

STATE AUDITOR (Name of Candidate) <input type="checkbox"/>	STATE AUDITOR (Name of Candidate) <input type="checkbox"/>	
ATTORNEY GENERAL (Name of Candidate) <input type="checkbox"/>	ATTORNEY GENERAL (Name of Candidate) <input type="checkbox"/>	
COMMISSIONER OF PUBLIC LANDS (Name of Candidate) <input type="checkbox"/>	COMMISSIONER OF PUBLIC LANDS (Name of Candidate) <input type="checkbox"/>	
INSURANCE COMMISSIONER (Name of Candidate) <input type="checkbox"/>	INSURANCE COMMISSIONER (Name of Candidate) <input type="checkbox"/>	
STATE SENATOR (1st District) (Name of Candidate) <input type="checkbox"/>	STATE SENATOR (1st District) (Name of Candidate) <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 1 (Name of Candidate) <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 1 (Name of Candidate) <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 2 (Name of Candidate) <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 2 (Name of Candidate) <input type="checkbox"/>	
STATE REPRESENTATIVE (31st District) Position No. 3 (Name of Candidate) <input type="checkbox"/>	STATE REPRESENTATIVE (31st District) Position No. 3 (Name of Candidate) <input type="checkbox"/>	

(Names of other candidates should follow on the ballot in the same form.)

Passed the House March 4, 1965.

Passed the Senate March 10, 1965.

Approved by the Governor March 20, 1965.

CHAPTER 53.

[House Bill No. 60.]

WASHINGTON BUSINESS CORPORATION ACT.

AN ACT relating to corporations; amending section 1, chapter 173, Laws of 1927 and RCW 4.12.025; repealing pages 85, 86, and 87, Laws of 1886; page 288, Laws of 1890; chapter XXXVIII (38), Laws of 1895; chapter CXLII (142), Laws of 1895; chapter LXX (70), Laws of 1897; chapter 11,

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Laws of 1905; chapter 41, Laws of 1911; chapter 93, Laws of 1915; chapter 168, Laws of 1923; chapter 185, Laws of 1933; sections 1 through 32, chapter 70, Laws of 1937; sections 1 through 18, chapter 143, Laws of 1939; section 7, chapter 103, Laws of 1941; chapter 32, Laws of 1943; chapter 195, Laws of 1947; sections 1 and 2, chapter 226, Laws of 1947; chapter 170, Laws of 1949; chapter 172, Laws of 1949; chapter 188, Laws of 1949; chapter 213, Laws of 1953; chapter 92, Laws of 1955; sections 1 through 3, chapter 143, Laws of 1955; sections 1 through 4, chapter 198, Laws of 1957; sections 1 and 2, chapter 12, Laws of 1959; sections 1 and 4, chapter 263, Laws of 1959; chapter 160, Laws of 1961; sections 1 and 2, chapter 208, Laws of 1961; section 1, chapter 132, Laws of 1963; chapters 23.01, 23.54, 23.60, and 23.70 RCW; RCW 23.52.010 through 23.52.120; providing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

New chapter.

SECTION 1. There is added to Title 23 RCW a new chapter to read as set forth in sections 2 through 167 of this act.

Short title.

SEC. 2. This act shall be known and may be cited as the Washington business corporation act.

Definitions.

SEC. 3. As used in this act, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit organized for a purpose for which a corporation may be organized under the provisions of this act, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this act.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(4) "Shares" means the units into which the proprietary interests in a corporation are divided.

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation, except as provided by section 57 of this act.

(7) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(8) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares but not "outstanding" shares.

(9) "Net assets" means the amount by which the total assets of a corporation, excluding treasury shares, exceed the total debts of the corporation.

(10) "Stated capital" means, at any particular time, the sum of (a) the par value of all shares of the corporation having a par value that have been issued, (b) the amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law, and (c) such amounts not included in clauses (a) and (b) of this paragraph as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation, for

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Definitions.**

the purpose of computing fees and other charges imposed by this act.

(11) "Surplus" means the excess of the net assets of a corporation over its stated capital.

(12) "Earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

(13) "Capital surplus" means the entire surplus of a corporation other than its earned surplus.

(14) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual courts of its business.

(15) For the purposes of sections 137, 138, 139, and 146 of this act the term or terms:

(a) "Stock" means shares.

(b) "Capital" and "capital stock" and "authorized capital stock" means the sum of (i) the par value of all shares of the corporation having a par value that the corporation is authorized to issue, and (ii) the amount expected to be allocated to stated capital out of the amount of the consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.

(c) "Capitalization" means stated capital.

(d) "Value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock" and "value of the assets represented by nonpar shares" mean the amount expected to be allocated to stated capital out of the amount of consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.

(e) "Value of the assets received in consideration of the issuance of such nonpar value stock" means the stated capital represented by the nonpar value shares issued by the corporation.

(f) "The number of shares of capital stock of the company" means the number of shares of the corporation.

SEC. 4. Corporations may be organized under this act for any lawful purpose or purposes, except for the purpose of banking or engaging in business as an insurer, and except:

Authorized purposes for organization—
Exceptions.

(1) Where special provision is made by law for the preparation, contents and filing of articles of incorporation of designated classes of corporations, such corporations shall be formed under such special provisions, and not hereunder.

(2) Any business, the conduct of which at the time of the passage of this chapter is forbidden to corporations by the Constitution, statutes or common law of this state.

SEC. 5. Each corporation shall have power:

General powers.

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing

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it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employees other than its officers and directors, and otherwise assist its employees, officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and guarantees and incur liabilities, borrow money at such 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 all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of

the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) To make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) In time of war to transact any lawful business in aid of the United States in the prosecution of the war.

(15) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or by any bylaw or resolution adopted by the shareholders after notice.

(16) To pay pensions and establish pension plans, pension trusts profit-sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees.

(17) To cease its corporate activities and surrender its corporate franchise.

(18) To have and exercise all powers necessary

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 Corporation's own shares,
 right to purchase, hold or
 dispose of—
 Limitations.

or convenient to effect any or all of the purposes for which the corporation is organized.

SEC. 6. A corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available therefor, and, if the articles of incorporation so permit or with the affirmative vote of the holders of at least two-thirds of all shares entitled to vote thereon, to the extent of unreserved and unrestricted capital surplus available therefor.

To the extent that earned surplus or capital surplus is used as the measure of the corporation's right to purchase its own shares, such surplus shall be restricted so long as such shares are held as treasury shares, and upon the disposition or cancellation of any such shares the restriction shall be removed pro tanto.

Notwithstanding the foregoing limitation, a corporation may purchase or otherwise acquire its own shares for the purpose of:

- (1) Eliminating fractional shares.
- (2) Collecting or compromising indebtedness to the corporation.
- (3) Paying dissenting shareholders entitled to payment for their shares under the provisions of this act.
- (4) Effecting, subject to the other provisions of this act, the retirement of its redeemable shares by redemption or by purchase at not to exceed the redemption price.

No purchase of or payment for its own shares shall be made at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

SEC. 7. No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

Act of corporation or transfer of property by or to, assertion of lack of capacity or power for, when.

(1) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

(3) In a proceeding by the attorney general, as provided in this act, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from the transaction of unauthorized business.

SEC. 8. (1) The corporate name:

(a) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain

Corporate name—
Contents—
Limitations on.

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poration act.
Corporate
name—
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Limitations on.

an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(b) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

(c) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has in effect a registration of its corporate name as provided in this act, unless

(i) such other domestic or foreign corporation is about to change its name, or to cease to do business, or is being wound up, or such foreign corporation is about to withdraw from doing business in this state, and

(ii) the written consent of such other domestic or foreign corporation to the adoption of its name or a deceptively similar name has been given and is filed with the articles of incorporation, provided, a deceptively similar name shall not be used if the secretary of state finds that the use of such name shall be against public interest.

(2) No corporation formed under this chapter shall include in its corporate name any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more words "building," "savings," "loan," "home," "association," "society," "room," "lounge" or any other words or phrases prohibited by any statute of this state.

(3) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person, unincorporated association, or corporation interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although its articles of incorporation may have been approved and a certificate of incorporation issued.

SEC. 9. The exclusive right to the use of a corporate name may be reserved by:

Corporate name, reservation of right to use—Who may reserve—Procedure—Transfer.

(1) Any person intending to organize a corporation under this act.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by the applicant. If the secretary of state finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of one hundred and twenty days.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, ex-

cuted by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

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Corporate name, registration of—
Procedure—
Fee.

SEC. 10. Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act.

Such registration shall be made by:

(1) Filing with the secretary of state (a) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of one dollar for each month, of fraction thereof, between the date of filing such application and December thirty-first of the calendar year in which such application is filed.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Corporate name, registration of—
Renewal—Fee.

SEC. 11. A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an

application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

SEC. 12. Each corporation shall have and continuously maintain in this state:

Registered office, agent, required.

(1) A registered office which may be, but need not be, the same as its place of business.

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

SEC. 13. A corporation may change its registered office or change its registered agent or both, by executing and filing in the manner hereinafter provided a statement setting forth:

Registered office, agent, change of—Procedure—Resignation of registered agent—Procedure.

(1) The name of the corporation.

(2) The address of its then registered office.

(3) If the address of its registered office be changed, the address to which the registered office is to be changed.

(4) The name of its then registered agent.

(5) If its registered agent be changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

(8) The date such change is to become effective.

Business corporation act.
Registered office, agent, change of—
Procedure—
Resignation of registered agent—
Procedure.

Such statement shall be executed in triplicate by the corporation by its president or a vice-president, and verified by him and delivered to the secretary of state on or before the date such change is to become effective. If the secretary of state finds that such statement conforms to the provisions of this act he shall put an endorsement of his approval on each original, file one original in his office, and return the other two originals to the corporation or its representative.

