

Act No. 121
Public Acts of 1989
Approved by the Governor
June 28, 1989
Filed with the Secretary of State
June 28, 1989

STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989

Introduced by Senator V. Smith

ENROLLED SENATE BILL No. 181

AN ACT to amend sections 103, 104, 106, 107, 108, 109, 121, 122, 123, 131, 132, 133, 141, 202, 209, 211, 212, 217, 221, 231, 241, 242, 243, 246, 251, 261, 275, 301, 302, 303, 304, 305, 306, 307, 317, 331, 332, 404, 405, 407, 415, 422, 423, 441, 444, 455, 461, 463, 472, 473, 485, 487, 505, 506, 511, 521, 523, 525, 528, 548, 551, 552, 562, 563, 565, 567, 571, 601, 602, 621, 701, 706, 707, 711, 712, 713, 741, 753, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 799, 801, 804, 805, 815, 817, 821, 823, 831, 851, 911, 913, 915, 923, 925, 932, 1014, 1021, 1023, 1032, 1035, 1041, 1042, 1060, 1062, and 1064 of Act No. 284 of the Public Acts of 1972, entitled "An act to provide for the organization and regulation of corporations; to prescribe their duties, rights, powers, immunities and liabilities; to provide for the authorization of foreign corporations within this state; to prescribe the functions of the administrator of this act; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," sections 123, 132, 212, 707, 711, 911, 923, 1021, 1023, 1060, and 1062 as amended and sections 571 and 706 as added by Act No. 407 of the Public Acts of 1982, sections 209, 562, 563, and 565 as amended by Act No. 1 of the Public Acts of 1987, sections 441, 761, and 762 as amended and section 799 as added by Act No. 58 of the Public Acts of 1988, and sections 767 and 768 as amended by Act No. 76 of the Public Acts of 1985, being sections 450.1103, 450.1104, 450.1106, 450.1107, 450.1108, 450.1109, 450.1121, 450.1122, 450.1123, 450.1131, 450.1132, 450.1133, 450.1141, 450.1202, 450.1209, 450.1211, 450.1212, 450.1217, 450.1221, 450.1231, 450.1241, 450.1242, 450.1243, 450.1246, 450.1251, 450.1261, 450.1275, 450.1301, 450.1302, 450.1303, 450.1304, 450.1305, 450.1306, 450.1307, 450.1317, 450.1331, 450.1332, 450.1404, 450.1405, 450.1407, 450.1415, 450.1422, 450.1423, 450.1441, 450.1444, 450.1455, 450.1461, 450.1463, 450.1472, 450.1473, 450.1485, 450.1487, 450.1505, 450.1506, 450.1511, 450.1521, 450.1523, 450.1525, 450.1528, 450.1548, 450.1551, 450.1552, 450.1562, 450.1563, 450.1565, 450.1567, 450.1571, 450.1601, 450.1602, 450.1621, 450.1701, 450.1706, 450.1707, 450.1711, 450.1712, 450.1713, 450.1741, 450.1753, 450.1761, 450.1762, 450.1763, 450.1764, 450.1765, 450.1766, 450.1767, 450.1768, 450.1769, 450.1770, 450.1771, 450.1799, 450.1801, 450.1804, 450.1805, 450.1815, 450.1817, 450.1821, 450.1823, 450.1831, 450.1851, 450.1911, 450.1913, 450.1915, 450.1923, 450.1925, 450.1932, 450.2014, 450.2021, 450.2023, 450.2032, 450.2035, 450.2041, 450.2042, 450.2060, 450.2062, and 450.2064 of the Michigan Compiled Laws; to add sections 301a, 304a, 314, 336, 341a, 342a, 343, 344, 345, 392, 412, 432, 447a, 489, 491a, 492a, 493a, 494, 495, 496, 497, 514, 515a, 541a, 545a, 564a, 564b, 564c, 702, 703a, 724, 735, 754, 772, 773, 773a, 774, 841a, 842a, and 855a; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Sections 103, 104, 106, 107, 108, 109, 121, 122, 123, 131, 132, 133, 141, 202, 209, 211, 212, 217, 221, 231, 241, 242, 243, 246, 251, 261, 275, 301, 302, 303, 304, 305, 306, 307, 317, 331, 332, 404, 405, 407, 415, 422, 423, 441, 444, 455, 461, 463, 472, 473, 485, 487, 505, 506, 511, 521, 523, 525, 528, 548, 551, 552, 562, 563, 565, 567, 571, 601, 602, 621, 701, 706, 707, 711, 712, 713, 741, 753, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 799, 801, 804, 805, 815, 817, 821, 823, 831, 851, 911, 913, 915, 923, 925, 932, 1014, 1021, 1023, 1032, 1035, 1041, 1042, 1060, 1062, and 1064 of Act No. 284 of the Public Acts of 1972, sections 123, 132, 212, 707, 711, 911, 923, 1021, 1023, 1060, and 1062 as amended and sections 571 and 706 as added by Act No. 407 of the Public Acts of 1982,

sections 209, 562, 563, and 565 as amended by Act No. 1 of the Public Acts of 1987, sections 441, 761, and 762 as amended and section 799 as added by Act No. 58 of the Public Acts of 1988, and sections 767 and 768 as amended by Act No. 76 of the Public Acts of 1985, being sections 450.1103, 450.1104, 450.1106, 450.1107, 450.1108, 450.1109, 450.1121, 450.1122, 450.1123, 450.1131, 450.1132, 450.1133, 450.1141, 450.1202, 450.1209, 450.1211, 450.1212, 450.1217, 450.1221, 450.1231, 450.1241, 450.1242, 450.1243, 450.1246, 450.1251, 450.1261, 450.1275, 450.1301, 450.1302, 450.1303, 450.1304, 450.1305, 450.1306, 450.1307, 450.1317, 450.1331, 450.1332, 450.1404, 450.1405, 450.1407, 450.1415, 450.1422, 450.1423, 450.1441, 450.1444, 450.1455, 450.1461, 450.1463, 450.1472, 450.1473, 450.1485, 450.1487, 450.1505, 450.1506, 450.1511, 450.1521, 450.1523, 450.1525, 450.1528, 450.1548, 450.1551, 450.1552, 450.1562, 450.1563, 450.1565, 450.1567, 450.1571, 450.1601, 450.1602, 450.1621, 450.1701, 450.1706, 450.1707, 450.1711, 450.1712, 450.1713, 450.1741, 450.1753, 450.1761, 450.1762, 450.1763, 450.1764, 450.1765, 450.1766, 450.1767, 450.1768, 450.1769, 450.1770, 450.1771, 450.1799, 450.1801, 450.1804, 450.1805, 450.1815, 450.1817, 450.1821, 450.1823, 450.1831, 450.1851, 450.1911, 450.1913, 450.1915, 450.1923, 450.1925, 450.1932, 450.2014, 450.2021, 450.2023, 450.2032, 450.2035, 450.2041, 450.2042, 450.2060, 450.2062, and 450.2064 of the Michigan Compiled Laws, are amended and sections 301a, 304a, 314, 336, 341a, 342a, 343, 344, 345, 392, 412, 432, 447a, 489, 491a, 492a, 493a, 494, 495, 496, 497, 514, 515a, 541a, 545a, 564a, 564b, 564c, 702, 703a, 724, 735, 754, 772, 773, 773a, 774, 841a, 842a, and 855a are added to read as follows:

Sec. 103. This act shall be liberally construed and applied to promote its underlying purposes and policies which include all of the following:

(a) To simplify, clarify, and modernize the law governing business corporations.

(b) To provide a general corporate form for the conduct or promotion of a lawful business or purpose with variations and modifications from the form as interested parties in any corporation may agree upon, subject only to overriding interests of this state and of third parties.

(c) To give special recognition to the legitimate needs of close corporations.

Sec. 104. The definitions contained in sections 105 through 109 shall control the interpretation of this act, unless the context otherwise requires.

Sec. 106. (1) "Corporation" or "domestic corporation" means a corporation formed under this act, or existing on January 1, 1973 and formed under any other statute of this state for a purpose for which a corporation may be formed under this act.

(2) "Director" means a member of the board of a corporation.

(3) "Distribution" means a direct or indirect transfer of money or other property, except the corporation's shares, or the incurrence of indebtedness by the corporation to or for the benefit of its shareholders in respect to the corporation's shares. A distribution may be in the form of a dividend, a purchase, redemption or other acquisition of shares, an issuance of indebtedness, or any other declaration or payment to or for the benefit of the shareholders.

Sec. 107. (1) "Foreign corporation" means a corporation for profit formed under laws other than the laws of this state, which includes in its purposes a purpose for which a corporation may be formed under this act.

(2) "Foreign nonprofit corporation" means a corporation organized under laws other than the laws of this state, which includes in its purposes a purpose for which a corporation may be organized under the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

(3) "Independent director" means a director who meets all of the following requirements:

(a) Is elected by the shareholders.

(b) Is designated as an independent director by the board or the shareholders.

(c) Has at least 5 years of business, legal, or financial experience, or other equivalent experience. For a corporation with securities registered under section 12 of the securities exchange act of 1934, chapter 404, 48 Stat. 881, 15 U.S.C. 78L, "experience" shall mean experience as a senior executive, director, or attorney, or other equivalent experience, for a corporation with registered securities.

(d) Is not and during the 3 years prior to being designated as an independent director has not been any of the following:

(i) An officer or employee of the corporation or any affiliate of the corporation.

(ii) Engaged in any business transaction for profit or series of transactions for profit, including banking, legal, or consulting services, involving more than \$10,000.00 with the corporation or any affiliate of the corporation.

(iii) An affiliate, executive officer, general partner, or member of the immediate family of any person that had the status or engaged in a transaction described in subparagraph (i) or (ii).

- (e) Does not propose to enter into a relationship or transaction described in subdivision (d)(i) through (iii).
- (f) Does not have an aggregate of more than 3 years of service as a director of the corporation, whether or not as an independent director.

Sec. 108. (1) "Nonprofit corporation" or "domestic nonprofit corporation" means a nonprofit corporation subject to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

(2) "Person" means an individual, a partnership, a domestic or foreign corporation, or any other association, corporation, trust, or legal entity.

Sec. 109. "Shares" means the units into which proprietary interests in a corporation are divided.

Sec. 121. This act applies to every domestic corporation and to every foreign corporation which is authorized to or does transact business in this state except as otherwise provided in this act or by other law. This act also applies to any other domestic corporation or foreign corporation not formed under this act to the extent, if any, provided under this act or any law governing the corporation.

Sec. 122. (1) A reference in any statute of this state to parts of any act which are repealed by this act is considered to be a reference to this act, unless the context requires otherwise.

(2) The following statutes do not apply to a corporation, as defined in section 106:

(a) Chapter 55 of the Revised Statutes of 1846, entitled "general provisions relating to corporations", as amended, being sections 450.504 to 450.525 of the Michigan Compiled Laws.

(b) Act No. 156 of the Public Acts of 1955, being sections 450.701 to 450.704 of the Michigan Compiled Laws.

(3) The uniform fraudulent conveyance act, Act No. 310 of the Public Acts of 1919, being sections 566.11 to 566.23 of the Michigan Compiled Laws, shall not apply to distributions governed by this act.

Sec. 123. (1) Unless otherwise provided in, or inconsistent with, the act under which a corporation is or has been formed, this act applies to deposit and security companies, summer resort associations, brine pipeline companies, telegraph companies, telephone companies, safety and collateral deposit companies, canal, river, and harbor improvement companies, cemetery, burial, and cremation associations, and agricultural and horticultural fair societies. The entities specified in this subsection shall not be incorporated under this act.

(2) This act does not apply to insurance, surety, savings and loan associations, fraternal benefit societies, railroad, bridge, and tunnel companies, union depot companies, and banking corporations.

Sec. 131. (1) A document required or permitted to be filed under this act shall be filed by delivering the document to the administrator together with the fees and accompanying documents required by law. If the document substantially conforms to the requirements of this act, the administrator shall indorse upon it the word "filed" with his or her official title and the date of receipt and of filing, and shall file and index the document, or a microfilm, or other reproduced copy in his or her office. If so requested at the time of the delivery of the document to his or her office, the administrator shall include the hour of filing in his or her indorsement. The administrator shall prepare and return a true copy of the document other than an annual report, or at his or her discretion the original, to the person who submitted it for filing showing the filing date. The records and files of the administrator relating to domestic and foreign corporations shall be open to reasonable inspection by the public. The records or files may, at the discretion of the administrator, be maintained either in their original form, or in microfilm, or other reproduced form. The administrator may make copies of all documents filed under this act, or any predecessor act, by microfilm or other process, and may destroy the originals of the documents so copied.

(2) The document is effective at the time it is indorsed unless a subsequent effective time is set forth in the document which shall not be later than 90 days after the date of delivery.

Sec. 132. (1) A document filed with the administrator shall be in the English language, except that the corporate name need not be in the English language if written in English letters or Arabic or Roman numerals.

(2) A document required or permitted to be filed under this act which is also required by this act to be executed on behalf of the domestic or foreign corporation shall be signed in ink by the chairperson or vice-chairperson of the board, or if the board has not yet met, by the incorporator or the majority of incorporators if there are more than 1, or by the president or a vice-president. If the domestic or foreign corporation is in the hands of a receiver, trustee, or other court appointed officer, the document shall be signed in ink by the fiduciary or the majority of the fiduciaries, if there are more than 1. The name of a person signing the document

and the capacity in which he or she signs shall be stated beneath or opposite his or her signature. The document may, but need not, contain any of the following:

- (a) The corporate seal.
- (b) An attestation by the secretary or an assistant secretary of the corporation.
- (c) An acknowledgment or proof.

Sec. 133. If a document relating to a domestic or foreign corporation filed with the administrator under this act was at the time of filing an inaccurate record of the corporation action referred to in the document, or was defectively or erroneously executed, the document may be corrected by filing with the administrator a certificate of correction on behalf of the corporation. A certificate, entitled "certificate of correction of ... (correct title of document and name of corporation)" shall be signed as provided in this act with respect to the document being corrected and filed with the administrator. The certificate shall set forth the name of the corporation, the date the document to be corrected was filed by the administrator, the provision in the document as it should have originally appeared, and if the execution was defective, the proper execution. The corrected document is effective in its corrected form as of its original filing date except as to a person who relied upon the inaccurate portion of the document and was, as a result of the inaccurate portion of the document, adversely affected by the correction.

Sec. 141. When, under this act or the articles of incorporation or bylaws of a corporation or by the terms of an agreement or instrument, a corporation or the board or any committee of the board may take action after notice to any person or after lapse of a prescribed period of time, the action may be taken without notice and without lapse of the period of time, if at any time before or after the action is completed the person entitled to notice or to participate in the action to be taken or, in case of a shareholder, his or her attorney-in-fact, submits a signed waiver of the requirements.

Sec. 202. The articles of incorporation shall contain all of the following:

- (a) The name of the corporation.
- (b) The purposes for which the corporation is formed. It is a sufficient compliance with this subdivision to state substantially, alone or with specifically enumerated purposes, that the corporation may engage in any activity within the purposes for which corporations may be formed under the business corporation act, and all activities shall by the statement be considered within the purposes of the corporation, subject to expressed limitations. Any corporation which proposes to conduct educational purposes shall state the purposes and shall comply with all requirements of sections 170 to 177 of Act No. 327 of the Public Acts of 1931, being sections 450.170 to 450.177 of the Michigan Compiled Laws.
- (c) The aggregate number of shares which the corporation has authority to issue.
- (d) If the shares are, or are to be, divided into classes, or into classes and series, the designation of each class and series, the number of shares in each class and series, and a statement of the relative rights, preferences and limitations of the shares of each class and series, to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined.
- (e) If any class of shares is to be divided into series, a statement of any authority vested in the board to divide the class of shares into series, and to determine or change for any series its designation, number of shares, relative rights, preferences and limitations.
- (f) The street address, and the mailing address if different from the street address, of the corporation's initial registered office and the name of the corporation's initial resident agent at that address.
- (g) The names and addresses of the incorporators.
- (h) The duration of the corporation if other than perpetual.

