

CHAPTER 120
[Substitute House Bill No. 581]
MISCELLANEOUS AND MUTUAL CORPORATIONS

AN ACT Relating to corporations; authorizing the organization and maintenance of miscellaneous and mutual corporations; adding a new chapter to Title 24 RCW; providing penalties; and declaring an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a mutual corporation or miscellaneous corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a mutual or miscellaneous corporation or other corporation organized under laws other than the laws of this state which would be subject to the provisions of this chapter if organized under the laws of this state.

(3) "Mutual corporation" means a corporation organized to accomplish one or more of its purposes on a mutual basis for members and other persons.

(4) "Miscellaneous corporation" means any corporation which is organized for a purpose or in a manner not provided for by the Washington business corporation act or by the Washington nonprofit corporation act, and which is not required to be organized under other laws of this state.

(5) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with provisions of its articles of incorporation or bylaws.

(8) "Stock" or "share" means the units into which the proprietary interests of a corporation are divided in a corporation organized with stock.

(9) "Stockholder" or "shareholder" means one who is a holder of record of one or more shares in a corporation organized with stock.

(10) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(11) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

NEW SECTION. Sec. 2. The provisions of this chapter relating to domestic corporations shall apply to:

(1) All corporations organized hereunder; and

(2) All corporations which were heretofore organized under any act repealed by the Washington nonprofit corporation act and which are not organized for a purpose or in a manner provided for by said act.

The provisions of this chapter relating to foreign corporations shall apply to all foreign corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this chapter.

NEW SECTION. Sec. 3. Corporations may be organized under this chapter for any lawful purpose including but not limited to mutual, social, cooperative, fraternal, beneficial, service, labor organization, and other purposes; but excluding purposes which by law are restricted to corporations organized under other statutes.

NEW SECTION. Sec. 4. One or more individuals, partnerships, corporations or governmental bodies or agencies may incorporate a corporation by signing, verifying and delivering articles of incorporation in triplicate to the secretary of state.

NEW SECTION. Sec. 5. The articles of incorporation shall set forth:

(1) The name of the corporation.

(2) The period of duration.

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

(4) The qualifications and the rights and responsibilities of the members and the manner of their election, appointment or admission to membership and termination of membership; and, if there is more than one class of members or if the members of any one class are not equal, the relative rights and responsibilities of each class or each member.

(5) If the corporation is to have capital stock:

(a) 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;

(b) 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;

(c) 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.

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

(6) If the corporation is to distribute surplus funds to its members, stockholders or other persons, provisions for determining the amount and time of the distribution.

(7) Provisions for distribution of assets on dissolution or

final liquidation.

(8) Whether a dissenting shareholder or member shall be limited to a return of less than the fair value of his shares or membership.

(9) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(10) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(11) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(12) 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 chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

NEW SECTION. Sec. 6. Each corporation shall have power:

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

(4) To purchase, take, receive, lease, take by gift, devise

or bequest, or otherwise acquire, own, hold, be trustee of, 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.

(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, whether for profit or not for profit, 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 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 re-invest 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 affairs, carry on its operations, and have offices and exercise the powers granted by this chapter, 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 establish and maintain reserve, equity, surplus or other funds, and to provide for the time, form and manner of distribution of such funds among members, shareholders or other persons with interests therein in accordance with the articles of incorporation.

(14) Unless otherwise provided in the articles of incorporation, 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 the United States and its war activities.

(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 officer of another corporation, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding 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: PROVIDED, That such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise.

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

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized and not inconsistent with the articles of incorporation or the provisions of this chapter.

NEW SECTION. Sec. 7. A corporation subject to the provisions of this chapter shall not engage in any business, trade, avocation or profession for profit: PROVIDED, That nothing contained herein shall be construed to forbid such a corporation from accumulating reserve, equity, surplus or other funds through subscriptions, fees, dues or assessments, or from charges made its members or other persons for

services rendered or supplies or benefits furnished, or from distributing its surplus funds to its members, stockholders or other persons in accordance with the provisions of the articles of incorporation.

NEW SECTION. Sec. 8. 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:

(1) In a proceeding by a member, shareholder or a director against the corporation to enjoin the doing or continuation of unauthorized 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 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 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: PROVIDED, That 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 members or shareholder in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

NEW SECTION. Sec. 9. The corporate name:

(1) 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.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state or a corporate name reserved or registered as permitted by the laws of this state.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

NEW SECTION. Sec. 10. Each corporation shall have and continuously maintain in this state:

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

(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 existing under any act of this state or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a verified statement of such designation, executed by the president or a vice president of the corporation, together with a copy of the board of directors' designating resolution certified as true by the secretary of the corporation, shall be filed with the secretary of state.