On or before the day when such change is to become effective an original of such statement shall be filed with the auditor of the county in which the registered office is then located, and, if the registered office is to be moved to another county, an original of such statement, together with a certified copy of the corporation's articles of incorporation and all amendments thereto, shall also be filed with the auditor of such other county.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in triplicate, with the secretary of state, who shall forthwith mail one copy thereof to the auditor of the county in which the registered office is then located, and one copy to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

Registered agent, purpose—
Secretary of state as agent, when—
Duties.

SEC. 14. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon

whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of the copies thereof to be forwarded by registered mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

SEC. 15. Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this act.

Shares, creation and issuance—
Classes, designations, preferences and limitations.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

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Shares, creation and issuance—
Classes, designations, preferences and limitations.

(1) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(2) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(3) Having preference over any other class or classes of shares as to the payment of dividends.

(4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation, but shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted.

Shares, issuance in series—
Rights and limitations on—
Procedure.

SEC. 16. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

(a) The rate of dividend.

(b) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.

(c) The amount payable upon shares in event of voluntary and involuntary liquidation.

(d) Sinking fund provisions, if any, for the redemption or purchase of shares.

(e) The terms and conditions, if any, on which shares may be converted.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(3) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner hereinafter provided a statement setting forth:

(a) The name of the corporation.

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.

(c) The date of adoption of such resolution.

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—Procedure.

(d) That such resolution was duly adopted by the board of directors.

(5) Such statement shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such triplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(b) File one of such originals in his office.

(c) Return the other two such originals to the corporation or its representative.

(6) One of such other originals shall then be filed in the office of the auditor of the county in which the registered office of the corporation is located and the other shall be retained by the corporation.

(7) Upon the filing of such statement by the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

Subscription for shares—
Revocability—
Payment—
Procedure on default of
payment.

SEC. 17. A subscription for shares of a corporation to be organized shall be in writing and be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the

board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his last post office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

SEC. 18. Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

Shares, consideration for, determination of—Limitations.

Shares without par value may be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. In the event that such right be reserved as to any shares, the shareholders shall, prior to the issuance of such shares, fix the consideration to be received for such shares, by a vote of the holders of a majority of all shares entitled to vote thereon.

Business corporation act. Shares, consideration for, determination of—Limitations.

Treasury shares may be disposed of by the corporation for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

That part of the surplus of a corporation which is transferred to stated capital upon the issuance of shares as a share dividend shall be deemed to be the consideration for the issuance of such shares.

In the event of a conversion of shares, or in the event of an exchange of shares with or without par value for the same or a different number of shares with or without par value, whether of the same or a different class or classes, the consideration for the shares so issued in exchange or conversion shall be deemed to be (1) the stated capital then represented by the shares so exchanged or converted, (2) that part of surplus, if any, transferred to stated capital upon the issuance of shares for the shares so exchanged or converted, and (3) any additional consideration paid to the corporation upon the issuance of shares for the shares so exchanged or converted.

Shares, consideration for, what constitutes.

SEC. 19. The consideration for the issuance of shares may be paid in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment, for shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

SEC. 20. In case of the issuance by a corporation of shares having par value, the consideration received therefor shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

Shares, consideration for, as stated capital, capital surplus or earned surplus.

In case of the issuance by a corporation of shares without par value, the entire consideration received therefor shall constitute stated capital unless the corporation shall determine as provided in this section that only a part thereof shall be stated capital. Within a period of sixty days after the issuance of any shares without par value, the board of directors may allocate to capital surplus any portion of the consideration received for the issuance of such shares. No such allocation shall be made of any portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation except the amount, if any, of such consideration in excess of such preference.

If shares have been or shall be issued by a corporation in merger or consolidation or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another corporation, whether domestic or foreign, any amount that would otherwise constitute capital surplus under the foregoing provisions of this section may instead be allocated to earned surplus by the board of directors of the issuing corporation except that its aggregate earned surplus shall not exceed the sum of the earned surpluses as defined in this act of the issuing corporation and of all other corporations, domestic or foreign, that were merged or consolidated or of which the shares or assets were acquired.

The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the surplus

of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

Business corporation act. Organization, reorganization expenses as consideration for shares.

SEC. 21. The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not fully paid or assessable.

Certificates representing shares.

SEC. 22. The shares of a corporation shall be represented by certificates signed by the president or a vice-president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice-president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and,

if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

(1) That the corporation is organized under the laws of this state.

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

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

(4) The par value of each share represented by such certificate, or a statement that the shares are without par value.

No certificate shall be issued for any share until such share is fully paid.

SEC. 23. A corporation may, but shall not be obliged to, issue a certificate for a fractional share, and, by action of its board of directors, may issue in lieu thereof scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to

Fractional
share certifi-
cate or scrip,
issuance of.

the holders of such scrip, or subject to any other conditions which the board of directors may deem advisable.

Business corporation act. Subscribers and stockholders, liability of.

SEC. 24. A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

Shareholder's preemptive rights.

SEC. 25. The preemptive right of a shareholder to acquire unissued shares of a corporation may be limited or denied to the extent provided in the articles of incorporation.

Bylaws, generally.

SEC. 26. The power to adopt, alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the shareholders unless vested in the board of directors by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Bylaws, other powers, in emergency.

SEC. 27. The board of directors of any corporation may adopt emergency bylaws, subject to repeal

or change by action of the shareholders, which shall, notwithstanding any different provision elsewhere in this act or in the articles of incorporation or by-laws, be operative during any emergency in the conduct of the business of the corporation resulting from an attack on the United States or any nuclear or atomic disaster. The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

(1) A meeting of the board of directors may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

(2) The director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

(3) The officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time (not longer than reasonably necessary after the termination of the emergency) as may be provided in the emergency bylaws or in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the board of directors, be deemed directors for such meeting.

The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such an emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties.

The board of directors, either before or during any such emergency, may, effective in the emergency, change the head office or designate several alternative head offices or regional offices, or authorize the officers so to do.

Business
corporation
act. Bylaws,
other powers,
in emergency.

To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any such emergency and upon its termination the emergency bylaws shall cease to be operative.

Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors during any such emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

To the extent required to constitute a quorum at any meeting of the board of directors during any such emergency, the officers of the corporation who are present shall, unless otherwise provided in emergency bylaws, be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

No officer, director or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct. No officer, director or employee shall be liable for any action taken by him in good faith in such an emergency in furtherance of the ordinary business affairs of the corporation even though not authorized by the bylaws then in effect.

Shareholder's,
meetings of.

SEC. 28. Meetings of shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation.

An annual meeting of the shareholders shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the shareholders may be called by the president, the board of directors, the

holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other officers or persons as may be provided in the articles of incorporation or the bylaws.

SEC. 29. Written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

—Notice of Shareholder's meetings.

SEC. 30. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty days and, in case of a meeting of share-

Closing of transfer books and fixing record date.

Business corporation act.
Closing of transfer books and fixing record date.

holders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Voting list.

SEC. 31. The officer or agent having charge of the stock transfer books for shares of a corporation shall make, at least ten days before each meeting of shareholders, a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to such meeting, shall be kept on file at the registered office of the corporation. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or transfer books or to vote at any meeting of shareholders.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the list of

shareholders, or keep it on file for a period of ten days, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

SEC. 32. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this act or the articles of incorporation or bylaws.

Quorum of shareholders.

SEC. 33. Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of any class or classes are limited or denied by the articles of incorporation as permitted by this act.

Voting of shares.

Neither treasury shares, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Unless the articles of incorporation otherwise provide, at each election for directors every shareholder entitled to vote at such election shall have the right to vote in person or by proxy, the number of shares

Business corporation act.
Voting of shares.

owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority

to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

SEC. 34. Certificates of stock and the shares represented thereby standing in the name of a married woman may be transferred by her, her agent or attorney, without the signature of her husband, in the same manner as if such married woman were a femme sole. All dividends payable upon any shares of a corporation standing in the name of a married woman shall be paid to such married woman, her agent or attorney, in the same manner as if she were unmarried, and it shall not be necessary for her husband to join in a receipt therefor; and any proxy or power given by a married woman, touching any shares of any corporation standing in her name, shall be valid and binding without the signature of her husband, the same as if she were unmarried.

Stock transfer
by married
woman.

SEC. 35. Whenever certificates for shares or other securities issued by domestic or foreign corporations are or have been issued or transferred to two or more persons in joint tenancy form on the books or records of the corporation, it is presumed in favor of the corporation, its registrar and its transfer agent that the shares or other securities are owned by such persons in joint tenancy and not otherwise. A domestic or foreign corporation or its registrar or transfer agent is not liable for transferring or causing to be transferred on the books of the corporation to or pursuant to the direction of the surviving joint tenant or tenants any share or shares or other securities theretofore issued by the corporation to two or more persons in joint tenancy form on the books or records of the corporation, unless the transfer was made with actual knowledge by the corporation or by its registrar or transfer agent of the existence of any understanding, agreement, condition, or evidence

Shares issued
or transferred
in joint ten-
ancy form—
Presumption—
Transfers pur-
suant to
direction of
survivor.

that the shares or securities were held other than in joint tenancy, or of the invalidity of the joint tenancy or a breach of trust by the joint tenants.

Business corporation act.
Voting trust.

SEC. 36. Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. The certificates of shares so transferred shall be surrendered and canceled, and new certificates therefor issued to such person or persons, as such trustee or trustees, in which new certificates, it shall appear that they are issued pursuant to said agreement. In the entry of transfer on the books of the corporation it shall also be noted that the transfer is made pursuant to said agreement. The trustee or trustees shall execute and deliver to the transferors voting trust certificates. Such voting trust certificates shall be transferable in the same manner and with the same effect as certificates of stock under the laws of this state.

