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HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Broadwater to Engrossed House Bill No. 351 by Representative Broadwater

1 AMENDMENT NO. 1

2 On page 1, line 2, after "regulations;" insert "provides relative to single business enterprises
3 and affiliated business organizations;"

4 AMENDMENT NO. 2

5 On page 1, delete lines 7 through 23 in their entirety

6 AMENDMENT NO. 3

7 On page 2, delete lines 1 through 12 in their entirety and insert in lieu thereof the following:

8 "§ 1702. Business organizations; single business enterprise

9 A. No two or more business organizations shall be treated as a single
10 business enterprise merely because one organization controls, is controlled by, or is
11 under common control with another organization or person, or because the
12 organizations have any one or more of the following lawful characteristics of
13 affiliated business organizations:

14 (1) Common directors, officers, members, managers, partners, or employees.

15 (2) Common offices.

16 (3) Unified administrative control .

17 (4) A centralized accounting system.

18 (5) One organization finances, incorporates, or organizes another.

19 (6) One organization makes properly-documented payments on behalf of

20 another or makes properly-documented use of the property of another .

21 (7) The employees of one organization provide properly-documented

22 services for another.

23 (8) One organization receives no business other than that given to it by

24 another.

25 B. Subsection A of this Section does not make the control relationships it
26 describes, or the lawful characteristics it lists, irrelevant to whether multiple business
27 organizations may be treated as a single business enterprise. Two or more business

28 organizations may not be treated as a single business enterprise in the absence of one
29 of the control relationships described in Subsection A of this Section. The

30 characteristics of affiliated organizations listed in Subsection A of this Section are
31 relevant in determining whether one of those control relationships exists. Neither the

32 described relationships nor the listed characteristics in Subsection A of this Section
33 are sufficient by themselves to allow two or more business organizations to be

34 treated as a single business enterprise.

35 C. Two or more business organizations may be treated as a single business
36 enterprise only if, in addition to the presence of one of the control relationships
37 described in Subsection A of this Section, the exceptional remedy of disregarding the

38 separate juridical personalities of the affected organizations is justified by fraud or
39 by an abuse by the persons in control of the organizations of the privilege provided

40 by law to operate multiple business organizations as separate juridical persons.

1 Factors that tend to show abuse, if part of a general pattern of operation rather than
2 occasional or isolated incidents, include without limitation the following:

3 (1) Undercapitalization.

4 (2) Unclear, arbitrary or frequently changing allocations of revenues,
5 expenses, profits, or losses among the organizations.

6 (3) Failure to account reasonably for fund or revenue transfers among the
7 organizations.

8 (4) Failure to account reasonably for the use, lending or sharing of
9 employees, facilities or assets among the organizations.

10 D. For purposes of this Section, the term "business organization" means a
11 business corporation, nonprofit corporation, limited liability company, partnership
12 or other form of business organization that is treated as a juridical person or legal
13 entity under the laws of the state or country under which it is incorporated or
14 organized.

15 E. This Section shall not affect any law or administrative rule that permits
16 or requires a group of business organizations to be consolidated, unified, or
17 disregarded for the purposes provided in such law or administrative rule.

18 F. This Section shall not apply to any business organization, legal entity or
19 person that falls under the jurisdiction of Part I of Chapter 1 of Title 22 of the
20 Louisiana Revised Statutes of 1950, or is regulated by, registered with, or licensed
21 by the Louisiana Department of Insurance, or that controls, is controlled by, or is
22 under common control with, any such business organization, legal entity or person."