Sec. 209. The articles of incorporation may contain any provision not inconsistent with any of the following:

- (a) A provision of this act or another statute of this state, for management of the business and conduct of the affairs of the corporation, or creating, defining, limiting, or regulating the powers of the corporation, its directors and shareholders, or a class of shareholders.
- (b) A provision that under this act is required or permitted to be set forth in the bylaws.
- (c) A provision providing that a director is not personally liable to the corporation or its shareholders for monetary damages for a breach of the director's fiduciary duty. The provision does not eliminate or limit the liability of a director for any of the following:
 - (i) A breach of the director's duty of loyalty to the corporation or its shareholders.
 - (ii) Acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law.

- (iii) A violation of section 551(1).
- (iv) A transaction from which the director derived an improper personal benefit.
- (v) An act or omission occurring prior to the date when the provision becomes effective.

Sec. 211. The corporate name of a domestic corporation shall contain the word "corporation", "company", "incorporated", or "limited" or shall contain 1 of the following abbreviations, corp., co., inc., or ltd.

Sec. 212. (1) The corporate name of a domestic or foreign corporation formed or existing under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, which indicates or implies that the corporation is formed for a purpose other than 1 or more of the purposes permitted by its articles of incorporation.

(b) Shall be such as to distinguish the corporate name upon the records in the office of the administrator from all of the following:

(i) The corporate name of any other domestic corporation or foreign corporation authorized to transact business in this state.

(ii) The corporate name of any corporation subject to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws, or any corporation authorized to conduct affairs in this state under that act.

(iii) A corporate name currently reserved, registered, or assumed under this act or Act No. 162 of the Public Acts of 1982.

(iv) The name of any domestic limited partnership or foreign limited partnership as filed or registered under the Michigan revised uniform limited partnership act, Act No. 213 of the Public Acts of 1982, being sections 449.1101 to 449.2108 of the Michigan Compiled Laws, or any name currently reserved or assumed under that act.

(c) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state, unless in compliance with that restriction.

(2) If a foreign corporation is unable to obtain a certificate of authority to transact business in this state because its corporate name does not comply with the provisions of subsection (1), the foreign corporation may apply for authority to transact business in this state by adding to its corporate name in the application a word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed name otherwise available for use. If in the judgment of the administrator that name would comply with the provisions of subsection (1), that subsection shall not be a bar to the issuance to the foreign corporation of a certificate of authority to transact business in this state. The certificate issued to the foreign corporation shall be issued in the name applied for and the foreign corporation shall use that name in all its dealings with the administrator and in the transaction of business in this state.

Sec. 217. (1) A domestic or foreign corporation may transact its business under any assumed name or names other than its corporate name if not precluded from use by section 212, by filing a certificate stating the true name of the corporation and the assumed name under which the business is to be transacted. The certificate shall be effective, unless sooner terminated by the filing of a certificate of termination or by the dissolution or withdrawal of the corporation, for a period expiring on December 31 of the fifth full calendar year following the year in which it was filed. It may be extended for additional consecutive periods of 5 full calendar years each by filing similar certificates not earlier than 90 days preceding the expiration of any period. The administrator shall notify the corporation of the impending expiration of the certificate of assumed name not later than 90 days before the expiration of the initial or subsequent 5-year period. This section does not create substantive rights to the use of a particular assumed name.

(2) The same name may be assumed by 2 or more corporations, or by 1 or more corporations and 1 or more limited partnerships or other enterprises, in the case of corporations and other enterprises participating together in a partnership or joint venture. Each participant corporation shall file a certificate under this section.

Sec. 221. The corporate existence shall begin on the effective date of the articles of incorporation as provided in section 131. Filing is conclusive evidence that all conditions precedent required to be performed under this act have been fulfilled and that the corporation has been formed under this act, except in an action or special proceeding by the attorney general.

Sec. 231. The initial bylaws of a corporation shall be adopted by its incorporators, its shareholders, or its board. The shareholders or the board may amend or repeal the bylaws or adopt new bylaws unless the articles

of incorporation or bylaws provide that the power to adopt new bylaws is reserved exclusively to the shareholders or that the bylaws or any particular bylaw shall not be altered or repealed by the board. The bylaws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Sec. 241. Each domestic corporation and each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state both of the following:

(a) A registered office which may be the same as its place of business.

(b) A resident agent, which agent may be either an individual resident in this state whose business office or residence is identical with the registered office, a domestic corporation, or a foreign corporation authorized to transact business in this state and having a business office identical with the registered office.

Sec. 242. (1) A domestic corporation or a foreign corporation authorized to transact business in this state may change its registered office or change its resident agent, or both, upon filing a statement. The statement may be executed by any of the individuals set forth in section 132 or by the secretary or assistant secretary of the corporation. The statement shall provide all of the following information:

(a) The corporate name.

(b) The street address of the corporation's then registered office, and its mailing address if different from its street address.

(c) If the address of the corporation's registered office is changed, the street address and the mailing address, if different from the street address, to which the registered office is to be changed.

(d) The name of the corporation's then resident agent.

(e) If the corporation's resident agent is changed, the name of its successor resident agent.

(f) That the address of the corporation's registered office and the address of its resident agent, as changed, will be identical.

(g) That the change was authorized by resolution duly adopted by the corporation's board.

(2) If a resident agent changes its business or residence address to another place within this state, the resident agent may change the address of the registered office of any domestic or foreign corporation of which the person is a resident agent by filing a statement as required in subsection (1), except, the statement need only be signed by the resident agent, need not be responsive to subsection (1)(e) or (g), and shall recite that a copy of the statement has been mailed to the corporation.

Sec. 243. A resident agent of a domestic or foreign corporation may resign by filing a written notice of resignation with the president or a vice president of the corporation and with the administrator. The corporation shall promptly appoint a successor resident agent. The appointment of the resigning agent terminates upon appointment of a successor or upon expiration of 30 days after receipt of the notice by the administrator, whichever first occurs. Upon the resignation becoming effective, the business or residence address of the resigned agent shall no longer be the registered office of the corporation.

Sec. 246. (1) The resident agent appointed by a corporation is an agent of the corporation upon whom any process, notice, or demand required or permitted by law to be served upon the corporation may be served.

(2) A person, whether a resident or nonresident of this state, who accepts election, appointment, or employment as a director or officer of a corporation organized under this act or in existence on the effective date of this act, by the acceptance, is held to have appointed the resident agent of the corporation as his or her agent upon whom process may be served while the person is a director or officer, in any action commenced in a court of general jurisdiction in this state, arising out of or founded upon any action of the domestic corporation or of a person as a director or officer of the domestic corporation. Upon accepting service of process, the resident agent shall promptly forward it to the director or officer at his or her last known address.

Sec. 251. (1) A corporation may be formed under this act for any lawful business purpose, except to engage in a business for which a corporation may be formed under any other statute of this state unless that statute permits formation under this act.

(2) In time of war or other national emergency, a corporation may take any lawful action to provide aid, notwithstanding the purposes set forth in its articles of incorporation, at the request or direction of a competent governmental authority.

Sec. 261. A corporation, subject to any limitation provided in this act, in any other statute of this state, or in its articles of incorporation, shall have power in furtherance of its corporate purposes to do all of the following:

(a) Have perpetual duration.

(b) Sue and be sued in all courts and participate in actions and proceedings, judicial, administrative, arbitrative, or otherwise, in the same manner as natural persons.

(c) Have a corporate seal, and alter the seal, and use it by causing it or a facsimile to be affixed, impressed, or reproduced in any other manner.

(d) Adopt, amend, or repeal bylaws, including emergency bylaws, relating to the business of the corporation, the conduct of its affairs, its rights and powers and the rights and powers of its shareholders, directors, or officers.

(e) Elect or appoint officers, employees, and other agents of the corporation, prescribe their duties, fix their compensation and the compensation of directors, and indemnify corporate directors, officers, employees, and agents.

(f) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or an interest in real or personal property, wherever situated.

(g) Sell, convey, lease, exchange, transfer, or otherwise dispose of, or mortgage or pledge, or create a security interest in any of its property or an interest in its property, wherever situated.

(h) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other obligations, shares or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities, including banking corporations or trust companies. A corporation organized or transacting business in this state under this act shall not guarantee or become surety upon a bond or other undertaking securing the deposit of public money.

(i) Make contracts, give guarantees and incur liabilities, borrow money at rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property or an interest in its property, wherever situated. This power shall include the power to give guarantees which are necessary or convenient to the conduct, promotion, or attainment of the business of any of the following corporations, whether or not subject to this act, which guarantees shall be considered to be in furtherance of the corporate purposes of the contracting corporation:

(i) All of the outstanding stock of which is owned, directly or indirectly, by the contracting corporation.

(ii) A corporation which owns, directly or indirectly, all of the outstanding stock of the contracting corporation.

(iii) All of the outstanding stock of which is owned, directly or indirectly, by a corporation, whether or not subject to this act, which owns, directly or indirectly, all of the outstanding stock of the contracting corporation.

(j) Lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(k) Make donations for any of the following: The public welfare; community fund or hospital; or a charitable, educational, scientific, civic, or similar purpose. A corporation also has the power to provide aid in time of war or other national emergency.

(l) Pay pensions, establish and carry out pension, profit sharing, share bonus, share purchase, share option, savings, thrift and other retirement, incentive and benefit plans, trusts, and provisions for any of its directors, officers, and employees.

(m) Purchase, receive, take, otherwise acquire, own, hold, sell, lend, exchange, transfer, otherwise dispose of, pledge, use and otherwise deal in and with its own shares, bonds, and other securities.

(n) Participate with others in any corporation, partnership, limited partnership, joint venture, or other association of any kind, or in any transaction, undertaking, or agreement which the participating corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control with or to others.

(o) Cease its corporate activities and dissolve.

(p) Transact business, carry on its operations, and have offices and exercise the powers granted by this act in any jurisdiction in or outside the United States.

(q) Have and exercise all powers necessary or convenient to effect any purpose for which the corporation is formed.

(r) Participate as a member of any mutual insurance company for purposes of insuring property or activities relative to nuclear facilities owned, operated, constructed, or being constructed by the corporation.

Sec. 275. A domestic or foreign corporation, whether or not formed at the request of a lender or in furtherance of a business enterprise, may by agreement in writing, and not otherwise, agree to pay a rate of interest in excess of the legal rate and the defense of usury shall be prohibited.

Sec. 301. (1) A corporation may issue the number of shares authorized in its articles of incorporation. The shares may be all of 1 class or may be divided into 2 or more classes. Each class shall consist of shares having the designations and relative voting, distribution, dividend, liquidation and other rights, preferences, and limitations, consistent with this act, as stated in the articles. The articles may deny, limit or otherwise prescribe the voting rights and may limit or otherwise prescribe the distribution, dividend, or liquidation rights of shares of any class.

(2) If the shares are divided into 2 or more classes, the shares of each class shall be designated to distinguish them from the shares of the other classes.

(3) Subject to the designations, relative rights, preferences and limitations applicable to separate series, each share shall be equal to every other share of the same class.

Sec. 301a. The board by resolution may adopt and file an amendment of the articles of incorporation deleting any reference to par value.

Sec. 302. (1) If provided for in the articles of incorporation, a class of shares may be divided into and issued in series. The shares of each series shall be designated to distinguish them from the shares of the other series and classes.

(2) Any series of any class and the variations in the relative rights and preferences as among different series may be prescribed by the articles.

(3) If the articles authorize the board, to the extent that the articles have not established series and prescribed variations in the relative rights and preferences as among series, the board may divide any class into series, and, within the limitations set forth in the articles, prescribe the relative rights and preferences of the shares of any series.

(4) A certificate containing the resolution of the board establishing and designating the series and prescribing the relative rights and preferences shall be filed, and when filed shall constitute an amendment to the articles.

Sec. 303. (1) When the articles of incorporation provide, subject to restrictions in section 304, a corporation may issue shares convertible at the option of the holder or the corporation or upon the happening of a specified event, into shares of any class or into shares of any series of any class or into bonds. Shares may be converted into bonds only if the corporation could at the time of conversion have purchased, redeemed, or otherwise acquired the shares by issuing the bonds under the restrictions of section 345. Authorized shares, issued or unissued, may be made convertible as provided above within the period and upon terms and conditions as authorized in the articles.

(2) Unless otherwise provided in the articles, and subject to the restrictions of section 304, a corporation may issue its bonds convertible at the option of the holder into other bonds or into shares of the corporation within the period and upon terms and conditions as are fixed by the board.

(3) If there is shareholder approval for the issue of bonds or shares convertible into shares of the corporation, the approval may provide that the board is authorized by amendment of the articles to increase the authorized shares of any class or series to the number as will be sufficient, when added to the previously authorized but unissued shares of the class or series, to satisfy the conversion privileges of any bonds or shares convertible into shares of the class or series.

Sec. 304. (1) Bonds or shares convertible into shares of a corporation shall not be issued unless 1 of the following conditions is satisfied:

(a) A sufficient number of authorized but unissued shares of the appropriate class or series are reserved by the board to be issued only in satisfaction of the conversion privileges of the convertible bonds or shares when issued.

(b) The aggregate conversion privileges of the convertible bonds or shares when issued do not exceed the aggregate of any shares reserved under subdivision (a) and any additional shares which may be authorized by the board under subsection (3) of section 303.

(2) Bonds which have been converted shall be canceled. Shares which have been converted shall be restored to the status of authorized but unissued shares, unless otherwise provided in the articles of incorporation.

Sec. 304a. The articles of incorporation may provide for 1 or more classes or series of shares which are redeemable, in whole or in part, at the option of the shareholder, the corporation, or upon the happening of a specified event. Subject to restrictions imposed by section 345, the shares may be redeemable in cash, bonds, securities, or other property at prices, within the periods, and under conditions as are stated in the articles.

Sec. 305. (1) A subscription for shares made before or after organization of a corporation is not enforceable unless in writing and signed by the subscriber.

(2) A subscription for shares of a corporation to be organized is irrevocable and may be accepted by the corporation for a period of 6 months, unless otherwise provided by the subscription agreement or unless all the subscribers consent to its revocation.

(3) A contract with a corporation to purchase its shares to be issued is a subscription agreement and not an executory contract to purchase shares, unless otherwise provided in the contract.

Sec. 306. (1) Unless otherwise provided in the subscription agreement:

(a) A subscription for shares made before or after organization of a corporation shall be paid in full at the time, or in installments and at the times, as shall be determined by the board.

(b) A call made by the board for payment on subscriptions shall be ratable as to all shares of the same class or as to all shares of the same series.

(c) A corporation may retain a security interest in any shares as security for performance by the subscriber of his or her obligations under a subscription agreement and subject to the power of sale or rescission upon default provided in section 307.

Sec. 307. (1) In case of default in payment of an installment or call or other amount due under a subscription agreement, including an amount which may become due as a result of a default in performance of any provision of a subscription agreement, the corporation has the following rights and duties:

(a) It may collect the amount due in the same manner as any other debt owing to it. At any time before full satisfaction of the claim or a judgment, it may proceed as provided in subdivision (b).