The counterpart of the voting trust agreement deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

At any time within six months before the expiration of such voting trust agreement as originally fixed or extended under this paragraph, one or more

holders of voting trust certificates may, by agreement in writing, extend the duration of such voting trust agreement, nominating the same or substitute trustee or trustees, for an additional period not exceeding ten years. Such extension agreement shall not affect the rights or obligations of persons not parties thereto and shall in every respect comply with and be subject to all the provisions of this act applicable to the original voting trust agreement.

SEC. 37. The business and affairs of a corporation shall be managed by a board of directors. The powers and duties of the board of directors may be prescribed by the bylaws. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

Board of directors, generally.

SEC. 38. The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected

Directors, number and election of.

and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this act. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

Business corporation act.
Directors,
qualification
of.

SEC. 39. When the board of directors shall consist of nine or more members, in lieu of electing the whole number of directors annually, the articles of incorporation may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

Directors,
vacancies.

SEC. 40. Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

SEC. 41. At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. The entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

Directors,
removal of.

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

Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect of the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

SEC. 42. A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business unless a greater number is required by the articles of incorporation or the bylaws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

Directors,
quorum of.

SEC. 43. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other com-

Executive and
other com-
mittees.

Business corporation act. Executive and other committees.

mittees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, but no such committee shall have the authority of the board of directors in reference to amending the articles of incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease, exchange or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, or amending the bylaws of the corporation. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed by law.

Directors' meetings, place and notice of.

SEC. 44. Meetings of the board of directors, regular or special, may be held either within or without this state.

Regular meetings of the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Dividends.

SEC. 45. The board of directors of a corporation may, from time to time, declare and the corporation

may pay dividends on its outstanding shares in cash, property, or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation, subject to the following provisions:

(1) Except as otherwise provided in this section, dividends may be declared and paid in cash or property only out of the unreserved and unrestricted earned surplus of the corporation, or out of the unreserved and unrestricted net earnings of the current fiscal year and the next preceding fiscal year taken as a single period. No such dividend shall be paid which would reduce the net assets of the corporation below the aggregate preferential amount payable in event of voluntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(2) In the case of a corporation engaged in the business of exploiting natural resources or owning property having a limited life, such as a lease for a term of years, or a patent, dividends may be declared and paid in cash out of the depletion reserves, but each such dividend shall be identified as a distribution of such reserves and the amount per share paid from such reserves shall be disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(3) Dividends may be declared and paid in its own shares out of any treasury shares that have been reacquired out of surplus of the corporation.

(4) Dividends may be declared and paid in its own authorized but unissued shares out of any unreserved and unrestricted surplus of the corporation upon the following conditions:

Business corporation act.
Dividends.

(a) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus at least equal to the aggregate par value of the shares to be issued as a dividend.

(b) If a dividend is payable in its own shares without par value, such shares shall be issued at such stated value as shall be fixed by the board of directors by resolution adopted at the time such dividend is declared, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate stated value so fixed in respect of such shares; and the amount per share so transferred to stated capital shall be disclosed to the shareholders receiving such dividend concurrently with the payment thereof.

(5) No dividend payable in shares of any class shall be paid to the holders of shares of any other class unless the articles of incorporation so provide or such payment is authorized by the affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class in which the payment is to be made.

A split-up or division of the issued shares of any class into a greater number of shares of the same class without increasing the stated capital of the corporation shall not be construed to be a share dividend within the meaning of this section.

Distributions from capital surplus.

SEC. 46. The board of directors of a corporation may, from time to time, distribute to its shareholders out of capital surplus of the corporation a portion of its assets, in cash or property, subject to the following provisions:

(1) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent.

(2) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation.

(3) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid.

(4) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of voluntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(5) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

The board of directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

SEC. 47. No loans shall be made by a corporation Loans. to its officers or directors, unless first approved by the holders of two-thirds of the voting shares, and

no loans shall be made by a corporation secured by its shares.

Business corporation act.
Directors,
liability of in
certain cases.

SEC. 48. In addition to any other liabilities imposed by law upon directors of a corporation:

(1) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this act or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this act or the restrictions in the articles of incorporation.

(2) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this act shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this act.

(3) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(4) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation, or the making of any loan

secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved by the shareholders as provided in section 47.

(5) If a corporation shall commence business before it has received at least five hundred dollars as consideration for the issuance of shares, the directors who assent thereto shall be jointly and severally liable to the corporation for such part of five hundred dollars as shall not have been received before commencing business, but such liability shall be terminated when the corporation has actually received five hundred dollars as consideration for the issuance of shares.

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

A director shall not be liable under subsections (1), (2) or (3) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distri-

Business corporation act. Directors, liability of in certain cases.

bution he considered the assets to be of their book value.

Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this act, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

Shareholders, provisions relating to actions by.

SEC. 49. No action shall be brought in this state by a shareholder in the right of a domestic or foreign corporation unless the plaintiff was a holder of record of shares or of voting trust certificates therefor at the time of the transaction of which he complains, or his shares or voting trust certificates thereafter devolved upon him by operation of law from a person who was a holder of record at such time.

In any action hereafter instituted in the right of any domestic or foreign corporation by the holder or holders of record of shares of such corporation or of voting trust certificates therefor, the court having jurisdiction, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the parties named as defendant the reasonable expenses, including fees of attorneys, incurred by them in the defense of such action.

In any action now pending or hereafter instituted or maintained in the right of any domestic or foreign corporation by the holder or holders of record of less than five percent of the outstanding shares

of any class of such corporation or of voting trust certificates therefor, unless the shares or voting trust certificates so held have a market value in excess of twenty-five thousand dollars, the corporation in whose right such action is brought shall be entitled at any time before final judgment to require the plaintiff or plaintiffs to give security for the reasonable expenses, including fees of attorneys, that may be incurred by it in connection with such action or may be incurred by other parties named as defendant for which it may become legally liable. Market value shall be determined as of the date that the plaintiff institutes the action or, in the case of an intervener, as of the date that he becomes a party to the action. The amount of such security may from time to time be increased or decreased, in the discretion of the court, upon showing that the security provided has or may become inadequate or is excessive. The corporation shall have recourse to such security in such amount as the court having jurisdiction shall determine upon the termination of such action, whether or not the court finds the action was brought without reasonable cause.

SEC. 50. The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary.

Officers.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the man-

agement of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

Business corporation act.
Officers. Filing lists of corporate officers.

SEC. 51. Every corporation hereafter organized under this act shall, within thirty days after it shall have filed its articles of incorporation with the county auditor of the county in which the corporation has its registered office, and every corporation heretofore or hereafter organized under the laws of the territory or state of Washington shall, within thirty days after its annual meeting and at such additional times as it may elect, file with the secretary of state and with the county auditor of the county in which said corporation has its registered office a statement, sworn to by its president and attested by its secretary and sealed with its corporate seal, containing a list of all its directors and officers and their respective titles of office, names and addresses, the term of office for which they have been chosen and the principal business activity of the corporation. The secretary of state shall file such statement in his office for the fee of one dollar. If any corporation shall fail to comply with the foregoing provisions of this section and more than one year shall have elapsed from the date of the filing of the last report, service of process against such corporation may be made by serving duplicate copies upon the secretary of state. Upon such service being made, the secretary of state shall forthwith mail one of such duplicate copies of such process to such corporation at its registered office or its last known address, as shown by the records of his office.

For every violation of this section there shall become due and owing to the state of Washington the sum of twenty-five dollars which sum shall be collected by the secretary of state who shall call upon

the attorney general to institute a civil action for the recovery thereof if necessary.

SEC. 52. Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Removal of officers.

SEC. 53. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders and board of directors; and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each.

Books and records.

Any person who shall have been a shareholder of record for at least six months immediately preceding his demand or who shall be the holder of record of at least five percent of all the outstanding shares of a corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its books and records of account, minutes and record of shareholders and to make extracts therefrom.

Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder, or his agent or attorney, so to examine and make extracts from its books and records of account, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder in a penalty of ten percent of the value of the shares owned by such shareholder, in addition to any other damages or remedy afforded him by law. It shall be a defense

Business corporation act.
Books and records.

to any action for penalties under this section that the person suing therefor has within two years sold or offered for sale any list of shareholders of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders for any such purpose, or has improperly used any information secured through any prior examination of the books and records of account, or minutes, or record of shareholders of such corporation or any other corporation, or was not acting in good faith or for a proper purpose in making his demand.

Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which such shareholder shall have been a shareholder of record, and irrespective of the number of shares held by him, to compel the production for examination by such shareholder of the books and records of account, minutes, and record of shareholders of a corporation.

Upon the written request of any shareholder of a corporation, the corporation shall mail to such shareholder its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations.

Incorporators.

SEC. 54. One or more persons of the age of twenty-one years, or more, or a domestic or foreign corporation, may act as incorporator or incorporators of a corporation by signing and delivering in triplicate to the secretary of state articles of incorporation for such corporation.

Articles of incorporation.
Generally.

SEC. 55. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual.

(3) The purpose or purposes for which the corporation is organized.

(4) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.

(5) If all or any portion of the shares have no par value, the aggregate value of those shares, or, such aggregate value shall be stated in the affidavit filed pursuant to section 138 of this act.

(6) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

(7) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(8) A statement that the corporation will not commence business until consideration of the value of at least five hundred dollars has been received for the issuance of shares.

(9) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(10) Any provision, not inconsistent with law, which the incorporators elect to set forth in the ar-

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Articles of incorporation.
Generally.

articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this act is required or permitted to be set forth in the bylaws.

(11) The address of its initial registered office and the name of its initial registered agent at such address.

(12) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(13) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this act.

Filing of articles of incorporation.

SEC. 56. Triplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all the fees have been paid as in this act described:

(1) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Issue a certificate of incorporation to which he shall affix one of such originals.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state, and the other remaining original shall be returned to the incorporators or their representative. Such remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated. The original affixed to the certificate of incorporation shall be retained by the corporation.