NEW SECTION. Sec. 11. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement 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, including

street and number.

(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 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 chapter, 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 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 in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

NEW SECTION. Sec. 12. 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 certified 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.

NEW SECTION. Sec. 13. A corporation may have one or more classes of members. The designation of such class or classes, the manner of election, appointment or admission to membership, and the qualifications, responsibilities and rights of the members of each class shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein. Certificates may be assigned by a member and reacquired by the corporation under such provisions, rules and regulations as may be prescribed in the articles of incorporation. Membership may be terminated under such provisions, rules and regulations as may be prescribed in the articles of incorporation or bylaws.

NEW SECTION. Sec. 14. (1) Each corporation which is organized with capital stock shall have the 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.

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

(a) 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.

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

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

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

(3) 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.

(4) 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, sub-

scriptions 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.

NEW SECTION. Sec. 15. (1) 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.

(2) Shares without par value shall be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

NEW SECTION. Sec. 16. The shares of a corporation shall be represented by certificates signed by the president or 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.

NEW SECTION. Sec. 17. 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.

NEW SECTION. Sec. 18. 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.

NEW SECTION. Sec. 19. The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation.

NEW SECTION. Sec. 20. Meetings of members and/or 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 in this state.

An annual meeting of the members and 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 members or shareholders may be called by the president or by the board of directors. Special meetings of the members or shareholders may also be called by such other officers or persons or number or proportion of members or shareholders as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members or shareholders entitled to call a meeting, a special meeting of members or shareholders may be called by persons having one-twentieth of the votes entitled to be cast at such meeting.

NEW SECTION. Sec. 21. Written or printed 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, or the secretary, or the officers or persons calling the meeting, to each member or shareholder entitled to vote at such meeting. If provided in the articles of incorporation, notice of regular meetings other than annual may be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to a regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member or shareholder at his address as it appears on the records of the corporation, with postage thereon prepaid.

NEW SECTION. Sec. 22. The right of a class or classes of members or shareholders to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation. Unless so limited, enlarged or denied, each member and each outstanding share of each class shall be entitled to one vote on each matter submitted to a vote of members or shareholders. No member of a class may ac-

quire any interest which will entitle him to a greater vote than any other member of the same class.

A member or shareholder may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by mail or by proxy executed in writing by the member or shareholder or by his duly authorized attorney-in-fact: PROVIDED, That no proxy shall be valid for more than eleven months from the date of its execution unless otherwise specified in the proxy.

The articles of incorporation may provide that whenever proposals or directors or officers are to be voted upon, such vote may be taken by mail if the name of each candidate and the text of each proposal to be so voted upon are set forth in a writing accompanying or contained in the notice of meeting. Persons voting by mail shall be deemed present for all purposes of quorum, count of votes and percentages of total voting power voting.

The articles of incorporation or the bylaws may provide that in all elections for directors every person entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

NEW SECTION. Sec. 23. The articles of incorporation or the bylaws may provide the number or percentage of votes which members or shareholders are entitled to cast in person, by mail, or by proxy, which shall constitute a quorum at meetings of shareholders or members. However, in no event shall a quorum be less than one-fourth of the votes which members or shareholders are entitled to cast in person, by mail, or by proxy, at a meeting considering the adoption of a proposal which is required by the provisions of this chapter to be adopted by at least two-thirds of the votes which members or shareholders present at the meeting in person or by mail or represented by proxy are entitled to cast. In all other matters and in the absence of any provision in the articles of incorporation or bylaws, a quorum

shall consist of one-fourth of the votes which members or shareholders are entitled to cast in person, by mail or by proxy at the meeting. On any proposal on which a class of shareholders or members is entitled to vote as a class, a quorum of the class entitled to vote as such class must also be present in person, by mail, or represented by proxy.

NEW SECTION. Sec. 24. A class of members or shareholders shall be entitled to vote as a class upon any proposition, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the proposition would increase or decrease the rights, qualifications, limitations, responsibilities or preferences of the class as related to any other class.