(b) It may sell the shares in any reasonable manner. Notice of the time and place of a public sale or of the time after which a private sale may be had, together with a statement of the amount due upon each share, shall be given in writing to the subscriber personally or by registered or certified mail at least 20 days before any time stated in the notice. Any excess of net proceeds realized over the amount due plus interest shall be paid to the subscriber. If the sale is made in good faith, in a reasonable manner and upon notice, the corporation may recover the difference between the amount due plus interest and the net proceeds of the sale. A good faith purchaser for value acquires title to the sold shares free of any right of the subscriber even though the corporation fails to comply with 1 or more of the requirements of this subdivision.

(c) It may rescind the subscription, with the effect provided in section 308, and may recover damages for breach of contract. Unless special circumstances show proximate damages of a different amount, the measure of damages shall be the difference between the market price at the time and place of tender of the shares and the unpaid contract price. Liquidated damages may be provided for in the subscription agreement. The subscriber may have restitution of the amount by which the sum of his or her payments exceeds the corporation's damages for breach of contract, whether fixed by agreement or judgment.

(2) The rights and duties set forth in this section shall be interpreted as cumulative so far as is consistent with entitling the corporation to a full and single recovery of the amount due or its damages. The subscription agreement may limit the rights and remedies of the corporation set forth in this section, and may add to them so far as is consistent with this subsection.

Sec. 314. (1) The powers granted in this section to the board may be reserved to the shareholders by the articles of incorporation.

(2) The board may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including but not limited to cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

(3) A determination by the board that the consideration received or to be received for shares to be issued is adequate is conclusive insofar as the nature and amount of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board authorized the issuance of shares, the shares issued are fully paid and nonassessable and the subscriber has all the rights and privileges of a holder of the shares.

Sec. 317. (1) A purchaser from a corporation of its own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were to be issued.

(2) A person holding stock in a fiduciary or representative capacity is not personally liable to the corporation as the holder of or subscriber for shares of a corporation but the estate and funds in his or her hands are liable to the corporation.

(3) A person becoming an assignee, transferee, or pledgee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration has not been paid is not liable to the corporation or its creditors for any unpaid portion of the consideration, but the original holder or subscriber and any assignee or transferee before an assignment or transfer to a person taking in good faith and without knowledge or notice remains liable.

(4) Unless otherwise provided in the articles of incorporation, a shareholder of a corporation is not personally liable for the acts or debts of the corporation except that he or she may become personally liable by reason of his or her own acts or conduct.

Sec. 331. Except as provided in section 336, the shares of a corporation shall be represented by certificates which shall be signed by the chairperson of the board, vice-chairperson of the board, president or a vice-president and which also may be signed by another officer of the corporation. The certificate may be sealed with the seal of the corporation or a facsimile of the seal. The signatures of the officers may be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the corporation itself or its employee. If an officer who has signed or whose facsimile signature has been placed upon a certificate ceases to be an officer before the certificate is issued, it may be issued by the corporation with the same effect as if he or she were the officer at the date of issue.

Sec. 332. (1) A certificate representing shares shall state upon its face all of the following:

(a) That the corporation is formed under the laws of this state.

(b) The name of the person to whom issued.

(c) The number and class of shares, and the designation of the series, if any, which the certificate represents.

(2) A certificate representing shares issued by a corporation which is authorized to issue shares of more than 1 class shall set forth on its face or back or state on its face or back that the corporation will furnish to a shareholder upon request and without charge a full statement of the designation, relative rights, preferences, and limitations of the shares of each class authorized to be issued, and if the corporation is authorized to issue any class of shares in series, the designation, relative rights, preferences, and limitations of each series so far as the same have been prescribed and the authority of the board to designate and prescribe the relative rights, preferences, and limitations of other series.

Sec. 336. (1) Unless the articles of incorporation or bylaws provide otherwise, the board may authorize the issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to a corporation.

(2) Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by section 332.

Sec. 341a. (1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of 1 or more classes or series. An issuance of shares under this subsection is a share dividend.

(2) Shares of 1 class or series may not be issued as a share dividend in respect of shares of another class or series unless the articles so authorize, a majority of the votes entitled to be cast by the class or series to be issued approve the issue, or there are no outstanding shares of the class or series to be issued.

Sec. 342a. A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued.

Sec. 343. (1) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent provided in the articles of incorporation or by agreement between the corporation and 1 or more shareholders.

(2) A statement included in the articles or an agreement that the corporation elects to have preemptive rights, or words of similar import, means that the following principles apply except to the extent the articles or agreement expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board to issue them.

(b) A shareholder may waive his or her preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(c) There is no preemptive right with respect to any of the following:

(i) Shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries or affiliates.

(ii) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or affiliates.

(iii) Shares authorized in the articles that are issued within 6 months from the effective date of incorporation.

(iv) Shares issued otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of 1 year after being offered to shareholders at a consideration set by the board that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of 1 year is subject to the shareholders' preemptive rights.

(3) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

(4) The preemptive rights, whether created by statute or common law, of shareholders of a corporation formed before January 1, 1973, are not affected by subsections (1) and (2). A corporation may alter or abolish its shareholders' preemptive rights by an amendment of its articles.

Sec. 344. (1) Subject to restrictions imposed by this act or the articles of incorporation, a corporation may acquire its own shares and shares so acquired constitute authorized but unissued shares.

(2) If the articles prohibit reissue of any shares so acquired, the board by resolution shall adopt and file an amendment of the articles reducing the number of authorized shares accordingly.

(3) A corporation shall not acquire its own shares by purchase, redemption, or otherwise unless after the acquisition there remain outstanding shares possessing, collectively, voting rights and unlimited rights to receive assets in dissolution.

Sec. 345. (1) A board may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3).

(2) If the board does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or acquisition of the corporation's shares, it is the date the board authorizes the distribution.

(3) No distribution may be made if, after giving it effect, the corporation would not be able to pay its debts as they become due in the usual course of business, or the corporation's total assets would be less than the sum of its total liabilities plus, unless the articles permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board may base a determination that a distribution is not prohibited under subsection (3) either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable.

(5) The effect of a distribution under subsection (3) is measured at the following times:

(a) Except as provided in subsection (7), in the case of a distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the date money or other property is transferred or debt incurred by the corporation, or the date the shareholder ceases to be a shareholder with respect to the acquired shares.

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is authorized if distribution occurs within 120 days after the date of authorization or the date the indebtedness is distributed if it occurs more than 120 days after the date of authorization.

(c) In all other cases, as of the date the distribution is authorized if the payment occurs within 120 days after the date of authorization or the date the payment is made if it occurs more than 120 days after the date of authorization.

(6) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(7) If the corporation acquires its shares in exchange for an obligation to make future payments, and distribution of the obligation would otherwise be prohibited under subsection (3) at the time it is made, the corporation may issue the obligation and the following shall apply:

(a) At any time prior to the due date of the obligation, payments of principal and interest may be made as a distribution to the extent that a distribution may then be made under this section.

(b) At any time on or after the due date, the obligation to pay principal and interest is deemed distributed and treated as indebtedness described in subsection (6) to the extent that a distribution may then be made under this section.

(c) The obligation shall not be considered a liability or debt for purposes of determinations under subsection (3) except to the extent that it is deemed distributed and treated as indebtedness under this subsection.

(8) The enforceability of a guaranty or other undertaking by a third party relating to a distribution shall not be affected by the prohibition of the distribution under subsection (3).

(9) If any claim is made to recover a distribution made contrary to subsection (3) or if a violation of subsection (3) is raised as a defense to a claim based upon a distribution, nothing in this section shall prevent the person receiving the distribution from asserting a right of rescission or other legal or equitable rights.

Sec. 392. This chapter shall not apply to distributions in dissolution under chapter 8.

Sec. 404. (1) Except as otherwise provided in this act, written notice of the time, place, and purposes of a meeting of shareholders shall be given not less than 10 nor more than 60 days before the date of the meeting, either personally or by mail, to each shareholder of record entitled to vote at the meeting.

(2) If a meeting is adjourned to another time or place, it is not necessary, unless the bylaws otherwise provide, to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and at the adjourned meeting only business is transacted as might have been transacted at the original meeting. If after the adjournment the board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record on the new record date entitled to notice under subsection (1).

(3) A shareholder's attendance at a meeting will result in both of the following:

(a) Waiver of objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(b) Waiver of objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Sec. 405. (1) Unless otherwise restricted by the articles of incorporation or bylaws, a shareholder may participate in a meeting of shareholders by a conference telephone or by other similar communications equipment through which all persons participating in the meeting may communicate with the other participants. All participants shall be advised of the communications equipment and the names of the participants in the conference shall be divulged to all participants.

(2) Participation in a meeting pursuant to this section constitutes presence in person at the meeting.

Sec. 407. (1) The articles of incorporation may provide that any action required or permitted by this act to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action so taken, are signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The written consents shall bear the date of signature of each shareholder who signs the consent. No written consents shall be effective to take the corporate action referred to unless, within 60 days after the record date for determining shareholders entitled to express consent to or to dissent from a proposal without a meeting, written consents signed by a sufficient number of shareholders to take the action are delivered to the corporation. Delivery shall be to the corporation's registered office, its principal place of business, or an officer or agent of the corporation having custody of the minutes of the proceedings of its shareholders. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to shareholders who have not consented in writing. If the action consented to would have required filing of a certificate under any other section of this act, if the action had been voted upon by shareholders at a meeting of the shareholders, the certificate filed under such other section shall state, in lieu of any statement required by the section concerning a vote of shareholders, that both written consent and written notice have been given as provided in this section.

(2) Any action required or permitted by this act to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote, if before or after the action all the shareholders entitled to vote consent in writing. If the action consented to would have required filing of a certificate under any other section of this act if the action had been voted upon by shareholders at the meeting, the certificate filed under a different section shall state, in lieu of any statement required by the section concerning a vote of shareholders, that written consent has been given as provided by this section.

Sec. 412. (1) For the purpose of determining shareholders entitled to notice of and to vote at a meeting of shareholders or an adjournment of a meeting, the bylaws may provide for fixing, or in the absence of a provision the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board. The date shall not be more than 60 nor less than 10 days before the date of the meeting. If a record date is not fixed, the record date for determination of shareholders entitled to notice of or to vote at a meeting of shareholders shall be the close of business on the day next preceding the day on which notice is given, or if no notice is given, the day next preceding the day on which the meeting is held. When a determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders has been made as provided in this section, the determination applies to any adjournment of the meeting, unless the board fixes a new record date under this section for the adjourned meeting.

(2) For the purpose of determining shareholders entitled to express consent to or to dissent from a proposal without a meeting, the bylaws may provide for fixing a record date, which shall not be more than 60 days before effectuation of the action proposed to be taken. In the absence of a provision, the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board and shall not be more than 10 days after the board resolution. If a record date is not fixed and prior action by the board is required with respect to the corporate action to be taken without a meeting, the record date shall be the close of business on the day on which the resolution of the board is adopted. If a record date is not fixed and prior action by the board is not required, the record date shall be the first date on which a signed written consent is delivered to the corporation as provided in section 407.

(3) For the purpose of determining shareholders entitled to receive payment of a share dividend or distribution, or allotment of a right, or for the purpose of any other action, the bylaws may provide for fixing, or in the absence of a provision the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board. The date shall not be more than 60 days before the payment of the share dividend or distribution or allotment of a right or other action. If a record date is not fixed, the record date shall be the close of business on the day on which the resolution of the board relating to the corporate action is adopted.

Sec. 415. (1) Unless a greater or lesser quorum is provided in the articles of incorporation, in a bylaw adopted by the shareholders or incorporators, or in this act, shares entitled to cast a majority of the votes at a meeting constitute a quorum at the meeting. The shareholders present in person or by proxy at the meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum. Whether or not a quorum is present, the meeting may be adjourned by a vote of the shares present.

(2) When the holders of a class or series of shares, are entitled to vote separately on an item of business, this section applies in determining the presence of a quorum of the class or series for transaction of the item of business.

Sec. 422. A proxy which is entitled "irrevocable proxy", and which states that it is irrevocable, is irrevocable when it is held by any of the following or a nominee of any of the following:

- (a) A pledgee of or other holder of a security interest in the shares.
- (b) A person who has purchased or agreed to purchase the shares.
- (c) A creditor of the corporation who extends or continues credit to the corporation in consideration of the proxy.
- (d) A person who has contracted to perform services as a director, officer, or employee of the corporation, if a proxy is required by the contract of employment.
- (e) A person designated by or under an agreement under section 461.
- (f) A holder of any other proxy coupled with an interest.

Sec. 423. (1) A proxy becomes revocable, notwithstanding a provision making it irrevocable, after the pledge is redeemed or the security interest is terminated, or the debt of the corporation is paid, or the period of employment provided for in the contract of employment has terminated, or the agreement under section 461 has terminated. In a case provided for in subdivisions (c) and (d) of section 422 the proxy is revocable 3 years after

the date of the proxy or at the end of the period, if specified, whichever period is less, unless the period of irrevocability is renewed by execution of a new irrevocable proxy. This subsection does not affect the duration of a proxy under subsection (2) of section 421.

(2) A proxy is revocable, notwithstanding a provision making it irrevocable, by a purchaser of shares who did not know of the existence of the provision unless the existence of the proxy and its irrevocability are noted conspicuously on the face or back of the certificate representing the shares.

Sec. 432. (1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The procedure established may determine the extent of this recognition.

(2) The procedure may set forth any of the following:

- (a) The types of nominees to which it applies.
- (b) The rights or privileges that the corporation recognizes in a beneficial owner.
- (c) The manner in which the procedure is selected by the nominee.
- (d) The information that must be provided when the procedure is selected.
- (e) The period for which selection of the procedure is effective.
- (f) Other aspects of the rights and duties created.

Sec. 441. (1) Except as provided in sections 794 and 798, each outstanding share is entitled to 1 vote on each matter submitted to a vote, unless otherwise provided in the articles of incorporation. A vote may be cast either orally or in writing, unless otherwise provided in the bylaws.

(2) If an action, other than the election of directors, is to be taken by vote of the shareholders, it shall be authorized by a majority of the votes cast by the holders of shares entitled to vote on the action, unless a greater vote is required by the articles or another section of this act. Except as otherwise provided by the articles, directors shall be elected by a plurality of the votes cast at an election.

Sec. 444. (1) Shares standing in the name of another domestic or foreign corporation, whether or not the corporation is subject to this act, may be voted by an officer or agent, or by proxy appointed by an officer or agent or by some other person, who by action of its board or pursuant to its bylaws, shall be appointed to vote the shares.

(2) A shareholder whose shares are pledged is entitled to vote the shares until they have been transferred into the name of the pledgee, or a nominee of the pledgee.

Sec. 447a. Absent an order of a court of competent jurisdiction based upon a determination that special circumstances exist and the best interests of the corporation would be served, the shares of a corporation shall not be voted on any matter or considered to be outstanding shares if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

Sec. 455. With respect to an action to be taken by the shareholders, if the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of a class or series of shares, than required by this act with respect to the action, the articles shall control. An amendment of the articles which changes or deletes such a provision shall be authorized by the vote required to amend the articles pursuant to section 611, or by the same vote as would be required to take action under the provision, whichever is greater. The failure to include a provision of the kind described in this section in the articles shall not invalidate any bylaw or agreement which would otherwise be considered valid.