SEC. 57. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this act, except as against this state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation. Notwithstanding the provisions of section 3, subsection 6 of this act, those persons who subscribed for shares prior to the issuance of the certificate of incorporation, or their assigns, shall be shareholders in the corporation upon such issuance, unless their rights under the stock subscription agreement have been terminated under the provisions of section 17 of this act.

Effect of
issuance of
certificate of
incorporation.

SEC. 58. A corporation shall not transact any business or incur any indebtedness, except such as shall be incidental to its organization or to obtaining subscriptions to or payment for its shares, until there has been paid in for the issuance of shares consideration of the value of at least five hundred dollars.

Requirement
before com-
mencing
business.

SEC. 59. After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of meeting.

Directors, or-
ganizational
meeting of.

SEC. 60. A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of

Articles of
incorporation.
Right to
amend.

Business corporation act.
Articles of incorporation.
Right to amend.

incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation.

In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

- (1) To change its corporate name.
- (2) To change its period of duration.
- (3) To change, enlarge or diminish its corporate purposes.
- (4) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue.
- (5) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued.
- (6) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued.
- (7) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations, and the relative rights in respect of all or any part of its shares, whether issued or unissued.
- (8) To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value.
- (9) To change the shares of any class, whether issued or unissued, and whether with or without par

value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes.

(10) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued.

(11) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared.

(12) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series.

(13) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established.

(14) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect of which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed.

(15) To revoke, diminish, or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established.

(16) To limit, deny or grant to shareholders of any class the preemptive right to acquire additional shares of the corporation, whether then or thereafter authorized.

Business corporation act. Articles of incorporation. Procedure to amend.

SEC. 61. Amendments to the articles of incorporation shall be made in the following manner:

(1) The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting.

Class voting on amendments.

SEC. 62. The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(1) Increase or decrease the aggregate number of authorized shares of such class.

(2) Increase or decrease the par value of the shares of such class.

(3) Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

(4) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

(5) Change the designations, preferences, limitations or relative rights of the shares of such class.

(6) Change the shares of such class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes.

(7) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences of any class having rights and preferences prior or superior to the shares of such class.

(8) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series, or authorize the board of directors to do so.

(9) Limit or deny the existing preemptive rights of the shares of such class.

(10) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been declared.

SEC. 63. The articles of amendment shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

Articles of
amendment.

(1) The name of the corporation.

(2) The amendment so adopted.

(3) The date of the adoption of the amendment by the shareholders.

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Articles of amendment.

(4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.

(6) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

(7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

Articles of amendment,
filing of.

SEC. 64. Triplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such triplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Issue a certificate of amendment to which he shall affix one of such originals.

The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state, and the other remaining original, shall be returned to the corporation or its representative. Such remaining original shall then be filed in the office of the county auditor of the

county in which the registered office of the corporation is situated. The original affixed to the certificate of incorporation shall be retained by the corporation.

SEC. 65. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

Certificate of amendment, effect of.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

SEC. 66. (1) A domestic corporation may, at any time, by resolution of its board of directors and without the necessity of approval by its shareholders, restate in a single document the entire text of its articles of incorporation, as previously amended, supplemented or restated, by filing in the office of the secretary of state a document entitled "Restated Articles of Incorporation of (insert name of corporation)" which shall set forth the articles as amended and supplemented to the date of the restated articles.

Restated articles of incorporation.

(2) The restated articles of incorporation shall not alter or amend the original articles or any amendment thereto in any substantive respect and shall contain all the statements required by this chapter to be included in the original articles of incorporation, except that in lieu of setting forth the names and addresses of the first board of directors, the restated articles shall set forth the names and addresses of the directors in office at the time of the adoption of the restated articles; and no statement need be made with respect to the names and addresses of the incorporators or share subscribed by them.

Business cor-
poration act.
Restated
articles of
incorporation.

(3) The restated articles of incorporation shall be prepared in triplicate originals, signed by the president or vice-president and by the treasurer, secretary or assistant secretary, of the corporation and shall be verified by their signed affidavits, (a) that they have been authorized to execute such restated articles by resolution of the board of directors adopted on the date stated, (b) that the restated articles correctly set forth the text of the articles of incorporation as amended and supplemented to the date of the restated articles and (c) that the restated articles supersede and take the place of theretofore existing articles of incorporation and amendments thereto.

(4) The triplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles conform to law, he shall put an endorsement of his approval upon each set, and when all taxes, fees and charges therefor have been paid as required by law, he shall file one of such sets in his office and record the same and shall issue a certificate of restated articles of incorporation. Thereupon the restated articles of incorporation shall become effective.

(5) The certificate of restated articles of incorporation, together with the two remaining sets of the restated articles of incorporation bearing the endorsement of the fact and time of filing in the office of the secretary of state, shall be returned to the corporation. One of the sets of the restated articles of incorporation shall then be filed in the office of the auditor of the county in which the registered office of the corporation is located, and the other shall be retained by the corporation.

(6) The restated articles of incorporation shall supersede and take the place of theretofore existing articles of incorporation and amendments thereto and shall have the same effect and may be used for

the same purposes as original articles of incorporation.

SEC. 67. (1) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

Articles of incorporation, amendment of in reorganization proceedings.

In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration or corporate purposes of the corporation;

(b) Repeal, alter or amend the bylaws of the corporation;

(c) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and

Business corporation act. Articles of incorporation, amendment of in reorganization proceedings.

appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(2) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in triplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) Triplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this act prescribed:

(i) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(ii) File one of such originals in his office.

(iii) Issue a certificate of amendment to which he shall affix one of such originals.

(3) The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state and the other remaining original, shall be returned to the corporation or its representative. Such remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated. The

original affixed to the certificate of amendment shall be retained by the corporation.

(4) Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

SEC. 68. No redemption or purchase of redeemable shares shall be made by a corporation when it is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon involuntary dissolution.

Restriction on redemption or purchase of redeemable shares.

SEC. 69. (1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so canceled which the corporation is authorized to issue by the number of shares so canceled.

Cancellation of redeemable shares by redemption or purchase.

(2) The statement of cancellation shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an

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Cancellation of redeemable shares by redemption or purchase.

assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares canceled through redemption or purchase, itemized by classes and series.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect of such cancellation.

(e) If the articles of incorporation provide that the canceled shares shall not be reissued, then the number of shares which the corporation has authority to issue, itemized by classes and series, after giving effect to such cancellation.

(3) Triplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such originals in his office.

(c) Return the other originals to the corporation or its representative. One of these originals shall be filed in the office of the county auditor of the county in which the registered office of the corporation is situated, and the other original shall be retained by the corporation.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

SEC. 70. (1) A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

Cancellation
of other re-
acquired
shares.

(2) The statement of cancellation shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares canceled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(3) Triplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such originals in his office.

(c) Return the other originals to the corporation or its representative. One of these originals shall be

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Cancellation of other reacquired shares.

filed in the office of the county auditor of the county in which the registered office of the corporation is situated, and the other original shall be retained by the corporation.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled, and the shares so canceled shall be restored to the status of authorized but unissued shares.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

Reduction of stated capital in certain cases.

SEC. 71. (1) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the ques-

tion of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(2) When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon.

(d) The number of shares voted for and against such reduction, respectively.

(e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(3) Triplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such originals in his office.

(c) Return the other original to the corporation or its representative. One of these originals is to be filed in the office of the auditor of the county in which the registered office of the corporation is located, and the other is to be retained by the corporation.

Business corporation act. Reduction of stated capital in certain cases.

(4) Upon the filing of such statement by the secretary of state, the stated capital of the corporation shall be reduced as therein set forth.

(5) No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

Special provisions relating to surplus and reserves.

SEC. 72. The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus.

The capital surplus of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus.

A corporation may, by resolution of its board of directors apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

A corporation may, by resolution of its board of directors, create a reserve or reserves out of its earned surplus for any proper purpose or purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent

so reserved shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this act.

SEC. 73. Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this act.

Merger,
procedure for.

The board of directors of each corporation shall, by resolution adopted by each such board, approve a plan of merger setting forth:

(1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) The manner and basis of converting the shares of each merging corporation into shares or other securities or obligations of the surviving corporation.

(4) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(5) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

SEC. 74. Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this act.

Consolidation,
procedure for.

The board of directors of each corporation shall, by a resolution adopted by each such board, approve a plan of consolidation setting forth:

(1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(2) The terms and conditions of the proposed consolidation.

(3) The manner and basis of converting the shares of each corporation into shares or other securities or obligations of the new corporation.

(4) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this act.

(5) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

Business corporation act.
Merger or consolidation.
Approval by shareholders.

SEC. 75. The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty days before such meeting, in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose or one of the purposes is to consider the proposed plan of merger or consolidation. A copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon of each such corporation, unless any class of shares of any such corporation is entitled to vote thereon as a class, in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of

the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

After such approval by a vote of the shareholders of each corporation, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

SEC. 76. (1) Upon such approval, articles of merger or articles of consolidation shall be executed in triplicate by each corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

Articles of
merger or
consolidation.

(a) The plan of merger or the plan of consolidation.

(b) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(2) Triplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

Business corporation act.
Merger or consolidation.
Articles of.

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such originals in his office.

(c) Issue a certificate of merger or a certificate of consolidation to which he shall affix one of such originals.

(3) The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, and the other remaining original, shall be returned to the surviving or new corporation, or its representative. Such remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated. The original affixed to the certificate of merger or consolidation shall be retained by the corporation.

Merger of subsidiary corporation.

SEC. 77. (1) Any corporation owning at least ninety-five percent of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety-five percent of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares or other securities or obligations of the surviving corporation or the cash or other consideration to be paid or delivered upon surrender of each share of the subsidiary corporation.