NEW SECTION. Sec. 25. The affairs of the corporation shall be managed by a board of directors. Directors need not be residents of this state or members or shareholders of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

NEW SECTION. Sec. 26. The number of directors of a corporation shall be not less than three and shall be fixed by the bylaws: PROVIDED, That the number of the first board of directors 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, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number 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 directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and

for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

NEW SECTION. Sec. 27. Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed, as the case may be, to fill a vacancy, shall be elected or appointed for the unexpired term of his predecessor in office.

NEW SECTION. Sec. 28. 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 otherwise provided in the articles of incorporation or the bylaws: PROVIDED, That a quorum shall never consist of less than one-third of the number of directors so fixed or stated. 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 this chapter, the articles of incorporation, or the bylaws.

NEW SECTION. Sec. 29. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolu-

tion, in the articles of incorporation, or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation: PROVIDED, That no such committee shall have the authority of the board of directors in reference to:

- (1) Amending, altering or repealing the bylaws;
- (2) Electing, appointing, or removing any member of any such committee or any director or officer of the corporation;
- (3) Amending the articles of incorporation;
- (4) Adopting a plan of merger or a plan of consolidation with another corporation;
- (5) Authorizing the sale, lease, exchange, or mortgage, of all or substantially all of the property and assets of the corporation;
- (6) Authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; or
- (7) Amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

NEW SECTION. Sec. 30. Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any 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.

NEW SECTION. Sec. 31. The officers of a corporation shall

consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

NEW SECTION. Sec. 32. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, shareholders, board of directors, and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members and shareholders entitled to vote. All books and records of a corporation may be inspected by any member or shareholder, or his agent or attorney, for any proper purpose at any reasonable time.

NEW SECTION. Sec. 33. No loans exceeding or more favorable than those which are customarily made to members or shareholders shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan in violation of this section to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NEW SECTION. Sec. 34. 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 fees have been paid as in this chapter 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) 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 representatives. The third remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of incorporation shall be retained by the corporation.

NEW SECTION. Sec. 35. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, 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 chapter.

NEW SECTION. Sec. 36. 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 adopting bylaws, 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 the meeting.

A first meeting of the members and shareholders may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting.

NEW SECTION. Sec. 37. 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 incorporation as amended contain only such provisions as are lawful under this chapter.

NEW SECTION. Sec. 38. Amendments to the articles of incorporation shall be made in the following manner:

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 members and shareholders, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member and shareholder entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members or shareholders present in person or by mail at such meeting or represented by proxy are entitled to cast: PROVIDED, That when any class of shares or members is entitled to vote thereon by class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are present in person, by mail, or represented by proxy at such meeting.

Any number of amendments may be submitted and voted upon at any one meeting.

NEW SECTION. Sec. 39. The articles of amendment shall be executed in triplicate originals 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:

- (1) The name of the corporation.
- (2) The amendment so adopted.
- (3) A statement setting forth the date of the meeting of members and shareholders at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members or shareholders of the corporation, and of each class entitled to vote thereon as a class, present at such meeting in person, by mail, or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members and shareholders entitled to vote with respect thereto.

NEW SECTION. Sec. 40. 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 prescribed in this chapter:

- (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 amendment to which he shall affix one of such originals.

The certificate of amendment, together with 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. The last remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of amendment shall be retained by the corporation.

NEW SECTION. Sec. 41. 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.

No amendment shall affect any existing cause of action in favor of or against such corporation, nor any pending action to which such corporation shall be a party, nor the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

NEW SECTION. Sec. 42. 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 chapter.

Each corporation shall adopt 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) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

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

NEW SECTION. Sec. 43. 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 chapter.

Each corporation shall adopt 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) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

(4) Such other provisions with respect to the proposed con-

solidation as are deemed necessary or desirable.

NEW SECTION. Sec. 44. A plan of merger or consolidation shall be adopted in the following manner:

The board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail at each such meeting or represented by proxy are entitled to cast: PROVIDED, That when any class of shares or members is entitled to vote thereon as a class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are present in person, by mail, or represented by proxy at such meeting.

After such approval, 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.

NEW SECTION. Sec. 45. (1) Upon approval, articles of merger or articles of consolidation shall be executed in triplicate originals 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:

- (a) The plan of merger or the plan of consolidation;
- (b) A statement setting forth the date of the meeting of members or shareholders at which the plan was adopted, that quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members and shareholders of the corporation,

and of each class entitled to vote thereon as a class, present at such meeting in person or by mail or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members;

(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 prescribed in this chapter:

(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.

The certificate of merger or certificate of consolidation, together with the 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, as the case may be, or its representative. The remaining original shall be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of merger or consolidation shall be retained by the corporation.