Sec. 461. An agreement between 2 or more shareholders, if in writing and signed by the parties, may provide that in exercising voting rights, the shares held by them shall be voted as provided in the agreement, or as they may agree, or as determined in accordance with a procedure agreed upon by them. A voting agreement executed pursuant to this section, whether or not proxies are executed pursuant to the agreement, is not subject to sections 466 through 468. A voting agreement under this section shall be specifically enforceable.

Sec. 463. (1) Notwithstanding other provisions of this act, the articles of incorporation may provide that there shall not be a board, or may restrict the board in its management of the business of the corporation, or may delegate to 1 or more shareholders or other persons, a part of the management otherwise within the authority of the board, if all the incorporators have authorized the provision in the articles or the holders of record of all outstanding shares have authorized the provision in an amendment to the articles.

(2) A provision authorized by subsection (1) becomes invalid in either of the following cases:

(a) Subsequent to the adoption of the provision, shares are transferred or issued to a person who takes delivery of the share certificate without actual notice of the provision, unless that person consents in writing to the provision. If the existence of the provision is noted conspicuously on the face or back of a certificate representing the shares, a holder of that certificate is conclusively deemed to have taken delivery with actual notice of the provision.

(b) Shares of the corporation are listed on a national securities exchange or regularly quoted in an over-the-counter market by 1 or more members of a national or affiliated securities association.

(3) The effect of a provision authorized by subsection (1) is to relieve the directors and impose upon the shareholders the liability for managerial acts or omissions that is imposed on directors by law to the extent that, and as long as, the discretion or powers of the directors in their management of corporate affairs are controlled by the provision.

(4) The failure to include a provision of the kind described in subsection (1) in the articles shall not invalidate any bylaw or agreement which would otherwise be considered valid.

Sec. 472. (1) A restriction on the transfer or registration of transfer of a bond or share of a corporation may be imposed either by the articles of incorporation or by the bylaws or by an agreement among any number of holders or among the holders and the corporation. A restriction so imposed is not binding with respect to bonds or shares issued before adoption of the restriction unless the holders are parties to an agreement or voted in favor of the restriction.

(2) A written restriction on the transfer or registration of transfer of a bond or share of a corporation, if permitted by this section or section 473 and noted conspicuously on the face or back of the instrument, may be enforced against the holder of the restricted instrument or a successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the face or back of the instrument, a restriction, even though permitted by this section or section 473, is ineffective except against a person with actual knowledge of the restriction.

Sec. 473. In particular and without limitation of the generality of the power granted by subsection (1) of section 472 to impose restrictions, a restriction on the transfer or registration of transfer of bonds or shares of a corporation is permitted if it does any of the following:

(a) Obligates the holders of the restricted instruments to offer to the corporation or to any other holders of bonds or shares of the corporation or to any other person or to any combination thereof, a prior opportunity to acquire the restricted instruments.

(b) Obligates the corporation or a holder of bonds or shares of the corporation or any other person or any combination thereof, to purchase the instruments which are the subject of an agreement respecting the purchase and sale of the restricted instruments.

(c) Requires the corporation or the holders of a class of bonds or shares of the corporation to consent to a proposed transfer of the restricted instruments or to approve the proposed transferee of the restricted instruments.

(d) Prohibits the transfer of the restricted instruments to designated persons or classes of persons, and the designation is not contrary to public policy.

(e) Exists for the purpose of maintaining the status of the corporation as a corporation under subchapter S of the United States internal revenue code.

Sec. 485. A corporation shall keep books and records of account and minutes of the proceedings of its shareholders, board, and executive committee, if any. Unless otherwise provided in the bylaws, the books, records, and minutes may be kept outside this state. The corporation shall keep at its registered office, or at the office of its transfer agent in or outside this state, records containing the names and addresses of all shareholders, the number, class and series of shares held by each, and the dates when they respectively became holders of record. Any of the books, records, or minutes may be in written form or in any other form capable of being converted into written form within a reasonable time. A corporation shall convert into written form without charge any record not in written form, unless otherwise requested by a person entitled to inspect the record.

Sec. 487. (1) Upon written request of a shareholder, a corporation shall mail to the shareholder its balance sheet as at the end of the preceding fiscal year; its statement of income for the fiscal year; and, if prepared by the corporation, its statement of source and application of funds for the fiscal year.

(2) Any shareholder of record, in person or by attorney or other agent, shall have the right during the usual hours of business to inspect for any proper purpose the corporation's stock ledger, a list of its shareholders, and

its other books and records, if the shareholder gives the corporation written demand describing with reasonable particularity his or her purpose and the records he or she desires to inspect, and the records sought are directly connected with the purpose. A proper purpose shall mean a purpose reasonably related to such person's interest as a shareholder. The demand shall be delivered to the corporation at its registered office in this state or at its principal place of business. In every instance where an attorney or other agent shall be the person who seeks to inspect, the demand shall be accompanied by a power of attorney or other writing which authorizes the attorney or other agent to act on behalf of the shareholder.

(3) If the corporation does not permit an inspection within 5 business days after a demand has been received in compliance with subsection (2), or imposes unreasonable conditions upon the inspection, the shareholder may apply to the circuit court of the county in which the principal place of business or registered office of the corporation is located for an order to compel the inspection. If the shareholder seeks to inspect the corporation's books and records other than its stock ledger or list of shareholders, he or she shall first establish that he or she has complied with this section respecting the form and manner of making demand for inspection of the documents, that the inspection he or she seeks is for a proper purpose, and that the documents sought are directly connected with the purpose. If the shareholder seeks to inspect the corporation's stock ledger or list of shareholders and has established compliance with this section respecting the form and manner of making demand for the inspection of the documents, the burden of proof shall be upon the corporation to establish that the inspection that is sought is for an improper purpose or that the records sought are not directly connected with the person's purpose. The court may, in its discretion, order the corporation to permit the shareholder to inspect the corporation's stock ledger, a list of shareholders, and its other books and records on conditions and with limitations as the court may prescribe and may award other or further relief as the court may consider just and proper. The court may order books, documents and records, pertinent extracts, or duly authenticated copies, to be brought within this state and kept in this state upon terms and conditions as the court may prescribe.

(4) A director shall have the right to examine any of the corporation's books and records for a purpose reasonably related to his or her position as a director. The director may apply to the circuit court of the county in which the principal place of business or registered office of the corporation is located for an order to compel the inspection. The court may, in its discretion, order the corporation to permit the director to inspect any and all books and records, on conditions and with limitations as the court may prescribe and may award other and further relief as the court may consider just and proper.

(5) If the court orders inspection of the records demanded under subsection (3) or (4), it shall also order the corporation to pay the shareholder's or director's costs, including reasonable attorney fees, incurred to obtain the order unless the corporation proves that it failed to permit the inspection in good faith because it had a reasonable basis to doubt the right of the shareholder or director to inspect the records demanded.

(6) As used in this section, "the right to inspect records" includes the right to copy and make extracts from the records and, if reasonable, the right to require the corporation to supply copies made by photographic, xerographic, or other means. The corporation may require the shareholder to pay a reasonable charge, covering the costs of labor and material, for copies of the documents provided to the shareholder.

(7) A holder of a voting trust certificate representing shares of the corporation is deemed a shareholder for the purpose of this section and section 485.

Sec. 489. (1) A shareholder may bring an action in the circuit court of the county in which the principal place of business or registered office of the corporation is located, 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 to the shareholder. If the shareholder establishes grounds for relief, the circuit court may make an order or grant relief as it considers appropriate, including, without limitation, an order providing for any of the following:

- (a) The dissolution and liquidation of the assets and business of the corporation.
- (b) The cancellation or alteration of a provision contained in the articles of incorporation, or an amendment of the articles, or in the bylaws of the corporation.
- (c) The cancellation, alteration, or injunction against a resolution or other act of the corporation.
- (d) The direction or prohibition of an act of the corporation or of shareholders, directors, officers, or other persons party to the action.
- (e) The purchase at fair value of the shares of a shareholder, either by the corporation or by the officers, directors, or other shareholders responsible for the wrongful acts.
- (f) Award of damages to the corporation or a shareholder.

(2) No action under this section shall be brought by a shareholder whose shares are listed on a national securities exchange or regularly quoted in an over-the-counter market by 1 or more members of a national or affiliated securities association.

Sec. 491a. As used in this section and sections 492a to 497:

(a) "Derivative proceeding" means a civil suit in the right of a domestic corporation or a foreign corporation which is authorized to or does transact business in this state.

(b) "Shareholder" means a record or beneficial owner of shares and includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the owner's behalf.

(c) "Disinterested person" means a person who is not a party to a derivative proceeding, or a person who is a party if the corporation demonstrates that the claim asserted against the person is frivolous or insubstantial.

Sec. 492a. A person may not commence or maintain a derivative proceeding unless the person meets all of the following criteria:

(a) He or she was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one who was a shareholder at that time.

(b) He or she fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

Sec. 493a. A shareholder may not commence a derivative proceeding until all of the following have occurred:

(a) A written demand has been made upon the corporation to take suitable action.

(b) Ninety days have expired from the date the demand was made unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

Sec. 494. If the corporation commences an investigation of the allegations made in the demand or complaint, the court may stay any derivative proceeding for a period as the court considers appropriate.

Sec. 495. (1) The court shall dismiss a derivative proceeding if, on motion by the corporation, the court finds that 1 of the groups specified in subsection (2) has made a determination in good faith after conducting a reasonable investigation upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation. If the determination is made pursuant to subsection (2)(a) or (b), the corporation shall have the burden of proving the good faith of the group making the determination and the reasonableness of the investigation. If the determination is made pursuant to subsection (2)(c) or (d), the plaintiff shall have the burden of proving that the determination was not made in good faith or that the investigation was not reasonable.

(2) A determination under subsection (1) may be made by any 1 of the following:

(a) By a majority vote of the disinterested directors, if the disinterested directors constitute a quorum at a meeting of the board.

(b) By a majority vote of a committee consisting of 2 or more disinterested directors appointed by a majority vote of disinterested directors present at a meeting of the board, whether or not the disinterested directors constitute a quorum at the meeting.

(c) By a panel of 1 or more disinterested persons appointed by the court upon motion by the corporation.

(d) By all disinterested independent directors.

Sec. 496. A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected. If notice is directed to be given to the affected shareholder, the court may determine whether 1 or more of the parties to the action shall bear the expense of giving the notice, in the amount as the court determines and finds to be reasonable under the circumstances. The amount of expense shall be awarded as special costs of the action and recoverable in the same manner as statutory taxable costs.

Sec. 497. On termination of the derivative proceeding, the court may order 1 of the following:

(a) The plaintiff to pay any of the defendant's reasonable expenses, including reasonable attorney fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained in bad faith or without reasonable cause.

(b) The corporation to pay the plaintiff's reasonable expenses, including reasonable attorney fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation. The court shall direct the plaintiff to account to the corporation for any proceeds received by the plaintiff in excess of expenses awarded by the court, except that this shall not apply to a judgment rendered for the benefit of an injured shareholder only and limited to a recovery of the loss or damage sustained by him or her.

Sec. 505. (1) The board shall consist of 1 or more members. The number of directors shall be fixed by, or in the manner provided in, the bylaws, unless the articles of incorporation fix the number.

(2) The first board of directors shall hold office until the first annual meeting of shareholders. At the first annual meeting of shareholders and at each annual meeting thereafter, the shareholders shall elect directors to hold office until the succeeding annual meeting, except in case of the classification of directors as permitted by this act. A director shall hold office for the term for which he or she is elected and until his or her successor is elected and qualified, or until his or her resignation or removal. A director may resign by written notice to the corporation. The resignation is effective upon its receipt by the corporation or a later time as set forth in the notice of resignation.

(3) The shareholders or board may designate 1 or more directors as an independent director. Any director so designated shall be entitled to reasonable compensation in addition to compensation paid to directors generally, as determined by the board or shareholders, and reimbursement for expenses reasonably related to performance of duties as an independent director. An independent director may communicate with shareholders at the corporation's expense, as part of a communication or report sent by the corporation to shareholders.

Sec. 506. (1) The articles of incorporation or a bylaw adopted by the shareholders or incorporators may provide that in lieu of annual election of all directors the directors be divided into 2 or 3 classes, each to be as nearly equal in number as possible. The term of office of directors in the first class shall expire at the first annual meeting of shareholders after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after such classification, a number of directors equal to the number of the class whose term expires at the time of the meeting shall be elected to hold office until the second succeeding annual meeting if there are 2 classes, or until the third succeeding annual meeting if there are 3 classes.

(2) A corporation having more than 1 class or series of shares may provide in its articles for election of 1 or more directors by shareholders of a class or series, to the exclusion of other shareholders.

Sec. 511. (1) The shareholders may remove 1 or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause. The vote for removal shall be by a majority of shares entitled to vote at an election of directors except that the articles may require a higher vote for removal without cause. This section shall not invalidate any bylaw adopted before the effective date of the act which added this sentence insofar as the bylaw applies to removal without cause.

(2) In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no 1 of the directors may be removed if the votes cast against his or her removal would be sufficient to elect him or her if then cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of the class of directors of which he or she is a part.

(3) If holders of a class or series of stock or of bonds are entitled by the articles to elect 1 or more directors, this section applies, with respect to removal of a director so elected, to the vote of the holders of the outstanding shares of that class or series of stock or the holders of those bonds.

Sec. 514. (1) The circuit court of the county in which the principal place of business or registered office of the corporation is located may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least 10% of the outstanding shares of any class if the court finds that the director engaged in fraudulent, illegal, or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, and removal is in the best interest of the corporation.

(2) The court that removes a director may bar him or her from serving as a director of the corporation for a period prescribed by the court.

(3) If shareholders commence a proceeding under subsection (1), they shall make the corporation a party defendant.

Sec. 515a. (1) Unless otherwise limited by the articles of incorporation, if a vacancy, including a vacancy resulting from an increase in the number of directors, occurs in a board, the vacancy may be filled as follows:

(a) The shareholders may fill the vacancy.

(b) The board may fill the vacancy.

(c) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2) Unless otherwise provided in the articles, if the holders of any class or classes of stock or series are entitled to elect 1 or more directors to the exclusion of other shareholders, vacancies of that class or classes or series may be filled only by 1 of the following:

(a) By a majority of the directors elected by the holders of that class or classes or series then in office, whether or not those directors constitute a quorum of the board.

(b) By the holders of shares of that class or classes of shares, or series.

(3) In the case of a corporation the directors of which are divided into classes, any director chosen to fill a vacancy shall hold office until the next election of the class for which the director shall have been chosen, and until his or her successor is elected and qualified.

(4) If because of death, resignation, or other cause, a corporation has no directors in office, an officer, a shareholder, a personal representative, administrator, trustee, or guardian of a shareholder, or other fiduciary entrusted with like responsibility for the person or estate of a shareholder, may call a special meeting of shareholders in accordance with the articles or the bylaws.

(5) A vacancy that will occur at a specific date, by reason of a resignation effective at a later date under section 505 or otherwise, may be filled before the vacancy occurs but the newly elected or appointed director may not take office until the vacancy occurs.

Sec. 521. (1) Regular or special meetings of a board may be held either in or outside this state.

(2) A regular meeting may be held with or without notice as prescribed in the bylaws. A special meeting shall be held upon notice as prescribed in the bylaws. A director's attendance at or participation in a meeting waives any required notice to him or her of the meeting unless he or she at the beginning of the meeting, or upon his or her arrival, objects to the meeting or the transacting of business at the meeting and does not thereafter vote for or assent to any action taken at the meeting. Unless required by the bylaws, neither the business to be transacted at, nor the purpose of, a regular or special meeting need be specified in the notice or waiver of notice of the meeting.