(2) A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(3) Articles of merger shall be executed in triplicate by the surviving corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

(4) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares triplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof;

(b) File one of such originals in his office; and

(c) Issue a certificate of merger to which he shall affix one of such originals.

(5) The certificate of merger, together with the original of the articles of merger affixed thereto by the secretary of state, and the other original, shall be returned to the surviving corporation or its representative. Such remaining original shall then be filed in the office of the auditor of the county in which the registered office of the corporation is situated. The original affixed to the certificate of merger shall be retained by the corporation.

SEC. 78. Upon the issuance of the certificate of merger or the certificate of consolidation by the sec- Effect of.

Business corporation act.
Merger or consolidation.
Effect of.

retary of state, the merger or consolidation shall be effected.

When such merger or consolidation has been effected:

(1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this act.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or

action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this act shall be deemed to be the original articles of incorporation of the new corporation.

SEC. 79. One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

Merger or consolidation of domestic and foreign corporations.

(1) Each domestic corporation shall comply with the provisions of this act with respect to the merger or consolidation, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state 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, and in every case it shall file with the secretary of state of this state:

Business corporation act.
Merger or consolidation, when domestic and foreign corporation.

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(c) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this act with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Assets, sale of in regular course of business—Mortgage or pledge of assets.

SEC. 80. The sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual and regular course of business may

be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in any such case no authorization or consent of the shareholders shall be required.

SEC. 81. A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as may be authorized in the following manner:

Assets, sale of other than in regular course of business.

(1) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting, not less than twenty days before such meeting, in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition.

(3) At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of the holders of two-thirds

Business corporation act. Assets, disposal of. Other than in regular course of business.

of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon.

(4) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

Right of shareholders to dissent.

SEC. 82. Any shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(1) Any plan of merger or consolidation to which the corporation is a party; or

(2) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale.

A shareholder may dissent as to less than all of the shares registered in his name. In that event, his rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.

The provisions of this section shall not apply to the shareholders of the surviving corporation in a merger if such corporation is on the date of the filing of the articles of merger the owner of all the out-

standing shares of the other corporations, domestic or foreign, which are parties to the merger, or if a vote of the shareholders of such corporation is not necessary to authorize such merger.

SEC. 83. Any shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within ten days after the date on which the vote was taken, or if a corporation is to be merged without a vote of its shareholders into another corporation, any other shareholders may, within fifteen days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any shareholder failing to make demand within the ten day period shall be bound by the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a shareholder.

Rights of
dissenting
shareholders.

No such demand shall be withdrawn unless the corporation shall consent thereto. The right of such shareholder to be paid the fair value of his shares

Business corporation act.
Assets, disposal of.
Rights of dissenting shareholders.

shall cease and his status as a shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim, if:

(1) Such demand shall be withdrawn upon consent; or

(2) The proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action; or

(3) In the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or

(4) No demand or petition for the determination of fair value by a court shall have been made or filed within the time provided by this section; or

(5) A court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by this section.

Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as herein provided, and shall make a written offer to each such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve months' period ended on the date of such balance sheet.

If within thirty days after the date on which such corporate action was effected the fair value

of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within ninety days after the date on which such corporate action was effected, upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares.

If within such period of thirty days a dissenting shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting shareholder given within sixty days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty days may, file a petition in any court of competent jurisdiction in the county in this state where the registered office of the corporation is located praying that the fair value of such shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting shareholder may do so in the name of the corporation. All dissenting shareholders, wherever residing, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each dissenting shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting shareholder who is a non-resident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for

Business corporation act.
Assets, disposal of.
Rights of dissenting shareholders.

the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for the shares if the court shall find that the action of such shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation

to any expert or experts employed by the shareholder in the proceeding.

Within twenty days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, together with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as in this section provided, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as the plan of merger or consolidation may otherwise provide.

SEC. 84. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time within two years after the date of the issuance of its certificate of incorporation, in the following manner:

Dissolution,
voluntary dis-
solution by
incorporators.

(1) Articles of dissolution shall be executed in triplicate by a majority of the incorporators, and verified by them, and shall set forth:

(a) The name of the corporation.

Business corporation act.
Dissolution.
Voluntary dissolution by incorporators.

(b) The date of issuance of its certificate of incorporation.

(c) That none of its shares has been issued.

(d) That the corporation has not commenced business.

(e) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(f) That no debts of the corporation remain unpaid.

(g) That a majority of the incorporators elect that the corporation be dissolved.

(2) Triplicate originals of the articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that the articles of dissolution conform to law, he shall, when all fees have been paid as in this act prescribed:

(a) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such originals in his office.

(c) Issue a certificate of dissolution to which he shall affix one of such originals.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, and the other original, shall be returned to the incorporators or their representatives. Such remaining original shall then be filed in the office of the auditor of the county in which the registered office of the corporation is situated. Upon the issuance of such certificate of dissolution by the secretary of state, the existence of the corporation shall cease.

Voluntary dissolution by consent of shareholders.

SEC. 85. A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a

statement of intent to dissolve shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.
- (4) A copy of the written consent signed by all shareholders of the corporation.
- (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

SEC. 86. A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

Voluntary dissolution by act of corporation.

- (1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.
- (2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.
- (3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of the corporation

Business corporation act.
Dissolution.
Voluntary dissolution by act of corporation.

entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.

(e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

Statement of intent to dissolve, filing of.

SEC. 87. Triplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such originals the word

“Filed,” and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Return the other originals to the corporation or its representative. One of these originals shall be filed with the office of the auditor of the county in which the registered office of the corporation is situated, and the other original shall be retained by the corporation.

SEC. 88. Upon the filing by the secretary of state of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the secretary of state or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as in this act provided.

Statement of
intent to dis-
solve, effect of.

SEC. 89. After the filing by the secretary of state of a statement of intent to dissolve:

Statement of
intent to dis-
solve, proce-
dure after
filing of.

(1) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation.

(2) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(3) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the

state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this act.

Business corporation act.
Dissolution.
Revocation of voluntary dissolution proceedings by consent of stockholders.

SEC. 90. By the written consent of all of its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.
- (4) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings.
- (5) That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

Revocation of voluntary dissolution proceedings by act of corporation.

SEC. 91. By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the ques-

tion of such revocation be submitted to a vote at a special meeting of shareholders.

(2) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this act for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.

(e) The number of shares outstanding.

(f) The number of shares voted for and against the resolution, respectively.

SEC. 92. Triplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of

Statement of
revocation of
voluntary
dissolution
proceedings.
filing of.

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Statement of revocation of voluntary dissolution proceedings.
Filing of.

state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Return the other originals to the corporation or its representative. One of these originals shall be filed in the office of the auditor of the county in which the registered office of the corporation is situated, and the other original shall be retained by the corporation.

Effect of.

SEC. 93. Upon the filing by the secretary of state of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, the revocation of the voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.

Articles of dissolution.

SEC. 94. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in triplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(1) The name of the corporation.

(2) That the secretary of state has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.

(3) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(4) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(5) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

SEC. 95. Triplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this act prescribed:

Articles of
dissolution,
filing of.

(1) Endorse on each of such originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Issue a certificate of dissolution to which he shall affix one of such originals.

The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, and the remaining original shall be returned to the representative of the dissolved corporation. The remaining original shall be filed in the office of the auditor of the county in which the registered office of the corporation is situated. The original affixed to the certificate of dissolution shall be retained by the corporation. Upon the issuance of such certificate the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers as provided in this act.

SEC. 96. A corporation may be dissolved involuntarily by a decree of the superior court in an action

Involuntary
dissolution.

Business corporation act.
Involuntary dissolution.

filed by the attorney general when it is established that:

(1) The corporation has failed to pay its annual license fee when the same becomes due and payable; or

(2) The corporation procured its articles of incorporation through fraud; or

(3) The corporation has continued to exceed or abuse the authority conferred upon it by law; or

(4) The corporation has failed for thirty days to appoint and maintain a registered agent in this state; or

(5) The corporation has failed for thirty days after change of its registered office or registered agent to file in the office of the secretary of state a statement of such change.

—Notification to attorney general.

SEC. 97. The secretary of state, on or before the first day of September of each year, shall certify to the attorney general the names of all corporations which have failed to pay their annual license fees in accordance with the provisions of this act, together with the facts pertinent thereto. He shall also certify, from time to time, the names of all corporations which have given other cause for dissolution as provided in this act, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general within two years from the due date of such annual license fee shall file an action in the name of the state against such corporation for its dissolution or the collection of said annual license fee shall be barred. Every such certificate from the secretary of state to the attorney general pertaining

to the failure of a corporation to pay an annual license fee shall be taken and received in all courts as prima facie evidence of the facts therein stated. If, before action is filed, the corporation shall pay its annual license fee together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered office or registered agent, such fact shall be forthwith certified by the secretary of state to the attorney general and he shall not file an action against such corporation for such cause. If, after action is filed, the corporation shall pay its annual license fee together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this act, or shall file with the secretary of state the required statement of change of registered office or registered agent, and shall pay the costs of such action, the action for such cause shall abate.

SEC. 98. Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general in the superior court of the county in which the registered office of the corporation is situated. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general

—Venue and process.

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of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty days after the first publication of such notice.

Bankruptcy rules shall apply to dissolution.

SEC. 99. In a proceeding for dissolution subject to the supervision of the court, all questions in respect to proof, allowance, payment and priority of claims shall be governed by the same rules as are applicable in bankruptcy proceedings under the national bankruptcy act as in force at the time of the dissolution proceedings.

Jurisdiction of court to liquidate assets and business of corporation.

SEC. 100. The superior courts shall have full power to liquidate the assets and business of a corporation:

(1) In an action by a shareholder when it is established:

(a) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(b) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(c) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) That the corporate assets are being misapplied or wasted.

(2) In an action by a creditor:

(a) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(b) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this act, to have its liquidation continued under the supervision of the court.