NEW SECTION. Sec. 46. Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.

NEW SECTION. Sec. 47. When such merger or consolidation has been effected:

(1) The several corporations party 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 party to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) The 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 chapter.

(4) The surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, whether of a public or a private nature, of each of the merging or consolidating corporations; all property, real, personal and mixed, and all debts due on whatever account, 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 no title to any real estate, or any interest therein, vested in any of such corporations shall not revert nor be in any way impaired by reason of such merger or consolidation.

(5) The 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. No 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 chapter shall be deemed to be the articles of incorporation of the new corporation.

NEW SECTION. Sec. 48. A sale, lease, exchange, or other disposition of all or substantially all of the property and assets of a corporation 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 corporation for profit, domestic or foreign, as may be authorized in the following manner:

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

(2) Written or printed notice stating that the purpose or one of the purposes of such meeting is to consider the sale, lease, exchange, or other disposition of all or substantially all of the property and assets of the corporation shall be given to each member and shareholder within the time and in the manner provided by this chapter for the giving of notice of meetings of members and shareholders.

(3) At such meeting the members 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.

(4) Such authorization shall require at least two-thirds of the votes which members and shareholders present at such meetings in person, by mail, or represented by proxy are entitled to cast: PROVIDED, That even after such authorization by a vote of members or shareholders, the board of directors may, in its discretion, without further action or approval by members, abandon such sale, lease, exchange, or other disposition of assets, subject only to the rights of third parties under any contracts relating thereto.

NEW SECTION. Sec. 49. Any member or 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; or

(3) Any amendment to the articles of incorporation which changes voting or property rights of members or shareholders other than by changing the number of memberships or shares or classes of either thereof; or

(4) Any amendment to the articles of incorporation which reorganizes a corporation under the provisions of this chapter.

The provisions of this section shall not apply to the members or 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 outstanding shares of the other corporations, domestic or foreign, which are parties to the merger, or if a vote of the members and shareholders of such corporation is not necessary to authorize such merger.

NEW SECTION. Sec. 50. Any member or shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of members and 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 member or shareholder shall not have voted in favor thereof, such member or 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 members and shareholders into another corporation, any other members or shareholders may, within fifteen days after the plan of such merger shall have been mailed to such members and 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 member's membership or of such shareholder's shares, and, if such proposed corporation action is effected, such corporation shall pay to such members, upon surrender of his membership certificate, if any, or 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 member or shareholder failing to make demand within the ten day period shall be bound by the terms of the proposed corporate action. Any member or 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 member or shareholder.

No such demand shall be withdrawn unless the corporation shall consent thereto. The right of such member or shareholder to be paid the fair value of his shares shall cease and his status as a member or 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 members or 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 member or 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 member or shareholder who has made demand as herein provided, and shall make a written offer to each such member or shareholder to pay for such shares or membership 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 in which the member has his membership or 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 or membership is agreed upon between any such dissenting member or 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 membership certificate, if any, or upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting member or shareholder shall cease to have any interest in such membership or shares.

If within such period of thirty days a dissenting member or shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting member or 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 membership or 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 member or shareholder may do so in the name of the corporation. All dissenting members and shareholders, wherever residing, shall be made parties to the proceeding as an action against their memberships or shares quasi in rem. A copy of the petition shall be served on each dissenting member and shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting member or 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 members and shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for 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 membership certificate, if any, or of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder or member shall cease to have any interest in such shares or membership.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the cir-

cumstances, 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 members and shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for membership or shares if the court shall find that the action of such members or 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 memberships or 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 member or 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 member or shareholder in the proceeding.

Within twenty days after demanding payment for his shares or membership, each member and shareholder demanding payment shall submit the certificate or certificates representing his membership or 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 membership or 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 membership or shares, and a transferee of such membership or shares shall acquire by such transfer no rights in the corporation other than those which the original

dissenting member or shareholder had after making demand for payment of the fair value thereof.

NEW SECTION. Sec. 51. Notwithstanding any provision in this chapter for the payment of fair value to a dissenting member or shareholder, the articles of incorporation may provide that a dissenting member or shareholder shall be limited to a return of a lesser amount, but in no event shall a dissenting shareholder be limited to a return of less than the consideration paid to the corporation for the membership or shares which he holds unless the fair value of the membership or shares is less than the consideration paid to the corporation.

NEW SECTION. Sec. 52. A corporation may dissolve and wind up its affairs in the following manner:

(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 members and shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders.