(3) Unless otherwise restricted by the articles of incorporation or bylaws, a member of the board or of a committee designated by the board may participate in a meeting by means of conference telephone or similar communications equipment through which all persons participating in the meeting can communicate with the other participants. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

Sec. 523. (1) A majority of the members of the board then in office, or of the members of a committee of the board, constitutes a quorum for transaction of business, unless the articles of incorporation or bylaws, or in the case of a committee, the board resolution establishing the committee, provide for a larger or smaller number. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the board or of the committee, unless the vote of a larger number is required by this act, the articles, or the bylaws, or in the case of a committee, the board resolution establishing the committee.

(2) Amendment of the bylaws by the board requires the vote of not less than a majority of the members of the board then in office.

Sec. 525. Unless prohibited by the articles of incorporation or bylaws, action required or permitted to be taken under authorization voted at a meeting of the board or a committee of the board, may be taken without a meeting if, before or after the action, all members of the board then in office or of the committee consent to the action in writing. The written consents shall be filed with the minutes of the proceedings of the board or committee. The consent has the same effect as a vote of the board or committee for all purposes.

Sec. 528. (1) A committee designated pursuant to section 527, to the extent provided in the resolution of the board or in the bylaws, may exercise all powers and authority of the board in management of the business and affairs of the corporation. A committee does not have power or authority to do any of the following:

(a) Amend the articles of incorporation.

(b) Adopt an agreement of merger or consolidation.

(c) Recommend to shareholders the sale, lease, or exchange of all or substantially all of the corporation's property and assets.

(d) Recommend to shareholders a dissolution of the corporation or a revocation of a dissolution.

(e) Amend the bylaws of the corporation.

(f) Fill vacancies in the board.

(2) Unless the resolution, articles, or bylaws expressly so provide, a committee does not have power or authority to declare a distribution, dividend, or to authorize the issuance of stock.

Sec. 541a. (1) A director or officer shall discharge his or her duties as a director or officer including his or her duties as a member of a committee in the following manner:

(a) In good faith.

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In a manner he or she reasonably believes to be in the best interests of the corporation.

(2) In discharging his or her duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

(a) One or more directors, officers, or employees of the corporation, or of a business organization under joint control or common control, whom the director or officer reasonably believes to be reliable and competent in the matters presented.

(b) Legal counsel, public accountants, engineers, or other persons as to matters the director or officer reasonably believes are within the person's professional or expert competence.

(c) A committee of the board of which he or she is not a member if the director or officer reasonably believes the committee merits confidence.

(3) A director or officer is not entitled to rely on the information set forth in subsection (2) if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) An action against a director or officer for failure to perform the duties imposed by this section shall be commenced within 3 years after the cause of action has accrued, or within 2 years after the time when the cause of action is discovered or should reasonably have been discovered, by the complainant, whichever occurs first.

Sec. 545a. (1) A transaction in which a director or officer is determined to have an interest shall not, because of the interest, be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, if the person interested in the transaction establishes any of the following:

(a) The transaction was fair to the corporation at the time entered into.

(b) The material facts of the transaction and the director's or officer's interest were disclosed or known to the board, a committee of the board, or the independent director or directors, and the board, committee, or independent director or directors authorized, approved, or ratified the transaction.

(c) The material facts of the transaction and the director's or officer's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction.

(2) For purposes of subsection (1)(b), a transaction is authorized, approved, or ratified if it received the affirmative vote of the majority of the directors on the board or the committee who had no interest in the transaction, though less than a quorum, or all independent directors who had no interest in the transaction. The presence of, or a vote cast by, a director with an interest in the transaction does not affect the validity of the action taken under subsection (1)(b).

(3) For purposes of subsection (1)(c), a transaction is authorized, approved, or ratified if it received the majority of votes cast by the holders of shares who did not have an interest in the transaction. A majority of the shares held by shareholders who did not have an interest in the transaction constitutes a quorum for the purpose of taking action under subsection (1)(c).

(4) The board, by affirmative vote of a majority of directors in office and irrespective of any personal interest of any of them, may establish reasonable compensation of directors for services to the corporation as directors or officers, but approval of the shareholders is required if the articles of incorporation, bylaws, or other provisions of this act so provide. Transactions pertaining to the compensation of directors for services to the corporation as directors or officers shall not be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a shareholder or by or in the right of the corporation unless it is shown that the compensation was unreasonable at the time established.

Sec. 548. A corporation may lend money to, or guarantee an obligation of, or otherwise assist an officer or employee of the corporation or of its subsidiary, including an officer or employee who is a director of the corporation or its subsidiary, when, in the judgment of the board, the loan, guaranty, or assistance may reasonably be expected to benefit the corporation, or is pursuant to a plan authorizing loans, guarantees, or assistance, which plan the board has reasonably determined will benefit the corporation. The loan, guaranty, or assistance may be with or without interest, and may be unsecured, or secured in a manner as the board approves, including without limitation, a pledge of shares of stock of the corporation. Nothing in this section shall deny, limit, or restrict the powers of guaranty or warranty of a corporation at common law or under any statute.

Sec. 551. (1) Directors who vote for, or concur in, any of the following corporate actions are jointly and severally liable to the corporation for the benefit of its creditors or shareholders, to the extent of any legally

recoverable injury suffered by such persons as a result of the action but not to exceed the amount unlawfully paid or distributed:

(a) Declaration of a share dividend or distribution to shareholders contrary to this act or contrary to any restriction in the articles of incorporation or bylaws.

(b) Distribution to shareholders during or after dissolution of the corporation without paying or providing for debts, obligations, and liabilities of the corporation as required by section 855a.

(c) Making of a loan to a director, officer, or employee of the corporation or of a subsidiary of the corporation contrary to this act.

(2) A director is not liable under this section if he or she has complied with section 541a.

(3) A shareholder who accepts or receives a share dividend or distribution with knowledge of facts indicating it is contrary to this act, or any restriction in the articles or bylaws, is liable to the corporation in the amount accepted or received by him or her.

Sec. 552. (1) A director against whom a claim is successfully asserted under section 551 is entitled to contribution from the other directors who voted for, or concurred in, the action upon which the claim is asserted.

(2) A director against whom a claim is successfully asserted under section 551 is entitled, to the extent of the amounts paid by him or her to the corporation as a result of the claims, to all of the following:

(a) Upon payment to the corporation of any amount of an improper share dividend or distribution, to be subrogated to the rights of the corporation against shareholders who received the share dividend or distribution in proportion to the amounts received by them respectively.

(b) Upon payment to the corporation of any amount of the purchase price of an improper purchase of shares to have the corporation rescind the purchase and recover for his or her benefit, but at his or her expense, the amount of the purchase price from any seller who sold the shares with knowledge of facts indicating that the purchase of shares by the corporation was not authorized by this act, or to have the corporation assign to the director the shares and any claim against the seller.

(c) Upon payment to the corporation of the claim of a creditor because of a violation of subdivision (1)(b) of section 551, to be subrogated to the rights of the corporation against shareholders who received an improper distribution of assets.

(d) Upon payment to the corporation of the amount of a loan made improperly to a director, officer, or employee, to be subrogated to the rights of the corporation against a director, officer, or employee who received the improper loan.

Sec. 562. A corporation has the power to indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including attorneys' fees, and amounts paid in settlement actually and reasonably incurred by the person in connection with the action or suit, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders. Indemnification shall not be made for a claim, issue, or matter in which the person has been found liable to the corporation except to the extent authorized in section 564c.

Sec. 563. To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of an action, suit, or proceeding referred to in section 561 or 562, or in defense of a claim, issue, or matter in the action, suit, or proceeding, he or she shall be indemnified against actual and reasonable expenses, including attorneys' fees, incurred by him or her in connection with the action, suit, or proceeding and an action, suit, or proceeding brought to enforce the mandatory indemnification provided in this section.

Sec. 564a. (1) An indemnification under section 561 or 562, unless ordered by the court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in sections 561 and 562 and upon an evaluation of the reasonableness of expenses and amounts paid in settlement. This determination and evaluation shall be made in any of the following ways:

(a) By a majority vote of a quorum of the board consisting of directors who are not parties or threatened to be made parties to the action, suit, or proceeding.

(b) If a quorum cannot be obtained under subdivision (a), by majority vote of a committee duly designated by the board and consisting solely of 2 or more directors not at the time parties or threatened to be made parties to the action, suit, or proceeding.

(c) By independent legal counsel in a written opinion, which counsel shall be selected in 1 of the following ways:

(i) By the board or its committee in the manner prescribed in subdivision (a) or (b).

(ii) If a quorum of the board cannot be obtained under subdivision (a) and a committee cannot be designated under subdivision (b), by the board.

(d) By all independent directors who are not parties or threatened to be made parties to the action, suit, or proceeding.

(e) By the shareholders, but shares held by directors, officers, employees, or agents who are parties or threatened to be made parties to the action, suit, or proceeding may not be voted.

(2) In the designation of a committee under subsection (1)(b) or in the selection of independent legal counsel under subsection (1)(c)(ii), all directors may participate.

(3) If a person is entitled to indemnification under section 561 or 562 for a portion of expenses, including reasonable attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the corporation may indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

Sec. 564b. (1) A corporation may pay or reimburse the reasonable expenses incurred by a director, officer, employee, or agent who is a party or threatened to be made a party to an action, suit, or proceeding in advance of final disposition of the proceeding if all of the following apply:

(a) The person furnishes the corporation a written affirmation of his or her good faith belief that he or she has met the applicable standard of conduct set forth in sections 561 and 562.

(b) The person furnishes the corporation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct.

(c) A determination is made that the facts then known to those making the determination would not preclude indemnification under this act.

(2) The undertaking required by subsection (1)(b) must be an unlimited general obligation of the person but need not be secured.

(3) Determinations of payments under this section shall be made in the manner specified in section 564a.

Sec. 564c. A director, officer, employee, or agent of the corporation who is a party or threatened to be made a party to an action, suit, or proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice it considers necessary may order indemnification if it determines that the person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he or she met the applicable standard of conduct set forth in sections 561 and 562 or was adjudged liable as described in section 562, but if he or she was adjudged liable, his or her indemnification is limited to reasonable expenses incurred.

Sec. 565. (1) The indemnification or advancement of expenses provided under sections 561 to 564c is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation, bylaws, or a contractual agreement. The total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

(2) The indemnification provided for in sections 561 to 565 continues as to a person who ceases to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

Sec. 567. A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have power to indemnify him or her against liability under sections 561 to 565.

Sec. 571. For the purposes of sections 561 to 567:

(a) "Fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan.

(b) "Other enterprises" shall include employee benefit plans.

(c) "Serving at the request of the corporation" shall include any service as a director, officer, employee, or agent of the corporation which imposes duties on, or involves services by, the director, officer, employee, or agent with respect to an employee benefit plan, its participants, or its beneficiaries.

(d) A person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be considered to have acted in a manner "not opposed to the best interests of the corporation or its shareholders or members" as referred to in sections 561 and 562.

Sec. 601. (1) A corporation may amend its articles of incorporation if the amendment contains only provisions that might lawfully be contained in original articles of incorporation filed at the time of making the amendment.

(2) A corporation may amend its articles of incorporation to become a nonprofit corporation by adopting restated articles in accordance with section 641 which shall so amend the articles to contain only those provisions that might be lawfully contained in original articles of a nonprofit corporation formed under the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws. The amendment does not constitute a dissolution of the corporation.

Sec. 602. Without limitation upon the general power of amendment granted by section 601, a corporation may amend its articles of incorporation to do any of the following:

(a) Change its corporate name.

(b) Enlarge, limit, or otherwise change its corporate purposes or powers.

(c) Change the duration of the corporation.

(d) Increase or decrease the aggregate number of shares, or shares of any class or series of any class, which the corporation has authority to issue.

(e) Exchange, classify, reclassify, or cancel any of its issued or unissued shares.

(f) Change the designation of any of its issued or unissued shares, and to change the preferences, limitations, and relative rights in respect of any of its issued or unissued shares.

(g) Change the issued or unissued shares of any class or series into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series.

(h) Create new classes or series of shares having rights and preferences superior or inferior to, or equal with, the issued or unissued shares of any class or series then authorized.

(i) Cancel or otherwise affect the right of the holders of the shares of any class or series to receive dividends which have accrued but have not been declared.

(j) Divide any class of issued or unissued shares into series and fix the designations of the series and the preferences, limitations, and relative rights of the shares of the series.

(k) Authorize the board to divide authorized but unissued shares of any class into series and fix the designations and number of shares of the series and the preferences, limitations, and relative rights of the shares of the series.

(l) Authorize the board to fix or change the designation or number of, or preferences, limitations, or relative rights of the shares of an established series the shares of which have not been issued.

(m) Revoke, diminish, or enlarge the authority of the board to take any action set forth in subdivisions (k) and (l).

(n) Limit, deny, or grant to shareholders of a class the preemptive right to acquire shares of the corporation.

(o) Change its registered office or change its resident agent.

(p) Strike out, change, or add any provision for management of the business and conduct of the affairs of the corporation, or creating, defining, limiting, and regulating the powers of the corporation, its directors and shareholders, or any class of shareholders, including any provision which under this act is required or permitted to be set forth in the bylaws.

Sec. 621. (1) A holder of adversely affected shares who does not vote for or consent in writing to a proposed amendment may dissent, pursuant to section 762, and receive payment for the shares, if the amendment does either of the following:

(a) Materially alters or abolishes a preferential right of the shares having preferences.

(b) Creates, alters, or abolishes a material provision or right in respect of the redemption of the shares or a sinking fund for the redemption or purchase of the shares.

(2) A dissenting shareholder shall not receive payment in excess of the sum payable upon redemption of the shares or liquidation of the corporation, whichever is less.

Sec. 701. (1) Two or more domestic corporations may merge into 1 of the corporations pursuant to a plan of merger approved in the manner provided by this act.

(2) The board of each corporation proposing to participate in a merger shall adopt a plan of merger, setting forth all of the following:

(a) The name of each constituent corporation and the name of the surviving corporation.

(b) As to each constituent corporation, the designation and number of outstanding shares of each class and series, specifying the classes and series entitled to vote; and each class and series entitled to vote as a class; and, if the number of shares is subject to change before the effective date of the merger, the manner in which the change may occur.

(c) The terms and conditions of the proposed merger, including the manner and basis of converting the shares of each constituent corporation into shares, bonds, or other securities of the surviving corporation, or into cash or other consideration, which may include shares, bonds, rights, or other property or securities of a corporation whether or not a party to the merger, or into a combination thereof.

(d) A statement of any amendment to the articles of incorporation of the surviving corporation to be effected by the merger or any restatement of the articles as provided in section 641(1), which shall be in the form of restated articles as provided in section 642.

(e) Other provisions with respect to the proposed merger as the board considers necessary or desirable.

Sec. 702. (1) A corporation may acquire all of the outstanding shares of 1 or more classes or series of another corporation pursuant to a plan of share exchange approved in the manner provided by this act.

(2) The board of each corporation proposing to participate in a share exchange shall adopt a plan of share exchange setting forth all of the following:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation.

(b) The terms and conditions of the exchange, including the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

(c) Other provisions with respect to the proposed exchange as the board considers necessary or desirable.

(3) This section does not limit the power of a corporation to acquire all or part of the shares of 1 or more classes or series of another corporation through a voluntary exchange or otherwise.

Sec. 703a. (1) A plan of merger or share exchange adopted by the board of each constituent corporation shall, except as provided in subsection (2)(e) and (f), be submitted for approval at a meeting of the shareholders.