(4) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

Proceedings under clause (1), (2) or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

SEC. 101. In proceedings to liquidate the assets and business of a corporation the court shall have power to issue injunctions, to appoint a receiver or receivers *pendente lite*, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

Procedure in
liquidation of
corporation
by court.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to

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Procedure in liquidation of corporation by court.

the corporation by shareholders on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The court shall have power to allow from time to time as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

Qualifications of receivers.

SEC. 102. A receiver shall in all cases be a citizen of the United States or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

SEC. 103. In proceedings to liquidate the assets and business of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

Filing of claims in liquidation proceedings.

SEC. 104. The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

Discontinuance of liquidation proceedings.

SEC. 105. In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

Decree of involuntary dissolution.

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Dissolution.
Filing of
decree of.

SEC. 106. In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof.

Deposit with
state treasurer
amount due
certain shareholders.

SEC. 107. Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the state treasurer and shall be paid over to such creditor or shareholder or to his legal representative upon proof satisfactory to the state treasurer of his right thereto. Said assets shall be handled and disbursed as provided in chapter 63-.28 RCW.

Survival of
remedy after
dissolution.

SEC. 108. The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and business of the corporation as provided in this act, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution of action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration,

such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration.

SEC. 109. No foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this act to transact in this state any business which a corporation organized under this act is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this act contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Foreign
corporations.
Admission of.

Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of this act, by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities.

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(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(7) Creating evidences of debt, mortgages or liens on real or personal property.

(8) Securing or collecting debts or enforcing any rights in property securing the same.

(9) Transacting any business in interstate commerce.

(10) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

Powers of foreign corporation.

SEC. 110. A foreign corporation which shall have received a certificate of authority under this act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as in this act otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

Corporate name of foreign corporation.

SEC. 111. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word "corporation," "company," "incorporated," or "limited," or shall contain an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation or that it is authorized or empowered to conduct the business of banking or insurance.

(3) Shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this act, or the name of a corporation which has in effect a registration of its name as provided in this act.

SEC. 112. Whenever a foreign corporation which is authorized to transact business in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter transact any business in this state until it has changed its name to a name which is available to it under the laws of this state.

Change of
name by
foreign
corporation.

SEC. 113. A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

Application
for certificate
of authority.

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) If the name of the corporation does not contain the word "corporation," "company," "incorporated," or "limited," or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state.

(3) The date of incorporation and the period of duration of the corporation.

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(4) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(5) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(8) A statement of the aggregate number of issued shares itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(9) A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this act.

(10) An estimate, expressed in dollars, of the value of all property to be owned by the corporation for the following year, wherever located, and an estimate of the value of the property of the corporation to be located within this state during such year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by the corporation during such year, and an estimate of the gross amount thereof which will be transacted by the corporation at or from places of business in this state during such year.

(11) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in this act prescribed.

Such application shall be made on forms prescribed and furnished by the secretary of state

and shall be executed in duplicate by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

Such application shall be accompanied by a certified copy of the foreign corporation's charter, articles of incorporation, memorandum of association, or certificate of incorporation, and a certified copy of each and all of the amendments or supplements to such charter, articles, memorandum or certificate and a certified copy of each of its certificates of increase or decrease of its authorized shares, each of said instruments to be certified to by the officer who is the custodian of the same according to the laws of such foreign governmental authority.

If under the laws of the place where the corporation is incorporated, restated, consolidated or composite articles of incorporation have the same effect as the original articles of incorporation and all amendments and supplements thereto, then a foreign corporation may, in lieu thereof, file restated, consolidated or composite articles of incorporation duly authenticated by the officer who is the custodian of the same according to the laws of the place of its incorporation or the officer who is authorized to issue the restated, consolidated or composite articles of incorporation.

SEC. 114. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated.

Certificate of authority, filing of application for.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this act prescribed:

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(1) Endorse on each of such documents the word "Filed," and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Certificate of authority, effect of.

SEC. 115. Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to transact business in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this act.

Registered office and registered agent of foreign corporation.

SEC. 116. Each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its place of business in this state.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office. The corporation appointing such resident agent shall file a certificate of such appointment with the appointee's name and business address contained therein in the office of the secretary of state.

—Change of.

SEC. 117. A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both,

upon filing in the office of the secretary of state a certificate setting forth:

- (1) The name of the corporation.
- (2) The address of its then registered office.
- (3) If the address of its registered office be changed, the address to which the registered office is to be changed.
- (4) The name of its then registered agent.
- (5) If its registered agent be changed, the name of its successor registered agent.
- (6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.
- (7) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice-president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

SEC. 118. The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required

Service of
process on
foreign
corporation.

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or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies thereof to be forwarded by registered mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Articles of incorporation of foreign corporation, amendment of.

SEC. 119. Whenever the articles of incorporation of a foreign corporation authorized to transact business in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secretary

of state a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this state, nor authorize such corporation to transact business in this state under any other name than the name set forth in its certificate of authority.

SEC. 120. Whenever a foreign corporation authorized to transact business in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to transact business in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to transact in this state.

Merger of foreign corporation authorized to transact business in this state.

SEC. 121. A foreign corporation authorized to transact business in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

Amended certificate of authority.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with

the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

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poration act.
Foreign
corporations.
Withdrawal of.

SEC. 122. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not transacting business in this state.

(3) That the corporation surrenders its authority to transact business in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by its president or a vice-president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

SEC. 123. Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this act, he shall, when all fees have been paid as in this act prescribed:

Filing an application for withdrawal.

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this state shall cease.

SEC. 124. (1) The certificate of authority of a foreign corporation to transact business in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

Certificate of authority, revocation of.

(a) The corporation has failed to pay any fees, or penalties prescribed by this act when they have become due and payable; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by this act; or

(c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this act; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this act; or

Business corporation act. Foreign corporations. Certificate of authority, revocation of.

(e) A misrepresentation has been made of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to this act.

(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless (a) he shall have given the corporation not less than sixty days notice thereof by mail addressed to its registered office in this state, and (b) the corporation shall fail prior to revocation to pay such fees or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation.

Certificate of revocation, issuance of.

SEC. 125. Upon revoking any such certificate of authority, the secretary of state shall:

- (1) Issue a certificate of revocation in duplicate;
- (2) File one of such certificates in his office;
- (3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the issuance of such certificate of revocation, the authority of the corporation to transact business in this state shall cease.

Application to foreign corporations heretofore authorized to transact business in this state.

SEC. 126. Foreign corporations which are duly authorized to transact business in this state at the time this act takes effect, for a purpose or purposes for which a corporation might secure such authority under this act, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this state under this act, and from the time this act takes effect such corporations shall be subject to all the limitations, restrictions, liabilities, and duties prescribed herein for foreign corporations procuring certificates of

authority to transact business in this state under this act.

SEC. 127. No foreign corporation transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state, until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the transaction of business by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

Transacting business without certificate of authority.

The failure of a foreign corporation to obtain a certificate of authority to transact business in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this act upon such corporation had it duly applied for and received a certificate of authority to transact business in this state as required by this act and thereafter filed all reports required by this act, plus all penalties imposed by this act for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

SEC. 128. Any corporation, bank, trust company, mutual savings bank, savings and loan association, national banking association, or other corporation

Nonadmitted organizations.

Business corporation act. Nonadmitted organizations. May own and enforce notes secured by real estate mortgages.

or association organized and existing under the laws of the United States or under the laws of any state or territory of the United States other than the state of Washington (including, without restriction of the generality of the foregoing description, employee pension fund organizations, charitable foundations, trust funds, or other funds, foundations or trusts engaged in the investment of moneys, and trustees of such organizations, foundations, funds or trusts), and which are not admitted to conduct business in the state of Washington under the provisions of this act, and which are not otherwise specifically authorized to transact business in this state (herein collectively referred to as "nonadmitted organizations") may purchase, acquire, hold, sell, assign, transfer and enforce notes secured by real estate mortgages covering real property situated in this state and the security interests thereby provided, and may make commitments to purchase or acquire such notes so secured.

Nonadmitted organizations may foreclose mortgages.

SEC. 129. Such nonadmitted organizations shall have the right to foreclose such mortgages under the laws of this state or to receive voluntary conveyance in lieu of foreclosure, and in the course of such foreclosure or of such receipt of conveyance in lieu of foreclosure, to acquire the mortgaged property, and to hold and own such property and to dispose thereof. Such nonadmitted organizations however, shall not be allowed to hold, own and operate said property for a period exceeding five years. In the event said nonadmitted organizations do hold, own and operate said property for a period in excess of five years, it shall be forthwith required to appoint an agent as required by section 116 of this act for foreign corporations doing business in this state.

—Not carrying on business.

SEC. 130. The activities authorized by sections 128 and 129 of this act, by such nonadmitted organi-

zations shall not constitute "conducting business," "carrying on business," "transacting business," or "doing business" within the meaning of sections 109 through 127 of this act.

SEC. 131. In any action in law or equity commenced by the obligor or obligors, it, his, her or their assignee or assignees against the said nonadmitted organizations on the said notes secured by said real estate mortgages purchased by said nonadmitted organizations, service of all legal process may be had by serving the secretary of state of the state of Washington.

Service of
process.

SEC. 132. Duplicate copies of legal process against said nonadmitted organizations shall be served upon the secretary of state by registered mail. At the time of service the plaintiff shall pay to the secretary of state two dollars taxable as costs in the action and shall also furnish the secretary of state the home office address of said nonadmitted organization. The secretary of state shall forthwith send one of the copies of process by registered mail with return receipt requested to the said nonadmitted organization to its home office. The secretary of state shall keep a record of the day and the hour of service upon him of all legal process. No proceedings shall be had against the nonadmitted organization nor shall it be required to appear, plead or answer until the expiration of forty days after the date of service upon the secretary of state.