(3) A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy are entitled to cast.

Upon the adoption of such resolution by the members and shareholders, the corporation shall cease to conduct its affairs and, except insofar as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and to apply and distribute them as provided in section 53 of this chapter.

NEW SECTION. Sec. 53. The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Remaining assets, if any, shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation.

NEW SECTION. Sec. 54. A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, 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 question of such revocation be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members or shareholders.

(3) A resolution to revoke voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy are entitled to cast.

NEW SECTION. Sec. 55. If voluntary dissolution proceedings have not been revoked, then after all debts, liabilities and obliga-

tions of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, 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; and such statement shall set forth:

(1) The name of the corporation.

(2) The date of the meeting of members or shareholders at which the resolution to dissolve was adopted, certifying that:

(a) A quorum was present at such meeting;

(b) Such resolution received at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy were entitled to cast or was adopted by a consent in writing signed by all members and shareholders;

(c) All debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;

(d) All the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter; and

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

NEW SECTION. Sec. 56. Triplicate originals of 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 prescribed in this chapter:

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

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

(3) Issue a certificate of dissolution which he shall affix to 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 other remaining original shall be returned to the representative of the dissolved corporation, who shall file such remaining original in the office of the county auditor of the county in which the registered agent is situated or in such other county office as may be designated in a charter county for the filing of articles of incorporation. The other original with affixed certificate of dissolution shall be retained with the corporation minutes.

Upon the issuance of a certificate of dissolution, the corporate existence shall cease, except for the purpose of determining such suits, other proceedings and appropriate corporate action by members, directors and officers as are authorized in this chapter.

NEW SECTION. Sec. 57. A corporation may be dissolved by decree of the superior court in an action filed on petition of the attorney general upon a showing that:

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

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

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

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

NEW SECTION. Sec. 58. (1) Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation un-

der law.

Every corporation which shall fail to file its annual report for three consecutive years shall cease to exist as a corporation on the first day of July of the third year in which no report was filed and the secretary of state shall issue a certificate of dissolution. When a corporation has ceased to exist by operation of this section, remedies available to or against it shall survive in the manner provided by section 67 of this act and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders.

(2) Whenever the secretary of state shall have knowledge of any cause existing under section 57 of this act for the dissolution of a corporation, he shall certify the same to the attorney general and 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 shall file an action in the name of the state against the corporation for its dissolution. Every such certificate from the secretary of state to the attorney general pertaining to the failure of a corporation to file an annual report shall be taken and received in all courts as prima facie evidence of the facts therein stated.

(a) If, before such action is filed, the corporation shall appoint or maintain a registered agent as provided in this chapter, or shall file with the secretary of state the required statement of change of 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.

(b) If, after action is filed, the corporation shall appoint or maintain a registered agent as provided in this chapter, or shall file with the secretary of state the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

NEW SECTION. Sec. 59. Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the superior court of the county in which the registered office of the corporation is situated, or in the superior court of Thurston county. 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 a newspaper published in the county where the registered office of the corporation is situated, notifying the corporation of the pendency of such action, the title of the court, the title of the action, the date on or after which default may be entered, giving the corporation thirty days within which to appear, answer, and defend. 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 by certified mail to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general 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 not found. Unless a corporation shall have been personally served with summons, no default shall be taken against it less than thirty days from the first publication of such notice.

NEW SECTION. Sec. 60. The superior court shall have full power to liquidate the assets and to provide for the dissolution of a corporation when:

(1) In any action by a member, shareholder or director it is made to appear that:

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

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

(c) The corporate assets are being misapplied or wasted; or

(d) The corporation is unable to carry out its purposes; or

(e) The shareholders 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.

(2) In an action by a creditor:

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

(b) 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) A corporation applies to have its dissolution continued under the supervision of the court.

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

Proceedings under subsections (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 directors, members or shareholders party to any such action or proceedings unless relief is sought against them personally.

NEW SECTION. Sec. 61. (1) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to:

(a) Issue injunctions;

(b) Appoint a receiver or receivers pendente lite, with such powers and duties as the court may, from time to time, direct;

(c) Take such other proceedings as may be requisite to preserve the corporate assets wherever situated; and

(d) Carry on the affairs of the corporation until a full hearing can be had.

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 receiver with authority to collect the assets of the corporation. Such receiver 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 order appointing such receiver shall state his powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(2) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings, and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;

(c) Remaining assets, if any, shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation.