(2) For a plan of merger or share exchange to be approved all of the following shall apply:

(a) The board must recommend the plan of merger or share exchange to the shareholders, unless the board determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan.

(b) The board may condition its submission of the proposed merger or share exchange on any basis.

(c) Notice of the shareholder meeting shall be given to each shareholder of record, whether or not entitled to vote at the meeting, within the time and in the manner provided in this act for the giving of notice of meetings of shareholders. The notice shall include or be accompanied by all of the following:

(i) A copy or summary of the plan of merger or share exchange. If a summary of the plan is given, the notice shall state that a copy of the plan is available upon request.

(ii) A statement informing shareholders who, under section 762, are entitled to dissent, that they have the right to dissent and to be paid the fair value of their shares by complying with the procedures set forth in sections 764 to 772.

(d) At the meeting, a vote of the shareholders shall be taken on the proposed plan of merger or share exchange. The plan shall be approved upon receiving the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote on the plan, and if a class or series is entitled to vote on the plan as a class, the affirmative vote of the holders of a majority of the outstanding shares of the class or series. A class or series of shares is entitled to vote as a class in the case of a merger, if the plan of merger contains a provision which, if contained in a proposed amendment to the articles of incorporation, would entitle the class or series of shares to vote as a class, or, in the case of a share exchange, if the class or series is included in the exchange.

(e) Except as provided in section 754 or unless required by the articles, action by the shareholders of the surviving corporation on a plan of merger is not required if all of the following apply:

(i) The articles of the surviving corporation will not differ from its articles before the merger.

(ii) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after.

(f) Except as provided in section 754, action by the shareholders of the acquiring corporation on a plan of share exchange is not required.

Sec. 706. (1) A domestic corporation which has not commenced business, has not issued any shares, and has not elected a board may merge with any domestic or foreign corporation by unanimous consent of its incorporators.

(2) In order to effect the merger, all of the incorporators shall execute a certificate of merger in accordance with section 707.

(3) The other domestic or foreign corporations participating in the merger shall comply with the provisions of this act dealing with mergers which are applicable to them.

Sec. 707. (1) After a plan of merger or share exchange is approved, a certificate of merger or share exchange shall be executed and filed on behalf of each corporation. The certificate shall set forth:

(a) In the case of a merger, the statements required by section 701(2)(a), (b), and (d), and the manner and basis of converting shares of each constituent corporation as set forth in the plan of merger.

(b) In the case of a share exchange, the statement required by section 702(2)(a), and the manner and basis of exchanging the shares to be acquired as set forth in the plan of exchange.

(c) A statement that the plan of merger or share exchange has been adopted by the boards in accordance with section 701 or 702.

(d) A statement that the plan of merger or share exchange will be furnished by the surviving or acquiring corporation, on request and without cost, to any shareholder of any constituent corporation.

(e) If approval of the shareholders of 1 or more corporations party to the merger or share exchange was required, a statement that the plan was approved by the shareholders in accordance with section 703a.

(f) In the case of a merger governed by section 706, that the merging corporation has not commenced business, has not issued any shares, and has not elected a board, and that the plan of merger was approved by the unanimous consent of the incorporators.

(2) The certificate of merger or share exchange shall become effective in accordance with section 131.

Sec. 711. (1) A domestic corporation owning not less than 90% of the outstanding shares of each class of another domestic corporation or corporations may merge the other corporation or corporations into itself, or may merge itself, or itself and any such subsidiary corporation or corporations, into any such subsidiary corporation, without approval of the shareholders of any of the corporations, except as provided in section 713. The board of the parent corporation shall approve a plan of merger setting forth those matters required to be set forth in a plan of merger under section 701. Approval by the board of any such subsidiary corporation is not required.

(2) If the parent corporation owns less than 100% of the outstanding shares of any constituent subsidiary corporation, the parent corporation shall mail promptly after the filing of the certificate of merger to each minority shareholder of record of each such subsidiary corporation, unless waived in writing, a copy or summary of the plan of merger and shall comply with the provisions of this chapter respecting dissenters' rights.

(3) The grant of power to merge under this section does not preclude the effectuation of a merger as elsewhere provided in this act.

Sec. 712. (1) A certificate of merger shall be executed and filed on behalf of the parent corporation and shall set forth all of the following:

(a) The plan of merger.

(b) The number of outstanding shares of each class of each subsidiary corporation which is a party to the merger and the number of shares of each class owned by the parent corporation.

(2) The merger shall become effective in accordance with section 131.

Sec. 713. (1) Approval by shareholders of a subsidiary corporation shall be obtained pursuant to its articles of incorporation, if the articles require approval of a merger by the affirmative vote of holders of more than the percentage of the shares of any class or series of the corporation then owned by the parent corporation.

(2) Approval of the shareholders of the parent corporation shall be obtained in either of the following cases:

(a) If its articles require shareholder approval of the merger.

(b) Pursuant to section 703a, if the plan of merger contains a provision which would amend any part of the articles of the parent corporation into which a subsidiary corporation is being merged, or a subsidiary corporation is to be the surviving corporation.

Sec. 724. (1) When a merger takes effect all of the following apply:

(a) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases.

(b) The title to all real estate and other property and rights owned by each corporation party to the merger are vested in the surviving corporation without reversion or impairment.

(c) Upon complying with section 217, the surviving corporation may use the corporate name and the assumed names of any merging corporation.

(d) The surviving corporation has all liabilities of each corporation party to the merger.

(e) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

(f) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger.

(g) The shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan.

Sec. 735. (1) One or more foreign corporations may merge or enter into a share exchange with 1 or more domestic corporations if the following apply:

(a) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger provided that if the parent corporation in a merger conducted pursuant to section 711 is a foreign corporation, it shall comply, notwithstanding the provisions of the laws of its jurisdiction of incorporation, with section 711(2) with respect to notice to shareholders of a domestic subsidiary corporation which is a party to the merger and with section 712 with respect to the certificate of merger.

(b) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated.

(c) Each domestic corporation complies with the applicable provisions of sections 701 through 713.

(2) If the surviving corporation of a merger or the acquiring corporation in a share exchange is to be governed by the laws of a jurisdiction other than this state, it shall comply with the provisions of this act with respect to foreign corporations if it is to transact business in this state. The corporation is liable, and is subject to service of process in a proceeding in this state, for the enforcement of an obligation of a domestic corporation which is party to the merger or share exchange, and in a proceeding for the enforcement of a right of a dissenting shareholder of a domestic corporation against the surviving or acquiring corporation.

(3) This section does not limit the power of a foreign corporation to acquire all or part of the shares of 1 or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

Sec. 741. At any time before the effective date of a certificate of merger or share exchange, the merger or share exchange may be abandoned, subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none set forth, in the manner determined by the board. If a certificate of merger or share exchange has been filed by a corporation, it shall file a certificate of abandonment within 10 days after the abandonment, but not later than the proposed effective day.

Sec. 753. (1) A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the goodwill, of a corporation, if not in the usual and regular course of its business as conducted

by the corporation, may be made upon terms and conditions and for a consideration, which may consist in whole or in part of cash or other property, including shares, bonds, or other securities of any other corporation, domestic or foreign, as authorized as provided in this section.

(2) The board must recommend the proposed transaction to the shareholders unless the board determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the submission of the proposed transaction.

(3) The board may condition its submission of the proposed transaction on any basis.

(4) The proposed transaction shall be submitted for approval at a meeting of shareholders. Notice of the meeting shall be given to each shareholder of record whether or not entitled to vote at the meeting within the time and in the manner provided in this act for the giving of notice of meetings of shareholders. The notice shall include or be accompanied by both of the following:

(a) A statement summarizing the principal terms of the proposed transaction or a copy of any documents containing the principal terms.

(b) A statement informing shareholders who, under section 762, are entitled to dissent, that they have the right to dissent and to be paid the fair value of their shares by complying with the procedures set forth in sections 764 to 772.

(5) At the meeting the shareholders may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board to fix, any term or condition and the consideration to be received by the corporation. The authorization requires the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote thereon.

(6) Notwithstanding authorization by the shareholders, the board may abandon the sale, lease, exchange, or other disposition, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

Sec. 754. Shareholders of a corporation which proposes to issue, directly or through a subsidiary, its shares, obligations, or securities in the course of a merger, acquisition of some or all of the outstanding shares of another corporation, or some or all of the assets of a corporation, proprietorship, partnership, or other type of business organization, shall have the same rights to receive notice and to vote on the proposed acquisition as provided in section 703a(2) and to receive dissenters' rights as provided in section 762 if both of the following apply:

(a) The securities to be issued or delivered in the acquisition are, or may be converted into, shares of the acquiring corporation's common stock.

(b) The number of the acquiring corporation's common shares to be issued or delivered, plus those initially issuable upon conversion or exchange of any other securities to be issued or delivered, will exceed 100% of the number of its common shares outstanding immediately prior to the acquisition plus the number of its common shares, if any, initially issuable upon conversion or exchange of any other securities then outstanding.

Sec. 761. As used in sections 762 to 774:

(a) "Beneficial shareholder" means the person who is a beneficial owner of shares held by a nominee as the record shareholder.

(b) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(c) "Dissenter" means a shareholder who is entitled to dissent from corporate action under section 762 and who exercises that right when and in the manner required by sections 764 through 772.

(d) "Fair value", with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

(e) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(f) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(g) "Shareholder" means the record or beneficial shareholder.

Sec. 762. (1) A shareholder is entitled to dissent from, and obtain payment of the fair value of his or her shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party if shareholder approval is required for the merger by section 703a or the articles of incorporation and the shareholder is entitled to vote on the merger, or the corporation is a subsidiary that is merged with its parent under section 711.

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan.

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution but not including a sale pursuant to court order.

(d) An amendment of the articles giving rise to a right to dissent pursuant to section 621.

(e) A transaction giving rise to a right to dissent pursuant to section 754.

(f) Any corporate action taken pursuant to a shareholder vote to the extent the articles, bylaws, or a resolution of the board provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(g) The approval of a control share acquisition giving rise to a right to dissent pursuant to section 799.

(2) Unless otherwise provided in the articles, bylaws, or a resolution of the board, a shareholder may not dissent from any of the following:

(a) Any corporate action set forth in subsection (1)(a) to (e) as to shares which are listed on a national securities exchange or held of record by not less than 2,000 persons on the record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting of shareholders at which the corporate action is to be acted upon.

(b) A transaction described in subsection (1)(a) in which shareholders receive cash or shares that satisfy the requirements of subdivision (a) or any combination thereof.

(c) A transaction described in subsection (1)(b) in which shareholders receive cash or shares that satisfy the requirements of subdivision (a) or any combination thereof.

(d) A transaction described in subsection (1)(c) which is conducted pursuant to a plan of dissolution providing for distribution of substantially all of the corporation's net assets to shareholders in accordance with their respective interests within 1 year after the date of the transaction, where the transaction is for cash or shares that satisfy the requirements of subdivision (a) or any combination thereof.

(3) A shareholder entitled to dissent and obtain payment for his or her shares pursuant to subsection (1)(a) to (e) may not challenge the corporate action creating his or her entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

(4) A shareholder who exercises his or her right to dissent and seek payment for his or her shares pursuant to subsection (1)(f) may not challenge the corporate action creating his or her entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Sec. 763. (1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in his or her name only if he or she dissents with respect to all shares beneficially owned by any 1 person and notifies the corporation in writing of the name and address of each person on whose behalf he or she asserts dissenters' rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he or she dissents and his or her other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on his or her behalf only if all of the following apply:

(a) He or she submits to the corporation the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights.

(b) He or she does so with respect to all shares of which he or she is the beneficial shareholder or over which he or she has power to direct the vote.

Sec. 764. (1) If proposed corporate action creating dissenters' rights under section 762 is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this act and shall be accompanied by a copy of sections 761 to 774.

(2) If corporate action creating dissenters' rights under section 762 is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in section 766.

Sec. 765. (1) If proposed corporate action creating dissenters' rights under section 762 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must deliver to the corporation before the vote is taken written notice of his or her intent to demand payment for his or her shares if the proposed action is effectuated and must not vote his or her shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) is not entitled to payment for his or her shares under this act.

Sec. 766. (1) If proposed corporate action creating dissenters' rights under section 762 is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who satisfied the requirements of section 765.

(2) The dissenters' notice must be sent no later than 10 days after the corporate action was taken, and must provide all of the following:

(a) State where the payment demand must be sent and where and when certificates for shares represented by certificates must be deposited.

(b) Inform holders of shares without certificates to what extent transfer of the shares will be restricted after the payment demand is received.

(c) Supply a form for the payment demand that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether he or she acquired beneficial ownership of the shares before the date.

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than 30 nor more than 60 days after the date the subsection (1) notice is delivered.

Sec. 767. (1) A shareholder sent a dissenter's notice described in section 766 must demand payment, certify whether he or she acquired beneficial ownership of the shares before the date required to be set forth in the dissenters' notice pursuant to section 766(2)(c), and deposit his or her certificates in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits his or her share certificates under subsection (1) retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

(3) A shareholder who does not demand payment or deposit his or her share certificates where required, each by the date set in the dissenters' notice, is not entitled to payment for his or her shares under this act.

Sec. 768. (1) The corporation may restrict the transfer of shares without certificates from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under section 770.

(2) The person for whom dissenters' rights are asserted as to shares without certificates retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

Sec. 769. (1) Except as provided in section 771, as soon as the proposed corporate action is taken, or upon receipt of a payment demand, the corporation shall pay each dissenter who complied with section 767 the amount the corporation estimates to be the fair value of his or her shares, plus accrued interest.

(2) The payment must be accompanied by all of the following:

(a) The corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and if available the latest interim financial statements.

(b) A statement of the corporation's estimate of the fair value of the shares.

(c) An explanation of how the interest was calculated.

(d) A statement of the dissenter's right to demand payment under section 772.

Sec. 770. (1) If the corporation does not take the proposed action within 60 days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on shares without certificates.

(2) If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it must send a new dissenters' notice under section 766 and repeat the payment demand procedure.

Sec. 771. (1) A corporation may elect to withhold payment required by section 769 from a dissenter unless he or she was the beneficial owner of the shares before the date set forth in the dissenters' notice pursuant to section 766(2)(c).

(2) To the extent the corporation elects to withhold payment under subsection (1), after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this

amount to each dissenter who shall agree to accept it in full satisfaction of his or her demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under section 772.

Sec. 772. (1) A dissenter may notify the corporation in writing of his or her own estimate of the fair value of his or her shares and amount of interest due, and demand payment of his or her estimate, less any payment under section 769, or reject the corporation's offer under section 771 and demand payment of the fair value of his or her shares and interest due, if any 1 of the following applies:

(a) The dissenter believes that the amount paid under section 769 or offered under section 771 is less than the fair value of his or her shares or that the interest due is incorrectly calculated.

(b) The corporation fails to make payment under section 769 within 60 days after the date set for demanding payment.

(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on shares without certificates within 60 days after the date set for demanding payment.

(2) A dissenter waives his or her right to demand payment under this section unless he or she notifies the corporation of his or her demand in writing under subsection (1) within 30 days after the corporation made or offered payment for his or her shares.

Sec. 773. (1) If a demand for payment under section 772 remains unsettled, the corporation shall commence a proceeding within 60 days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The corporation shall commence the proceeding in the circuit court of the county in which the corporation's principal place of business or registered office is located. If the corporation is a foreign corporation without a registered office or principal place of business in this state, it shall commence the proceeding in the county in this state where the principal place of business or registered office of the domestic corporation whose shares are to be valued was located.