Service of
process, pro-
cedure for.

SEC. 133. Suit upon causes of action arising against the said nonadmitted organizations shall be brought in the county where the property is situated which is the subject of the mortgage purchased by the said nonadmitted organizations. If the property covered by the said mortgage is situated in more than one county, venue may be had in any of said counties where the property lies.

Venue.

Business corporation act.
Fees, charges.
Secretary of State to act.

SEC. 134. The secretary of state shall charge and collect in accordance with the provisions of this act:

- (1) Fees for filing documents and issuing certificates;
- (2) Miscellaneous charges;
- (3) License fees.

Fees for filing documents and issuing certificates.

SEC. 135. The secretary of state shall charge and collect for:

- (1) Filing articles of amendment and issuing a certificate of amendment, ten dollars;
- (2) Filing restated articles of incorporation, ten dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifteen dollars;
- (4) Filing an application to reserve a corporate name, ten dollars;
- (5) Filing a notice of transfer of a reserved corporate name, five dollars;
- (6) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar;
- (7) Filing a statement of the establishment of a series of shares, ten dollars;
- (8) Filing a statement of cancellation of shares, ten dollars;
- (9) Filing a statement of reduction of stated capital, ten dollars;
- (10) Filing a statement of intent to dissolve, five dollars;
- (11) Filing a statement of revocation of voluntary dissolution proceedings, five dollars;
- (12) Filing articles of dissolution, five dollars;
- (13) Filing a certificate by a foreign corporation of the appointment of an agent residing in this state, or a certificate of the revocation of the appointment of such resident agent, ten dollars;
- (14) Filing an application of a foreign corpora-

tion for a certificate of authority to transact business in this state and issuing a certificate of authority, five dollars;

(15) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, five dollars;

(16) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars;

(17) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, ten dollars;

(18) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars;

(19) Filing any other statement or report, five dollars;

(20) Such other filings as are provided for by this act.

SEC. 136. The secretary of state shall charge and collect in advance from every domestic and foreign corporation, except corporations organized under the laws of this state for which existing law provides a different fee schedule:

Miscellaneous charges.

(1) For furnishing a certified copy of any document, instrument or paper relating to a corporation, five dollars plus a further charge of twenty-five cents per page for each page in excess of ten pages;

(2) At the time of any service of process on him as agent of a corporation, two dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

SEC. 137. Every domestic corporation, except one for which existing law provides a different fee sched-

Fees—Domestics.

Business corporation act.
 Fees, charges—
 Domestics—
 Fees for filing articles, documents increasing capital stocks—
 Auditor's fees.

ule, shall pay for filing of its articles of incorporation a fee of fifty dollars for the first fifty thousand dollars or less, of its authorized capital stock; and one-tenth of one percent additional on all amounts in excess of fifty thousand dollars and not exceeding one million dollars; one twenty-fifth of one percent additional on all amounts in excess of one million dollars, and not exceeding four million dollars; and one-fiftieth of one percent additional on all amounts in excess of four million dollars; but in no case shall the amount exceed five thousand dollars.

Every domestic corporation, except one for which existing law provides a different fee schedule, desiring to file in the office of the secretary of state, articles amendatory or supplemental articles increasing its capital stock, or certificates of increase of capital stock, shall pay to the secretary of state the fees hereinabove in this section provided, in proportion to such increased capital stock upon the actual amount of such increase, and every such corporation desiring to file other amendatory or supplemental articles shall pay to the secretary of state a fee of ten dollars.

For filing the articles of incorporation the county auditor shall charge the sum of two dollars. For filing any other paper required to be filed by this act the county auditor shall charge the sum of one dollar.

Statement of value of nonpar stock—
 Revaluation—
 Appeal.

SEC. 138. In the case of any corporation whose stock is wholly or partly without par value, there shall be filed with the articles of incorporation the affidavit of one of the incorporators, or other representative of the corporation, stating that, to the best of his knowledge and belief, the value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock does not exceed a certain sum therein named, and the sum so named in such affidavit shall be assumed prima facie as the amount of capitaliza-

tion represented by such nonpar value stock for the purpose of fixing the filing fees and annual license fees to be paid by such corporation under the laws of this state: *Provided*, That at any time within two years after the filing of such articles of incorporation, the secretary of state may investigate and make a finding as to the value of such assets, and if the value of the assets received in consideration of the issuance of such nonpar value stock is found by him to exceed the amount stated in such affidavit, such corporation shall pay to the secretary of state the additional filing and license fees payable under the laws of this state, based on the excess of the true valuation, as so found, over the value stated in such affidavit, together with interest on such additional sum at the rate of eight percent per annum from the date when the same became due, such payment to be made within sixty days after notice mailed by the secretary of state addressed to such corporation at its last known address. Such finding of the secretary of state shall be subject to review on such evidence as the parties may submit to the court, if an action for such review be begun by such corporation in the superior court of Thurston county within the sixty days. If such action be begun, such corporation shall be allowed sixty days, after judgment of the court finally adjudging the matter, in which to pay any additional fees that may be payable.

The sum named in any such affidavit may be increased or reduced by the filing of an amended affidavit and the payment of a filing fee for such increase or reduction as is required for an increase or reduction of authorized shares for domestic corporations.

SEC. 139. Every corporation organized under the laws of this state, except the corporations for which existing law provides a different fee schedule, shall make and file an affidavit as to the amount of its

Annual license
fee, domestic
corporation.

Business corporation act.
Fees, charges.
Annual license fee, domestic corporation.

authorized capital stock, and shall pay, on or before the first day of July of each and every year, to the secretary of state, and it shall be the duty of the secretary of state to collect, for the use of the state, an annual license fee of thirty dollars for the first fifty thousand dollars or less of its authorized capital stock; and one-twentieth of one percent additional on all amounts in excess of fifty thousand dollars, and not exceeding one million dollars; and one-fiftieth of one percent additional on all amounts in excess of one million dollars, and not exceeding four million dollars; and one one-hundredth of one percent additional on all amounts in excess of four million dollars; but in no case shall an annual license fee exceed the sum of two thousand five hundred dollars.

Annual license fees, penalty for nonpayment of.

SEC. 140. In the event any corporation, foreign or domestic, shall fail to pay its annual license fee when due there shall become due and owing the state of Washington an additional license fee equivalent to one percent per month or fraction thereof computed upon each annual license fee from the date it should have been paid to the date when it is paid: *Provided*, That the minimum additional license fee due under the provisions of this section shall be two dollars and fifty cents.

Corporations incorporated prior to the effective date of this act shall be deemed to have been incorporated on July 1st of the year of their incorporation.

No action for dissolution by the attorney general for failure to pay any fees under this section shall be commenced sooner than four months after the date when the fees shall have become due and payable under this section.

—Public service companies entitled to deduction.

SEC. 141. The annual fee required to be paid to the department of public service by any public service corporation shall be deducted from the annual

license fee provided herein and the excess only shall be collected.

It shall be the duty of the director of public service to furnish to the secretary of state on or before July 1st of each year a list of all public service corporations with the amount of annual license fees paid to the department of public service for the current year.

SEC. 142. Any corporation organized solely for the purpose of developing natural resources and which does not own or operate any producing mine or property, may file with the secretary of state, on or before the first day of July of any year, its statement, verified by the oath of its president and secretary, covering its operations for the year ending June 1st prior thereto, upon forms to be furnished to it by the secretary of state upon request, and pay therewith to the secretary of state a license fee of ten dollars, and shall thereupon be entitled to a license for the ensuing year.

Fee of non-producing corporation organized to develop natural resources.

The statement shall contain such information as may be required from time to time by the secretary of state, including the name of the company, its principal officers, amount of its authorized shares, subscribed and issued, its par value per share, the name and address of its resident agent or attorney in fact if a foreign corporation, and a brief description of the character and extent of the work and expenditures of the company during the preceding year.

SEC. 143. For the purpose of enforcing collection, all annual license fees assessed in accordance with this act, all penalties assessed thereon and all interest and costs that shall accrue in connection with the collection thereof, shall be a prior and first lien on the real and personal property of the corporation from and including the date when such license fees

Fees as debts, lien on assets.

become due and payable and until such fees, penalties, interest and costs shall have been paid.

Business corporation act.
Fees, charges.
List of foreign corporations
—Assessors to compile.

SEC. 144. Every year at the time of the county tax assessment the county tax assessor shall compile a list of all of the foreign corporations doing business by agent or otherwise within his county. The list shall be alphabetical and shall contain:

- (1) The name of each foreign corporation;
- (2) The nature of the business of the corporation;
- (3) The name of the agent within the county of each corporation;
- (4) Business address of the agent; or
- (5) If an individual, both his business and residence address.

Within ten days after the compilation the tax assessor shall deliver the compiled list to the county auditor.

—Copy to secretary of state.

SEC. 145. Within thirty days of receipt of the list of foreign corporations as compiled by the county tax assessor pursuant to section 144 of this act, the county auditor of each county shall send a true copy of the list to the secretary of state.

Foreign corporations,
filing fee payable by.

SEC. 146. A foreign corporation doing an intrastate business or seeking to do an intrastate business in the state of Washington shall qualify so to do in the manner prescribed in this act and shall pay for the privilege of so doing the filing and license fees prescribed in this act for domestic corporations, including the same fees as are prescribed herein for the filing of articles of incorporation of a domestic corporation. The fees are to be computed upon the portion of capital stock of such corporation represented or to be represented in the state of Washington, to be ascertained by comparing the value in money of its entire property and capital with the value in money of its property and capital in, or to

be brought into, and used in this state. Any corporation that employs an increased amount of its capital stock within the state shall pay fees at the same rate upon such increase, and whenever such increase is made such corporation shall file with the secretary of state, a statement showing the amount of such increase. Before any foreign corporation shall be authorized to do intrastate business in the state of Washington it shall file with the secretary of state upon a blank form to be furnished for that purpose under the oath of its president, secretary, treasurer, superintendent or managing agent in this state, a statement showing the following facts:

(1) The number of shares of capital stock of the company and the par value of each share, and if such shares have no par value, then the value of the assets represented by nonpar shares.