(3) The court shall have power to make periodic allowances, as expenses of the liquidation and compensation to the receivers and attorneys in the proceeding accrue, and to direct the payment thereof from the assets of the corporation or from the proceeds of any sale or disposition of such assets.

A receiver 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

NEW SECTION. Sec. 62. A receiver shall in all cases be a citizen of the United States or a corporation for profit 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.

NEW SECTION. Sec. 63. In proceedings to liquidate the assets and affairs 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.

NEW SECTION. Sec. 64. The liquidation of the assets and affairs 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.

NEW SECTION. Sec. 65. In proceedings to liquidate the assets and affairs 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 in accordance with the provisions of this chapter, or in case its property and assets are not

sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and 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 corporate existence shall cease.

NEW SECTION. Sec. 66. In case the court shall enter a decree dissolving a corporation, it shall be the duty of the court clerk 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.

NEW SECTION. Sec. 67. The dissolution of a corporation whether (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 affairs of the corporation as provided in this chapter, 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, members, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years from the date of dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name and capacity. The members, shareholders, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect any remedy, right, or claim. If the corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during the two years in order to extend its period of duration.

NEW SECTION. Sec. 68. (1) No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority from the secretary of state to do so. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any af-

affairs which a corporation organized under this chapter is not permitted to conduct: PROVIDED, That no foreign corporation shall 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: PROVIDED FURTHER, That nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

(2) Without excluding other activities not constituting the conduct of affairs in this state, a foreign corporation shall, for purposes of this chapter, not be considered to be conducting affairs in this state by reason of carrying on in this state any one or more of the following activities:

(a) 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.

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

(c) Maintaining bank accounts.

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

(e) Securing or collecting debts due to it or enforcing any rights in property securing the same.

NEW SECTION. Sec. 69. A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, 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 authorization is issued, and shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

NEW SECTION. Sec. 70. No certificate of authority shall be

issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of section 9 of this chapter.

NEW SECTION. Sec. 71. Whenever a foreign corporation which is authorized to conduct affairs 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 conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state.

NEW SECTION. Sec. 72. A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

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

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

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

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

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

(7) 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 conduct affairs in this state.

NEW SECTION. Sec. 73. 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 arti-

cles of incorporation and all amendments thereto, duly authenticated by the proper officer designated under the laws of the state or country in which it is incorporated.

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

(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 conduct affairs 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.

NEW SECTION. Sec. 74. Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application: PROVIDED, That the state may suspend or revoke such authority as provided in this chapter for revocation and suspension of domestic corporation franchises.

NEW SECTION. Sec. 75. Every foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may but need not be the same as its principal office.

(2) A registered agent, who may be:

(a) An individual resident of this state whose business office is identical with the registered office; or

(b) A domestic corporation organized under any law of this state; or

(c) A foreign corporation authorized under any law of this state to transact business or conduct affairs in this state, having

an office identical with the registered office.

NEW SECTION. Sec. 76. A foreign corporation authorized to conduct affairs 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 statement setting forth:

- (1) The name of the corporation.
- (2) The address of its then registered office.
- (3) If the address of its registered office is to be changed, such new address.
- (4) The name of its then registered agent.
- (5) If its registered agent is to be changed, the name of its successor registered agent.
- (6) That the address of its registered office and the address of the 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 chapter, 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.

NEW SECTION. Sec. 77. Any registered agent in this state appointed by 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 foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

NEW SECTION. Sec. 78. The registered agent so appointed by

a foreign corporation authorized to conduct affairs in this state 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.

NEW SECTION. Sec. 79. Whenever a foreign corporation authorized to conduct affairs 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 certified 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 action, and shall record therein the time of such service and his action with reference thereto: PROVIDED, That nothing contained in this section 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.

NEW SECTION. Sec. 80. Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secre-

tary of state a copy of such amendment duly authenticated by the proper officer designated under the laws of the state or country in which it is incorporated: PROVIDED, That the filing thereof shall not of itself enlarge or alter the purpose or purposes for which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to conduct affairs in this state under any other name than the name set forth in its certificate of authority.

NEW SECTION. Sec. 81. Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under 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 designated under the laws of the state or country in 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 conduct affairs 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 pursue in this state.

NEW SECTION. Sec. 82. A foreign corporation authorized to conduct affairs in this state shall apply for an amended certificate of authority in the event that it wishes to change its corporate name, or desires to pursue in this state purposes other or additional to those set forth in its initial application for a certificate of authority.