(3) The corporation shall make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) is plenary and exclusive. The court may appoint 1 or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of his or her shares, plus interest, exceeds the amount paid by the corporation or for the fair value, plus accrued interest, of his or her after-acquired shares for which the corporation elected to withhold payment under section 771.

Sec. 773a. (1) In a proceeding brought pursuant to section 773, the court may, pursuant to the agreement of the parties, appoint a referee selected by the parties and subject to the approval of the court. The referee may conduct proceedings within the state, or outside the state by stipulation of the parties with the referee's consent, and pursuant to the Michigan court rules. The referee shall have powers that include, but are not limited to, the following:

(a) To hear all pretrial motions and submit proposed orders to the court. In ruling on the pretrial motion and proposed orders, the court shall consider only those documents, pleadings, and arguments that were presented to the referee.

(b) To require the production of evidence, including the production of all books, papers, documents, and writings applicable to the proceeding, and to permit entry upon designated land or other property in the possession or control of the corporation.

(c) To rule upon the admissibility of evidence pursuant to the Michigan rules of evidence.

(d) To place witnesses under oath and to examine witnesses.

(e) To provide for the taking of testimony by deposition.

(f) To regulate the course of the proceeding.

(g) To issue subpoenas, when a written request is made by any of the parties, requiring the attendance and testimony of any witness and the production of evidence including books, records, correspondence, and

documents in the possession of the witness or under his or her control, at a hearing before the referee or at a deposition convened pursuant to subdivision (e). In case of a refusal to comply with a subpoena, the party on whose behalf the subpoena was issued may file a petition in the court for an order requiring compliance.

(2) The amount and manner of payment of the referee's compensation shall be determined by agreement between the referee and the parties, subject to the court's allocation of compensation between the parties at the end of the proceeding pursuant to equitable principles, notwithstanding section 774.

(3) The referee shall do all of the following:

(a) Make a record and reporter's transcript of the proceeding.

(b) Prepare a report, including proposed findings of fact and conclusions of law, and a recommended judgment.

(c) File the report with the court, together with all original exhibits and the reporter's transcript of the proceeding.

(4) Unless the court provides for a longer period, not more than 45 days after being served with notice of the filing of the report described in subsection (3), any party may serve written objections to the report upon the other party. Application to the court for action upon the report and objections to the report shall be made by motion upon notice. The court, after hearing, may adopt the report, may receive further evidence, may modify the report, or may recommit the report to the referee with instructions. Upon adoption of the report, judgment shall be entered in the same manner as if the action had been tried by the court and shall be subject to review in the same manner as any other judgment of the court.

Sec. 774. (1) The court in an appraisal proceeding commenced under section 773 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under section 772.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable in the following manner:

(a) Against the corporation and in favor of any or all dissenters if the court finds the corporation did not substantially comply with the requirements of sections 764 through 772.

(b) Against either the corporation or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this act.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to those counsel reasonable fees paid out of the amounts awarded the dissenters who were benefited.

Sec. 799. (1) If authorized in an issuing public corporation's articles of incorporation or bylaws before a control share acquisition has occurred, control shares acquired in a control share acquisition, with respect to which no acquiring person statement has been filed with the issuing public corporation, may, at any time during the period ending 60 days after the last acquisition of control shares or the power to direct the exercise of voting power of control shares by the acquiring person, be subject to redemption by the corporation at the fair value of the shares pursuant to the procedures adopted by the corporation.

(2) If authorized in a corporation's articles or bylaws before a control share acquisition has occurred, after an acquiring person statement has been filed and after the meeting at which the voting rights of the control shares acquired in a control share acquisition are submitted to the shareholders, the shares are subject to redemption by the corporation at the fair value of the shares pursuant to the procedures adopted by the corporation unless the shares are accorded full voting rights by the shareholders as provided in section 798.

(3) Unless otherwise provided in a corporation's articles of incorporation or bylaws before a control share acquisition has occurred, in the event control shares acquired in a control share acquisition are accorded full voting rights and the acquiring person has acquired a majority of all voting power of the corporation, shareholders of the issuing public corporation, other than the acquiring person, have dissenters' rights as provided in this section.

(4) As soon as practicable after such events have occurred, the board of directors shall cause a notice to be sent to all shareholders of the corporation advising them that they have dissenters' rights to receive the fair value of their shares and making an offer to pay for the shares at a specified price deemed by the corporation to be the fair value. The issuing public corporation and the shareholders shall have all further rights as are provided in this act.

(5) As used in this section, "fair value" means a value not less than the highest price paid per share by the acquiring person in the control share acquisition.

Sec. 801. (1) A corporation may be dissolved in any of the following ways:

(a) Automatically by expiration of a period of duration to which the corporation is limited by its articles of incorporation.

(b) By action of the incorporators or directors under section 803.

(c) By action of the board and the shareholders under section 804.

(d) By action of a shareholder under section 805.

(e) By a judgment of the circuit court in an action brought under this act or otherwise.

(f) Automatically, under section 922, for failure to file an annual report or pay the filing fee.

(2) A corporation whose assets have been wholly disposed of under court order in receivership or bankruptcy proceedings may be summarily dissolved by order of the court having jurisdiction of the proceedings. A copy of the order shall be filed by the clerk of the court with the administrator.

Sec. 804. (1) A corporation may be dissolved by action of its board and shareholders as provided in this section.

(2) A corporation's board may propose dissolution for action by the shareholders.

(3) The board must recommend dissolution to the shareholders unless the board determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders.

(4) The board may condition its submission of the proposal for dissolution on any basis.

(5) The proposed dissolution shall be submitted for approval at a meeting of shareholders. Notice shall be given to each shareholder of record whether or not entitled to vote at the meeting within the time and in the manner as provided in this act for the giving of notice of meetings of shareholders, and shall state that a purpose of the meeting is to vote on dissolution of the corporation.

(6) At the meeting a vote of shareholders shall be taken on the proposed dissolution. The dissolution shall be approved upon receiving the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote thereon.

(7) If the dissolution is approved, it shall be effected by the execution and filing of a certificate of dissolution on behalf of the corporation, setting forth all of the following:

(a) The name of the corporation.

(b) The date and place of the meeting of shareholders approving the dissolution.

(c) A statement that dissolution was proposed and approved by the requisite vote of the board and shareholders.

Sec. 805. (1) The articles of incorporation may contain a provision that a shareholder, or the holders of any specified number or proportion of shares, or of any specified number or proportion of shares of a class or series, may require dissolution of the corporation at will or upon the occurrence of a specified event, if all the incorporators have authorized the provision in the articles or the holders of record of all outstanding shares authorize the provision in an amendment to the articles.

(2) If the articles contain this provision, dissolution may be effected by the execution and filing of a certificate of dissolution on behalf of the corporation when authorized by a holder or holders of the number or proportion of shares specified in the provision, obtained in the manner as may be specified in the articles, or if no manner is specified, when authorized on written consent signed by the holder or holders. The certificate of dissolution shall state the name of the corporation and that the corporation is dissolved pursuant to a designated provision in the articles.

(3) A provision authorized by subsection (1) becomes invalid if subsequent to the adoption of the provision, shares are transferred or issued to a person who takes delivery of the share certificate without actual notice of the provision, unless that person consents in writing to the provision. If the articles contain a provision authorized by subsection (1) and the existence of the provision is noted on the face or back of a certificate for shares issued by the corporation, a holder of that certificate is conclusively considered to have taken delivery with actual notice of the provision.

(4) The failure to include a provision of a kind authorized in subsection (1) in the articles shall not invalidate any bylaw or agreement which would otherwise be considered valid.

Sec. 815. A corporation whose term has expired may renew its corporate existence, if a proceeding pursuant to section 851 is not pending, in the following manner:

(a) The board shall adopt a resolution that the corporate existence be renewed. The proposed renewal shall be submitted for approval at a meeting of shareholders. Notice shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner provided in this act for the giving of notice of meetings of shareholders, and shall state that a purpose of the meeting is to vote on the renewal of corporate existence.

(b) At the meeting a vote of shareholders entitled to vote on the renewal shall be taken on the proposed renewal which shall be adopted upon receiving the affirmative vote of holders of a majority of the outstanding shares.

(c) If renewal of the corporate existence is approved, a certificate of renewal shall be executed and filed on behalf of the corporation, setting forth all of the following:

(i) The name of the corporation.

(ii) The date and place of the meeting of shareholders approving the renewal of existence.

(iii) A statement that renewal was approved by the requisite vote of directors and shareholders.

(iv) The duration of the corporation if other than perpetual.

Sec. 817. (1) Upon filing of the certificate of revocation of dissolution or of renewal of existence, the revocation of the dissolution proceedings or the renewal of the corporate existence becomes effective, and the corporation may again transact its business.

(2) Revocation of dissolution or renewal of corporate existence does not relieve the corporation of any penalty or liability accrued against it under any law of this state.

(3) Upon filing a certificate of revocation of dissolution or renewal of existence, the administrator may require the corporation to adopt a corporate name that conforms to the requirements of section 212.

Sec. 821. (1) The attorney general may bring an action in the circuit court of the county in which the principal place of business or registered office of the corporation is located for dissolution of a corporation upon the ground that the corporation has committed any of the following acts:

(a) Procured its organization through fraud.

(b) Repeatedly and willfully exceeded the authority conferred upon it by law.

(c) Repeatedly and willfully conducted its business in an unlawful manner.

(2) The enumeration in this section of grounds for dissolution does not exclude any other statutory or common law action by the attorney general for dissolution of a corporation or revocation or forfeiture of its corporate franchises.

Sec. 823. A corporation may be dissolved by a judgment entered in an action brought in the circuit court of the county in which the principal place of business or registered office of the corporation is located by 1 or more directors or by 1 or more shareholders entitled to vote in an election of directors of the corporation, upon proof of both of the following:

(a) The directors of the corporation, or its shareholders if a provision in the articles of incorporation authorized by subsection (1) of section 463 is in effect, are unable to agree by the requisite vote on material matters respecting management of the corporation's affairs, or the shareholders of the corporation are so divided in voting power that they have failed to elect successors to any director whose term has expired or would have expired upon the election and qualification of his or her successor.

(b) As a result of a condition stated in subdivision (a), the corporation is unable to function effectively in the best interests of its creditors and shareholders.

Sec. 831. A corporation is dissolved when any of the following occurs:

(a) The period of duration stated in the corporation's articles of incorporation expires.

(b) A certificate of dissolution is filed pursuant to sections 803 to 805.

(c) A judgment of forfeiture of corporate franchises or of dissolution is entered by a court of competent jurisdiction and a copy of a judicial order of dissolution shall be forwarded promptly to the administrator by the receiver or other person designated by the court.

(d) Failure to file an annual report or pay an annual filing fee as provided in section 922.

Sec. 841a. (1) The dissolved corporation may notify its existing claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice shall include all of the following:

(a) Describe information that must be included in a claim. The corporation may demand sufficient information to permit it to make a reasonable judgment whether the claim should be accepted or rejected.

(b) Provide a mailing address where a claim may be sent.

(c) State the deadline, which may not be less than 6 months from the effective date of the written notice, by which the dissolved corporation must receive the claim.

(d) State that the claim will be barred if not received by the deadline.

(2) The giving of notice described above does not constitute recognition that a person to whom the notice is directed has a valid claim against the corporation.

(3) A claim against the dissolved corporation is barred if either of the following applies:

(a) If a claimant who was given written notice under subsection (1) does not deliver the claim to the dissolved corporation by the deadline.

(b) If a claimant whose claim was rejected by a written notice of rejection by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the written notice of rejection.

(4) For purposes of this section, "existing claim" means any claim or right against the corporation, liquidated or unliquidated. It does not mean a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(5) For purposes of this section, the effective date of the written notice is the earliest of the following:

(a) The date it is received.

(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if it is mailed postpaid and correctly addressed.

(c) The date shown on the return receipt, if the notice is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Sec. 842a. (1) A dissolved corporation may also publish notice of dissolution at any time after the effective date of dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must be in accord with all of the following:

(a) Be published 1 time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or if none in this state, its registered office, is or was last located.

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent. The corporation may demand sufficient information to permit it to make a reasonable judgment whether the claim should be accepted or rejected.

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within 1 year after the publication date of the newspaper notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 1 year after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under section 841a.

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on.

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) Notwithstanding subsection (3), a claimant whose claim was known to the corporation at the time of publication in accordance with subsection (2) and who did not receive written notice under section 841a shall in no event be barred from suit until 6 months after he or she has actual notice of the dissolution.

Sec. 851. (1) After a corporation has been dissolved in any manner, the corporation, a creditor, or a shareholder may apply at any time to the circuit court of the county in which the principal place of business or registered office of the corporation is located for a judgment that the affairs of the corporation and the liquidation of its assets continue under supervision of the court. The court shall make orders and judgments as may be required, including, but not limited to, continuance of the liquidation of the corporation's assets by its officers and directors under supervision of the court, or the appointment of a receiver of the corporation to be vested with powers as the court designates to liquidate the affairs of the corporation.

(2) For good cause shown, and so long as a corporation has not made complete distribution of its assets, the court may permit a creditor who has not delivered his or her claim or commenced a proceeding to enforce his or her claim within the time limits provided in sections 841a and 842a to file the claim or to commence a proceeding within the time as the court directs.

Sec. 855a. Before making a distribution of assets to shareholders in dissolution, a corporation shall pay or make provision for its debts and obligations and liabilities. Compliance with this section requires that, to the extent that a reasonable estimate is possible, provision be made for those debts, obligations, and liabilities anticipated to arise after the effective date of dissolution. Provision need not be made for any debt, obligation, or liability that is or is reasonably anticipated to be barred under section 841a or 842a. The fact that corporate assets are insufficient to satisfy claims arising after a dissolution shall not create a presumption that the corporation has failed to comply with this section. Adequate provision shall be deemed to have been made for any debt, obligation, or liability of the corporation if payment has been assumed or guaranteed in good faith by 1 or more financially responsible corporations, persons, or the United States government or agency of the United States government, and the provision, including the financial responsibility of the corporations or other persons, was determined in good faith and with reasonable care by the board to be adequate. After payment or adequate provision has been made for the corporation's debts, obligations, or liabilities, the remaining assets shall be distributed to shareholders according to their respective rights and interests. The distribution may be made either in cash or in kind or in both.

Sec. 911. (1) Each domestic corporation and each foreign corporation subject to chapter 10 shall file a report with the administrator no later than May 15 of each year. The report shall be on a form approved by the administrator, signed in ink by an authorized officer or agent of the corporation, and shall contain all of the following:

- (a) Name of the corporation.
 - (b) Name of its resident agent and address of its registered office in this state.
 - (c) State and date of incorporation, term of corporate existence, if other than perpetual; and, if a foreign corporation, the date when authorized to transact business in this state.
 - (d) Names and addresses of its president, secretary, treasurer, and directors.
 - (e) General nature and kind of business in which the corporation is engaged.
 - (f) Amount of authorized stock and number of shares of each class authorized.
 - (g) Amount of stock subscribed.
 - (h) Amount of stock paid in.
 - (i) Nature and book value of the property owned and used by the corporation listed separately as to property in and outside this state.
 - (j) A complete and detailed statement of the assets and liabilities of the corporation as shown by the books of the corporation, at the close of business on December 31 or upon the date of the close of its latest fiscal year, which for a domestic corporation shall be the same balance sheet as furnished to shareholders as required by section 901. A corporation which is a member of an affiliated group of corporations which regularly prepare financial statements on a consolidated basis may file a consolidated balance sheet in place of the statement of assets and liabilities required in this subdivision.
 - (k) Other information as the administrator reasonably requires for other purposes under this act.
- (2) The report is not required to be filed in the year of incorporation or authorization, by corporations which were formed or authorized to do business on or after January 1 and before May 16 of that year.