(2) The portion of the capital stock of the company which is represented and/or to be represented, employed and/or to be employed in its business transacted or to be transacted in the state of Washington.

(3) The value of the property in or to be brought into, and the amount of capital to be used by the company in the state of Washington and the value of the property and capital owned and/or used by the company outside of the state of Washington.

(4) Such other facts as the secretary of state may require.

From the facts thus reported, and such other additional information as the secretary of state may require, the secretary of state shall determine the amount of capital or the proportionate amount of the capital stock of the company represented by its property and business in the state of Washington and upon which the fees prescribed herein are payable.

Business corporation act. Fees, charges. Foreign corporations, annual license fee payable by.

SEC. 147. All foreign corporations doing intrastate business, or hereafter seeking to do intrastate business in this state shall pay for the privilege of doing such intrastate business in this state the same fees as are prescribed for domestic corporations for annual license fees. Such fees shall be computed upon the proportion of the capital stock represented or to be represented by its property and business in this state to be ascertained by comparing the entire volume of business with the volume of intrastate business in this state. Any such corporation that shall employ an increased amount of its capital stock within this state shall pay license fees upon such increase in the same proportion as provided for payment of license fees by domestic corporations. Such corporations shall file with the secretary of state a statement showing the amount of such increase and shall forthwith pay to the secretary of state the increased license fee brought about by such increased use of capital represented by its property and business in this state. All fees shall be paid on or before the first day of July of each and every year.

Failure to answer interrogatories--Penalty.

SEC. 148. Each officer and director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this act to answer truthfully and fully interrogatories propounded to him by the secretary of state in accordance with the provisions of this act, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

Interrogatories by secretary of state.

SEC. 149. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this act, and to any officer or direc-

tor thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all the provisions of this act applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice-president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this act. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this act.

SEC. 150. Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection nor shall the secretary of state disclose any facts or information obtained therefrom except insofar as his official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state.

Interrogatories, information disclosed by.

SEC. 151. The secretary of state shall have the power and authority reasonably necessary to enable him to administer this act efficiently and to perform the duties therein imposed upon him.

Administration, powers and duties of secretary of state.

Business corporation act.
Appeal from secretary of state.

SEC. 152. If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this act to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the superior court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to transact business in this state of any foreign corporation, pursuant to the provisions of this act, such foreign corporation may likewise appeal to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the superior court under this section in

review of any ruling or decision of the secretary of state may be taken as in other civil actions.

SEC. 153. All certificates issued by the secretary of state in accordance with the provisions of this act, and all copies of documents filed in his office in accordance with the provisions of this act when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the great seal of this state, as to the existence or non-existence of the facts relating to corporations shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

Certificates, certified copies, to be received in evidence.

SEC. 154. Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of any class or series thereof, than required by this act with respect to such action, the provisions of the articles of incorporation shall control.

Greater voting requirements.

SEC. 155. Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of this act or under the provisions of the articles of incorporation or by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Waiver of notice.

SEC. 156. Any action required by this act to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the

Shareholders, action by without a meeting.

Business corporation act. Shareholders, action by without a meeting.

action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

Such consent shall have the same force and effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the secretary of state under this act.

Unauthorized assumption of corporate powers.

SEC. 157. All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

Certain exemptions from filing and licensing fees.

SEC. 158. Building and loan and savings and loan associations paying special fees provided for in the act under which the same are incorporated, shall not be required to pay the filing and license fees provided for herein and shall be exempted from the provisions of this act.

Compliance with fee requirements prerequisite to court proceedings.

SEC. 159. No corporation shall be permitted to commence or maintain any suit, action, or proceeding in any court of this state, without alleging and proving that it has paid or contracted to pay as herein provided all fees and penalties due the state of Washington under existing law or this act.

Application to foreign and interstate commerce.

SEC. 160. The provisions of this act shall apply to commerce with foreign nations and among the several states only insofar as the same may be permitted under the provisions of the Constitution of the United States.

Application to existing corporations.

SEC. 161. The provisions of this act shall apply to all existing corporations organized under any general act of this state providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this act, where the power has been reserved to amend, repeal or modify the act under which such corporation was organized and where such act is repealed

by this act. Neither the enactment of this title nor the amendment or repeal thereof, nor of any statute affecting corporations, shall take away or impair any liability of cause of action existing or accrued against any corporation, its shareholders, directors or officers.

SEC. 162. Any moneys received by the secretary of state under the provisions of this act shall be by him paid into the state treasury as provided by law.

Disposition
of funds.

SEC. 163. The legislature shall at all times have power to prescribe such regulations, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this act, and the legislature shall have power to amend, repeal or modify this act at pleasure.

Revocation of
power by
legislature.

SEC. 164. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

Effect of in-
validity of
part of act.

SEC. 165. Nothing contained in this act shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections 2 and 13 of section 135, subsections 1 and 2 of section 136, and sections 137, 138, 139, 140, 141, 142, 146, and 147 shall be deemed to be a continuation of chapter 70, Laws of 1937, as amended, for the purpose of payment of:

No impairment
of state obli-
gation evi-
denced by
bonds.

(1) world's fair bonds authorized by chapter 174, Laws of 1957 as amended by chapter 152, Laws of 1961, and

(2) outdoor recreation bonds authorized by referendum bill number 11 (chapter 12, Laws of 1963

extraordinary session), approved by the people on November 3, 1964.

Business
corporation
act. Repeal.

SEC. 166. The following acts or parts of acts are hereby repealed:

- (1) Section 1, chapter 132, Laws of 1963;
- (2) Chapter 160, Laws of 1961;
- (3) Sections 1 and 2, chapter 208, Laws of 1961;
- (4) Sections 1 and 2, chapter 12, Laws of 1959;
- (5) Sections 1 and 4, chapter 263, Laws of 1959;
- (6) Sections 1 through 4, chapter 198, Laws of 1957;
- (7) Sections 1 through 3, chapter 143, Laws of 1955;
- (8) Chapter 92, Laws of 1955;
- (9) Chapter 213, Laws of 1953;
- (10) Chapter 170, Laws of 1949;
- (11) Chapter 172, Laws of 1949;
- (12) Chapter 188, Laws of 1949;
- (13) Chapter 195, Laws of 1947;
- (14) Sections 1 and 2, chapter 226, Laws of 1947;
- (15) Chapter 32, Laws of 1943;
- (16) Section 7, chapter 103, Laws of 1941;
- (17) Sections 1 through 18, chapter 143, Laws of 1939;
- (18) Sections 1 through 32, chapter 70, Laws of 1937;
- (19) Chapter 185, Laws of 1933;
- (20) Chapter 168, Laws of 1923;
- (21) Chapter 93, Laws of 1915;
- (22) Chapter 41, Laws of 1911;
- (23) Chapter 11, Laws of 1905;
- (24) Chapter LXX (70), Laws of 1897;
- (25) Chapter XXXVIII (38), Laws of 1895;
- (26) Chapter CXLII (142), Laws of 1895;
- (27) Page 288, Laws of 1890;
- (28) Page 85, Laws of 1886;
- (29) Page 86, Laws of 1886;
- (30) Page 87, Laws of 1886;

- (31) RCW 23.52.010 through 23.52.120;
- (32) Chapters 23.01, 23.54, 23.60 and 23.70 RCW.

SEC. 167. This act shall take effect on July 1, 1967. Effective date.

SEC. 168. Section 1, chapter 173, Laws of 1927 and RCW 4.12.025 are each amended to read as follows: RCW 4.12.025 amended.

An action may be brought in any county in which the defendant resides, or, if there be more than one defendant, where some one of the defendants resides at the time of the commencement of the action. For the purpose of RCW 4.12.025, 4.12.026 and 4.12.027, the residence of a corporation defendant shall be deemed to be in any county where the corporation transacts business or has an office for the transaction of business or transacted business at the time the cause of action arose or where any person resides upon whom process may be served upon the corporation, unless hereinafter otherwise provided. The venue of any action brought against a corporation, at the option of the plaintiff, shall be (1) in the county where the tort was committed; (2) in the county where the work was performed for said corporation; (3) in the county where the agreement entered into with the corporation was made; or (4) in the county where the corporation has its principal place of business.

Actions to be brought where defendant resides—Residence of corporations.

Passed the House March 11, 1965.

Passed the Senate March 10, 1965.

Approved by the Governor March 20, 1965.

CHAPTER 54.

[House Bill No. 64.]

STATE EDUCATIONAL INSTITUTIONS — SCHOOL DISTRICTS—ANNUITIES FOR EMPLOYEES.

AN ACT relating to the purchase of tax deferred annuities for employees of the state educational institutions or school district; saving certain contractual rights; and amending section 1, chapter 223, Laws of 1937 as last amended by section 1, chapter 256, Laws of 1957 and RCW 28.76.240.

Be it enacted by the Legislature of the State of Washington:

School, educational institution employees. Tax deferred annuities for authorized.

SECTION 1. The regents, trustees, or board of directors of any of the state educational institutions or school districts are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403 (b), as amended by Public Law 87-370, 75 Stat. 796 as now or hereafter amended.

RCW 28.76.240 amended.

SEC. 2. Section 1, chapter 223, Laws of 1937 as last amended by section 1, chapter 256, Laws of 1957 and RCW 28.76.240 are each amended to read as follows:

Annuities and retirement income plans for faculty members.

The board of regents of the University of Washington and the board of regents of the Washington State University are authorized and empowered:

(1) To assist the faculties and such other employees of their respective institutions as the board of regents may designate in the purchase of old age annuities or retirement income plans under such rules and regulations as the regents of said institutions may prescribe. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;