The requirements with respect to the form and content of such application, the manner of its execution, the filing, 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.

NEW SECTION. Sec. 83. A foreign corporation authorized to conduct affairs 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, the 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 whose laws it is incorporated.
- (2) A declaration that the corporation is not conducting affairs in this state.
- (3) A surrender of its authority to conduct affairs in this state.
- (4) A notice 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 conduct affairs in this state, may thereafter be made upon 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 that may be served on him as agent for the corporation.

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 shall be 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.

NEW SECTION. Sec. 84. Duplicate originals of an application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the pro-

visions of this chapter, he shall, when all fees have been paid as prescribed in this chapter:

- (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 conduct affairs in this state shall cease.

NEW SECTION. Sec. 85. (1) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

- (a) The corporation has failed to file its annual report within the time required by this chapter or has failed to pay any fees or penalties prescribed by this chapter as they become due and payable; or
- (b) The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter; or
- (c) The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this chapter; 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 chapter; or
- (e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or
- (f) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

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

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

NEW SECTION. Sec. 86. 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 the two certificates of revocation.

Upon issuance of the certificate of revocation, the corporate authority to conduct affairs in this state shall cease.

NEW SECTION. Sec. 87. No foreign corporation conducting affairs 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 conduct of affairs by such corporation in this state until a certificate of authority shall have been obtained by the corporation or by a valid corporation which has (1) acquired all or substantially all of its assets and (2) assumed all of its liabilities: PROVIDED, That the failure of a foreign corporation to obtain a certificate of authority

to conduct affairs in this state shall not impair the substantive 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 under such terms and conditions as a court may find just.

NEW SECTION. Sec. 88. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

- (1) The name of the corporation and the state or country under whose laws it is incorporated.
- (2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under whose laws it is incorporated.
- (3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.
- (4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president or a vice president, by a secretary, an assistant secretary or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed and verified on behalf of the corporation by such receiver or trustee.

NEW SECTION. Sec. 89. An annual report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of May of each year: PROVIDED, That the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the

first day of March of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Deposit in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the first day of March, shall be deemed compliance with this requirement.

If the secretary of state finds that a report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for necessary corrections, in which event the penalties prescribed for failure to file such report within the time required shall not apply if such report is corrected to conform to the requirements of this chapter and returned to the secretary of state in sufficient time to be filed prior to the first day of April of the year in which it is due.

NEW SECTION. Sec. 90. The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment and issuing a certificate of amendment, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar.

(5) Filing articles of dissolution, five dollars.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, five dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

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

(11) Filing a certificate by a foreign corporation of the appointment of a resident agent, ten dollars.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a resident agent, ten dollars.

(13) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, one dollar.

NEW SECTION. Sec. 91. The secretary of state shall charge and collect:

(1) Fifty cents per page and two dollars for the certificate and affixing the seal thereto for furnishing a certified copy of any document, instrument, or paper relating to a corporation.

(2) Two dollars at the time of any service of process on him as resident agent of any corporation, which may be recovered as taxable costs by the party to the suit or action if such party prevails.

NEW SECTION. Sec. 92. Any money received by the secretary of state under the provisions of this chapter shall be deposited forthwith into the state treasury.

NEW SECTION. Sec. 93. Each corporation, domestic or foreign, which fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty of five dollars to be assessed by the secretary of state.

Each corporation, domestic or foreign, which fails or refuses to answer truthfully and fully within the time prescribed by this chapter any interrogatories propounded by the secretary of state in

accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count.

NEW SECTION. Sec. 94. Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter, to answer truthfully and fully any interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, 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 shall be fined in an amount not to exceed five hundred dollars on each count.

NEW SECTION. Sec. 95. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all of the provisions of this chapter applicable to such corporation. All 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, made in writing, and under oath. If such interrogatories are directed to an individual, they shall be answered personally by him, and if directed to the corporation they shall be answered by the president, a vice president, a secretary or any assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories are answered as required by this section, and even not then if the answers thereto disclose that the document is not in conformity with the provisions of this chapter.

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 chapter.

The provisions of this section shall not apply to a domestic or foreign corporation which, by declaration, order or ruling of the internal revenue service of the United States, is exempt from the obligation to file income tax return.

NEW SECTION. Sec. 96. 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 unless (1) his official duty may require that the same be made public, or (2) such interrogatories or the answers thereto are required for use in evidence in any criminal proceedings or other action by the state.