Sec. 913. The county clerk may destroy the copies of the corporate documents of a domestic or foreign corporation which were forwarded to his or her office in accordance with Act No. 327 of the Public Acts of 1931, as amended, being sections 450.62 to 450.192 of the Michigan Compiled Laws, and its predecessor act. The clerk may destroy or dispose of these records in accordance with section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Michigan Compiled Laws.

Sec. 915. A report required by section 911 shall be filed with the administrator together with a \$15.00 filing fee. The report shall be open to reasonable inspection by the public promptly after filing by the domestic or foreign corporation.

Sec. 923. (1) If good cause is shown, the administrator may extend the time for filing a report for not more than 1 year from the due date of the filing.

(2) The administrator may report promptly to the attorney general any failure or neglect under sections 921, 922, 931, and 932, and the attorney general may bring an action for imposition of the prescribed penalties. If a domestic or foreign corporation neglects or refuses to file its report within the time prescribed by this act, the administrator shall notify the corporation of that fact by mail directed to its registered office not later than 90 days after the due date of the filing.

Sec. 925. (1) A domestic corporation which has been dissolved under subsection (1) of section 922, or a foreign corporation whose certificate of authority has been revoked under subsection (2) of section 922 or section 1042, may renew its corporate existence or its certificate of authority by filing the reports and paying the fees for the years for which they were not filed and paid, and for every subsequent intervening year, together with the penalties provided by section 921. Upon filing the reports and payment of the fees and penalties, the corporate existence or the certificate of authority is renewed. The administrator may require the corporation to adopt or use within this state a corporate name that conforms to the requirements of section 212.

(2) Upon compliance with the provisions of this section, the rights of the corporation shall be the same as though a dissolution or revocation had not taken place, and all contracts entered into and other rights acquired during the interval shall be valid and enforceable.

Sec. 932. (1) A person who knowingly makes or files or a person who knowingly assists in the making or filing of a false or fraudulent report, certificate, or other statement required by this act to be filed by a domestic or foreign corporation with a public officer of this state, or a person knowing the same to be false or fraudulent, who procures, counsels, or advises the making or filing of a report, certificate, or statement, is guilty of a misdemeanor and is subject to a fine of not to exceed \$1,000.00 for each offense.

(2) An officer or agent of a corporation who knowingly falsifies or wrongfully alters the books, records, or accounts of a corporation is guilty of a misdemeanor and is subject to a fine of not to exceed \$1,000.00 for each such offense.

Sec. 1014. (1) Sections 1001 through 1055 shall apply to both of the following:

(a) A foreign joint stock company.

(b) A foreign common law or statutory trust, by whatever term or designation known, having any of the powers or privileges of a corporation not possessed by an individual or partnership.

(2) Sections 1001 through 1055 shall not apply to either of the following:

(a) A foreign corporation permitted to do business in this state by license issued by the commissioner of insurance according to the provisions of law.

(b) The government of any state or political subdivision of the state or of the United States or of any foreign nation or any political subdivision of the United States or a foreign nation, or any corporation organized as an instrumentality of the government of any of the foregoing.

Sec. 1021. (1) Except as otherwise provided in this section, a foreign corporation authorized to transact business in this state which changes its corporate name, or enlarges, limits, or otherwise changes the business which the foreign corporation proposes to do in this state, or otherwise affects the information set forth in its application for certificate of authority to transact business in this state, shall file an amended application with the administrator not later than 30 days after the time a change becomes effective. A change in the registered office or registered agent may be made pursuant to section 242. The amended application under this subsection shall set forth all of the following:

(a) The name of the foreign corporation as it appears on the records of the administrator and the jurisdiction of its incorporation.

(b) The date the foreign corporation was authorized to do business in this state.

(c) If the name of the foreign corporation has been changed, a statement of the name relinquished, a statement of the new name, and a statement that the change of name has been effected under the laws of the jurisdiction of its incorporation and the date the change was effected.

(d) If the business the foreign corporation proposes to do in this state is to be enlarged, limited, or otherwise changed, a statement reflecting the change and a statement that the foreign corporation is authorized to do in the jurisdiction of its incorporation the business which it proposes to do in this state.

(e) Any additional information as the administrator may require.

(2) If a foreign corporation authorized to transact business in this jurisdiction is the survivor of a merger permitted by the laws of the jurisdiction in which the foreign corporation is incorporated, not later than 30 days after the merger becomes effective, the foreign corporation shall file a certificate issued by the proper officer of the jurisdiction of its incorporation attesting to the occurrence of the merger. If the merger has changed the corporate name of the foreign corporation, or has enlarged, limited, or changed the business the foreign corporation proposes to do in this state, or has affected the information set forth in the application, the foreign corporation shall also comply with subsection (1).

Sec. 1023. A foreign corporation which has been authorized to transact business in this state, and which, after its authorization, increases the amount of its authorized stock attributable to this state over the previous highest amount of its authorized stock attributable to this state, shall file a supplemental statement signed in

ink by an officer or agent of the corporation giving a detailed account of the amount of the increase, and shall pay an additional franchise fee on account of the increased authorized stock as prescribed by law. The supplemental statement shall be filed before May 16 of each year. The administrator for good cause shown may extend the time for filing of a supplemental statement for not more than 1 year after the due date of the filing. The portion of authorized stock of the corporation attributable to this state shall be determined by multiplying the entire amount of its authorized stock by the most recent apportionment percentage used in the computation of the tax required by the single business tax act, Act No. 228 of the Public Acts of 1975, as amended, being sections 208.1 to 208.145 of the Michigan Compiled Laws. The stock attributable to this state shall be determined pursuant to section 1062.

Sec. 1032. Upon filing the application for withdrawal, and payment of the filing fee prescribed by law, the administrator shall issue to the foreign corporation a certificate of withdrawal, and the following shall occur:

- (a) The authority of the foreign corporation to transact business in this state shall cease.
- (b) The authority of its resident agent in this state to accept service of process against the foreign corporation is revoked.

Sec. 1035. (1) When a foreign corporation authorized to transact business in this state is dissolved, or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, or it is merged into or consolidated with another corporation, there shall be filed with the administrator information as may be required by the administrator to determine and assess any unpaid fees payable by the foreign corporation as required by law and either of the following:

- (a) A certificate of the official of the jurisdiction of incorporation of the foreign corporation who has custody of the records pertaining to corporations, evidencing the occurrence of the event.
 - (b) A certified copy of an order or judgment of a court of competent jurisdiction directing dissolution of the foreign corporation, the termination of its existence, or the cancellation of its authority.
- (2) Upon filing of the certificate, order, or judgment and payment of the filing fee prescribed by law, the administrator shall issue a certificate of withdrawal with the same effect as provided in section 1032.

Sec. 1041. In addition to any other ground for revocation provided by law, the administrator may revoke the certificate of authority of a foreign corporation to transact business in this state upon the conditions prescribed in section 1042 upon any of the following grounds:

- (a) The corporation fails to maintain a resident agent in this state as required by this act.
- (b) The corporation, after changing its registered office or resident agent, fails to file a statement of the change as required by this act.
- (c) The corporation, after the information in its application for certificate of authority to transact business in this state changes, fails to file an amended application as required by this act.
- (d) The corporation, after becoming the survivor to a merger, fails to file the certificate attesting to the occurrence of the merger as required by this act.
- (e) The corporation fails to file a supplemental statement as required by this act.
- (f) The corporation fails to file its annual report within the time required by this act, or fails to pay an annual filing fee required by this act.

Sec. 1042. (1) The administrator shall revoke a certificate of authority of a foreign corporation only when he or she has given the corporation not less than 90 days' notice that a default under section 1041 exists and that its certificate of authority will be revoked unless the default is cured within 90 days after mailing of the notice, and the corporation fails before revocation to cure the default.

- (2) The notice shall be sent by first class mail to the corporation at its registered office in this state and at its main business or headquarters office as these offices are on record in the office of the administrator.
- (3) Upon revoking a certificate of authority, the administrator shall issue a certificate of revocation and mail a copy to the corporation at each of the addresses designated in subsection (2).
- (4) The issuance of the certificate of revocation has the same force and effect as issuance of a certificate of withdrawal under section 1031.

Sec. 1060. (1) The fees to be paid to the administrator when the documents described in this subsection are delivered to him or her for filing are as follows:

- (a) Articles of domestic corporations, \$10.00.
- (b) Application of a foreign corporation for a certificate of authority to transact business in this state, \$10.00.
- (c) Amendment to the articles of a domestic corporation, \$10.00.
- (d) Amended application for a certificate of authority to transact business in this state, \$10.00.

- (e) Supplemental statement, \$10.00.
- (f) Certificate of merger or share exchange as provided in chapter 7, \$50.00.
- (g) Certificate of merger of a foreign corporation, as provided in section 1021, \$10.00.
- (h) Certificate of dissolution, \$10.00.
- (i) Application for withdrawal and issuance of a certificate of withdrawal of a foreign corporation, \$10.00.
- (j) Application for reservation of corporate name, \$10.00.
- (k) Certificate of assumed name or a certificate of termination of assumed name, \$10.00.
- (l) Statement of change of registered office or resident agent, \$5.00.
- (m) Restated articles of domestic corporations, \$10.00.
- (n) Certificate of abandonment, \$10.00.
- (o) Certificate of correction, \$10.00.
- (p) Certificate of revocation of dissolution proceedings, \$10.00.
- (q) Certificate of renewal of corporate existence, \$10.00.
- (r) For examining a special report required by law, \$2.00.
- (s) Certificate of registration of corporate name of a foreign corporation, \$50.00.
- (t) Certificate of renewal of registration of corporate name of a foreign corporation, \$50.00.
- (u) Certificate of termination of registration of corporate name of a foreign corporation, \$10.00.

(2) The fees prescribed in subsection (1), no part of which shall be refunded, shall be in addition to the franchise fees prescribed in this act, and shall, when collected, be paid into the treasury of the state and credited to the administrator to be used solely by the corporation and securities bureau in carrying out those duties required by law.

(3) Fees paid by or on behalf of domestic and foreign regulated investment companies as defined in section 1064 shall be the same as are charged foreign and domestic corporations for the purposes specified in this section.

(4) The fees received pursuant to section 915 shall be deposited in the state treasury to the credit of the administrator to be used by the corporation and securities bureau in carrying out those duties required by law. After the payment of the amounts appropriated by the legislature for the necessary expenses incurred in the administration of this act, the money remaining shall be credited to the general fund of the state.

(5) A minimum charge of \$1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a corporation for which provision for payment is not set forth in subsection (1). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies pursuant to a schedule of fees which the administrator shall adopt with the approval of the state administrative board. The administrator shall retain the revenue collected under this subsection to be used by the corporation and securities bureau to defray the costs for its copying and certifying services.

(6) If a domestic or foreign corporation pays fees or penalties by check and the check is dishonored, the fee shall be considered unpaid and the filing of all related documents will be rescinded.

(7) The administrator may accept a credit card, in lieu of cash or check, as payment of a fee under this act. The administrator shall determine which credit cards may be accepted for payment.

Sec. 1062. (1) A domestic corporation or cooperative association, organized for profit, and a domestic regulated investment company, except corporations organized under the savings and loan act of 1980, Act No. 307 of the Public Acts of 1980, being sections 491.102 to 491.1202 of the Michigan Compiled Laws, at the time of filing its articles, shall pay to the administrator, as an organization fee and as an admission fee, a sum equal to \$50.00 for the first 60,000 authorized shares and \$30.00 for each additional 20,000 authorized shares.

(2) The initial admission franchise fee of a foreign corporation for profit and foreign regulated investment company applying for admission to do business in this state shall be \$50.00 and 60,000 shares shall be considered initially attributable to this state at the time of admission.

(3) Every corporation incorporated under the laws of this state which increases its authorized stock shall pay a sum equal to \$30.00 for each additional 20,000 authorized shares of the increase.

(4) A foreign corporation authorized to transact business in this state which increases the amount of its authorized stock attributable to this state over the previous highest amount of authorized stock attributable to this state upon which a franchise fee has been paid shall file a supplemental statement in accordance with section 1023 and shall pay an additional admission franchise fee of \$30.00 for each additional 20,000 authorized shares of the increase.

(5) The amount of authorized stock attributable to this state shall be determined by multiplying the entire amount of authorized stock by the apportionment percentage used in the computation of the tax required by the single business tax act, Act No. 228 of the Public Acts of 1975, as amended, being sections 208.1 to 208.145 of the Michigan Compiled Laws. If the business activities are confined solely to this state, the entire amount of authorized stock shall be considered attributable to this state.

(6) The administrator shall be authorized to require the corporation to furnish detailed and exact information relating to the determination of fees before making a final determination of the organization fee to be paid by the corporation.

(7) "Corporation", as used in this section, includes partnership associations limited, cooperative associations, joint associations having any of the powers of corporations, and common law trust or trusts created by statute of this or another state or country exercising common law powers in the nature of corporations, whether domestic or foreign, in addition to other corporations as are referred to in this act.

(8) If the capital of a corporation is not divided into shares, the fee for purposes of this section shall be determined as if the corporation had 60,000 shares.

(9) If a foreign corporation authorized to transact business in this state merges into any domestic corporation or consolidates with 1 or more corporations into a domestic corporation by complying with the provisions of this act, the resulting domestic corporation shall pay franchise fees for any increase in authorized stock or for any authorized stock as provided in this section, less such sums as the foreign corporation so merging or consolidating has previously paid to the state under this section as an initial or additional admission franchise fee.

Sec. 1064. A regulated investment company, for purposes of this act, means any domestic or foreign corporation or association, common law or statutory trust, under whatever authority organized, which for any taxable year or period for purposes of federal income tax is registered and regulated under the investment company act of 1940, title I of chapter 686, 54 Stat. 789 and which for such taxable year or period is classified as a regulated investment company as defined in part 1 of subchapter M of chapter 1 of the internal revenue code, 26 U.S.C. 851 to 855.

Section 2. Sections 110, 311, 313, 315, 321, 335, 341, 342, 351, 355, 356, 361, 362, 363, 365, 366, 367, 371, 372, 376, 377, 381, 411, 447, 481, 491, 492, 493, 515, 541, 545, 546, 564, 703, 704, 721, 722, 723, 731, 732, 733, 734, 768a, 825, 841, 842, 843, 855, 935, 1061, 1063, and 1099 of Act No. 284 of the Public Acts of 1972, being sections 450.1110, 450.1311, 450.1313, 450.1315, 450.1321, 450.1335, 450.1341, 450.1342, 450.1351, 450.1355, 450.1356, 450.1361, 450.1362, 450.1363, 450.1365, 450.1366, 450.1367, 450.1371, 450.1372, 450.1376, 450.1377, 450.1381, 450.1411, 450.1447, 450.1481, 450.1492, 450.1493, 450.1515, 450.1541, 450.1545, 450.1546, 450.1564, 450.1703, 450.1704, 450.1721, 450.1722, 450.1723, 450.1731, 450.1732, 450.1733, 450.1734, 450.1768a, 450.1825, 450.1841, 450.1842, 450.1843, 450.1855, 450.1935, 450.2061, 450.2063, and 450.2099 of the Michigan Compiled Laws, are repealed.

Section 3. This amendatory act shall take effect October 1, 1989.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.

