1430(2)(B)
Hawaii	Follows the Model Act verbatim.	414-411(2)(B)
Idaho	Follows the Model Act in allowing for judicial dissolution for oppression upon the petition of shareholders, but adds an additional requirement that "irreparable injury to the corporation is threatened or being suffered by reason thereof/"	30-29-1430(2)(b)
Illinois	Follows the Model Act in allowing for judicial dissolution for oppression upon the petition of a shareholder, but adds, for public corporations, an additional requirement that the conduct be "with respect to the petitioning shareholder". For non-public corporations, the conduct must be "with respect to the petitioning shareholder whether in his or her capacity as a shareholder, director or officer"	5/12.55(a)(2) 5/12.56(a)(3)
Indiana	Has no oppression provision. Otherwise follows Model Act section 14.30.	21-1-47-1
Iowa	Follows the Model Act verbatim.	490.1430(b)(2)
Kansas	Does not specifically allow for dissolution upon a proceeding by a shareholder. The district court has jurisdiction to forfeit the articles of incorporation of any corporation "for abuse, misuse or nonuse of its corporate powers, privileges or franchises."	17-6812
Kentucky	Removes the word "oppressive", but otherwise follows the Model Act.	271B.14-300(2)(b)
Louisiana	Has no oppression provision. Otherwise follows Model Act section 14.30.	1-1430
Maine	Follows the Model Act verbatim.	Tit.13C,§1430(2)(B)

State	Statute	Section
Maryland	Follows the substance of the Model Act. Does not apply to corporations with a class of equity securities registered under the Exchange Act.	3-413(b)(2)
Massachusetts	Has no oppression provision. Otherwise follows Model Act section 14.30.	14.30
Michigan	Allows for a shareholder to bring an action to establish that "the acts of the directors or those in control of the corporation are illegal, fraudulent or willfully unfair and oppressive to the corporation or the shareholder". Does not allow for such an action for corporations traded on a national securities exchange. Defines "willfully and oppressive conduct" as follows: "A continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the shareholder as a shareholder. Willfully unfair and oppressive conduct may include the termination of employment or limitations on employment benefits to the extent that the actions interfere with distributions or other shareholder interests disproportionately as to the affective shareholder. The term does not include conduct or actions that are permitted by an agreement, the articles of incorporation, the bylaws, or a consistently applied written corporate policy or procedure."	450.1489
Minnesota	Allows for a shareholder to bring an action for supervised judicial dissolution where "the directors or those in control of the corporation have acted fraudulently or illegally toward one or more shareholders or directors or as officers or employees of a closely held corporation."	302A.751(b)(2)
Mississippi	Follows the Model Act verbatim. Does not apply to corporations with a class of equity securities listed on an exchange or to any corporation with at least 300 shareholders and shares with a market value of over $20 million (excluding affiliates).	79-4-14.30(a)(2)(ii)
Missouri	Follows the Model Act verbatim.	351.494(2)(b)
Montana	Follows the Model Act verbatim.	35-1-938(2)(b)
Nebraska	Follows the Model Act verbatim.	21-20,162(2)(b)(iii)
Nevada	Does not allow for shareholder petition for judicial dissolution. The district court does not have power until "any corporation organized under this chapter shall be dissolved or cease to exist in any manner whatsoever."	78.600

State	Statute	Section
New Hampshire	Follows the Model Act verbatim. Does not apply to corporations with a class of equity securities listed on an exchange or to any corporation with at least 300 shareholders and shares with a market value of over $20 million (excluding affiliates).	293-A:14.30(a)(2)
New Jersey	Allows for judicial dissolution where "the directors or those in control have acted fraudulently or illegally, mismanaged the corporation, or abused their authority as officers or directors or have acted oppressively or unfairly toward one or more minority shareholders in their capacities as shareholders, directors, officers, or employees." Only applies to corporations with 25 or fewer shareholders.	14A: 12-7(1)(c)
New Mexico	Follows the substance of the Model Act.	53-16-16(A)(1)(b)
New York	Allows for a petition by shareholders holding twenty percent or more of the outstanding shares (other than a company registered under the Investment Company Act of 1940 or that has shares listed on a national securities exchange or quoted on an OTC market) where "the directors or those in control of the corporation have been guilty of illegal, fraudulent or oppressive actions toward the complaining shareholders."	1104-a(a)(1)
North Carolina	No oppression provision. Allows for dissolution where "liquidation is reasonably necessary for the protection of the rights or interests of the complaining shareholder."	55-14-30(2)
North Dakota	Allows for dissolution in an action by a shareholder where "the directors or those in control of the corporation have acted fraudulently or illegally towards one or more shareholders in their capacities as shareholders or directors of any corporation or as officers or employees of a closely held corporation." The section as a whole indicates that it applies only to non-public corporations.	10-19.1-115(2)(b)(2)
Ohio	No oppression provision. Otherwise substantively follows Model Act section 14.30.	1701.91
Oklahoma	Does not specifically allow for dissolution upon a proceeding by a shareholder. The district court has jurisdiction to forfeit the articles of incorporation of any corporation "for abuse, misuse or nonuse of its corporate powers, privileges or franchises."	1104(A)

State	Statute	Section
Oregon	Follows the Model Act verbatim. Only allows for such action in a corporation that has shares listed on a national securities exchange or that are regularly traded in a market maintained by one or more members of a national or affiliated securities association.	60.661(2)(b)
Pennsylvania	Follows the Model Act, but adds the requirement that "it is beneficial to the interests of the shareholders that the corporation be wound up and dissolved."	1981(a)(2)
Rhode Island	Substantively follows the Model Act.	7-1.2-1314(a)(1)(ii)
South Carolina	Follows the Model Act. Along with "illegal, fraudulent or oppressive" conduct, also adds conduct that is "unfairly prejudicial". The conduct must be "either to the corporation or to any shareholder (whether in his capacity as a shareholder, director or officer of the corporation."	33-14-300(2)(ii)
South Dakota	Follows the Model Act verbatim.	47-1A-1430(2)(b)
Tennessee	Follows the Model Act verbatim.	48-24-301(2)(B)
Texas	Does not allow for dissolution upon a proceeding by a shareholder. The court may enter a decree if it finds that public interest requires winding up and termination because the filing entity has been convicted of a felony or a high managerial agent of the filing entity has been convicted of a felony committed in the conduct of the filing entity's affairs, the filing entity or high managerial agent has engaged in a persistent course of felonious conduct, and termination is necessary to prevent future felonious conduct of the same character.	11.301(a)(5)
Utah	Follows the Model Act verbatim.	16-10a-1430(2)(b)
Vermont	Follows the Model Act verbatim.	14.30(2)(B)
Virginia	Follows the Model Act verbatim. Applies only to non-public corporations.	13.1-747(1)(b)
Washington	Follows the Model Act verbatim.	23B.14.300(2)(b)
West Virginia	Follows the Model Act verbatim.	31D-14-1430(2)(B)
Wisconsin	Follows the Model Act verbatim.	180.1430(2)(b)
Wyoming	Follows the Model Act verbatim.	17-16-1430(ii)(B)