NEW SECTION. Sec. 97. The secretary of state shall have all power and authority reasonably necessary to enable him to administer this chapter efficiently and to perform the duties therein imposed upon him.

NEW SECTION. Sec. 98. (1) 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 chapter 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 of such document to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may apply to the superior court of the county in which the registered office of such corporation is situated, or is proposed, in the document, by filing a petition with the clerk of such court setting forth a copy of the articles or other document tendered to the secretary of state, together with a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(2) If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, such foreign corporation may likewise apply 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 conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(3) Appeals from all final orders and judgments entered by the superior court under this section, in the review of any ruling or decision of the secretary of state may be taken as in other civil actions.

NEW SECTION. Sec. 99. All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in his office in accordance with the provisions of this chapter 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 seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates, 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.

NEW SECTION. Sec. 100. Whenever, with respect to any action to be taken by the members, shareholders or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members, shareholders or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control.

NEW SECTION. Sec. 101. Whenever any notice is required to be

given to any member, shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether made before or given after the time stated therein, shall be equivalent to the giving of such notice.

NEW SECTION. Sec. 102. Any action required by this chapter to be taken at a meeting of the members, shareholders or directors of a corporation, or any action which may be taken at a meeting of the members, shareholders or directors, may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the members and shareholders entitled to vote thereon, or by all of the directors, as the case may be, unless the articles or by-laws provide to the contrary.

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

NEW SECTION. Sec. 103. 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.

NEW SECTION. Sec. 104. This chapter shall be known and may be cited as the "Miscellaneous and Mutual Corporation Act".

NEW SECTION. Sec. 105. The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective; and any corporation existing under any prior law which expires on or before the date when this chapter takes effect shall continue its corporate existence: PROVIDED, That this chapter shall apply prospectively to all existing corporations which do not otherwise qualify under the provisions of Titles 23A and 24 RCW, to the extent permitted by the Constitution of this state and of the United States.

NEW SECTION. Sec. 106. If the term of existence of a corporation which was organized under this chapter, or which has availed it-

self of the privileges thereby provided expires, such corporation shall have the right to renew the term of its existence for a definite period or perpetually and to be reinstated under any name not then in use by a domestic corporation organized under any act of this state or a foreign corporation authorized under any act of this state to transact business or conduct affairs in this state. To do so the directors, members and officers shall adopt amended articles of incorporation containing a certification that the purpose thereof is a reinstatement and renewal of the corporate existence; and they shall proceed in accordance with the provisions of this chapter for the adoption and filing of amendments to articles of incorporation. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which its previous term of existence expired and all things done or omitted by it or by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if its previous term of existence had not expired.

NEW SECTION. Sec. 107. Any corporation or association organized under any other statute may be reorganized under the provisions of this chapter by adopting and filing amendments to its articles of incorporation in accordance with the provisions of this chapter for amending articles of incorporation. The articles of incorporation as amended must conform to the requirements of this chapter, and shall state that the corporation accepts the benefits and will be bound by the provisions of this chapter.

NEW SECTION. Sec. 108. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected, and the effect of such invalidity shall be confined to the clause, sentence, paragraph, section or part of this act so held to be invalid.

NEW SECTION. Sec. 109. The secretary of state shall notify all existing miscellaneous and mutual corporations thirty days prior to the date this act becomes effective as to their requirements for

filing an annual report. If such notification from the secretary of state to any corporation is returned unclaimed, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records on file in his office.

Corporations may be reinstated upon paying a five dollar fee in addition to any other fees that may be due or owing the secretary of state and filing its annual report. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which it was so dissolved, and all things done or omitted by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if the corporation had not been so dissolved.

NEW SECTION. Sec. 110. This chapter is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect July 1, 1969: PROVIDED, That no corporation existing on the effective date of this act shall be required to conform to the provisions of this act until July 1, 1971.

NEW SECTION. Sec. 111. This chapter is added as a new chapter to Title 24 RCW.

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CHAPTER 121
 [Engrossed House Bill No. 110]
 HUSBAND AND WIFE--
 ANTENUPTIAL AND SEPARATE DEBTS

AN ACT Relating to liabilities of husband and wife for antenuptial and separate debts; and amending section 10, page 452, Laws of 1873 as amended by section 2405, Code of 1881, and RCW 26.16.200.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 10, page 452, Laws of 1873 as amended by section 2405, Code of 1881 and RCW 26.16.200 are each amended to read as follows:

Neither husband or wife is liable for the debts or liabilities