

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 206**

A bill to amend 1972 PA 284, entitled
"Business corporation act,"
by amending sections 105, 106, 122, 123, 131, 133, 141, 143, 151,
338, 342a, 344, 404, 405, 407, 413, 488, 489, 521, 525, 563,
564b, 703a, 753, 754, 901, and 1060 (MCL 450.1105, 450.1106,
450.1122, 450.1123, 450.1131, 450.1133, 450.1141, 450.1143,
450.1151, 450.1338, 450.1342a, 450.1344, 450.1404, 450.1405,
450.1407, 450.1413, 450.1488, 450.1489, 450.1521, 450.1525,
450.1563, 450.1564b, 450.1703a, 450.1753, 450.1754, 450.1901, and
450.2060), sections 106, 122, 133, 141, 405, 521, 525, and 563 as
amended and sections 342a and 754 as added by 1989 PA 121,
section 123 as amended by 1993 PA 357, sections 131, 338, 407,
and 1060 as amended by 1993 PA 91, and sections 151, 344, 404,
489, 564b, 703a, and 753 as amended and section 488 as added by
1997 PA 118, and by adding section 406a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. (1) "Administrator" means the chief officer of
2 the department ~~of commerce~~ or of any other agency or department
3 authorized by law to administer this act, or his OR HER desig-
4 nated representative.

5 (2) "Articles of incorporation" includes ANY OF THE
6 FOLLOWING:

7 (a) ~~the~~ THE original articles of incorporation or any
8 other instrument filed or issued under any statute to organize a
9 domestic or foreign corporation, as amended, supplemented, or
10 restated by certificates of amendment, merger, or consolidation
11 or other certificates or instruments filed or issued under any
12 statute. ~~, or~~

13 (b) ~~a~~ A special act or charter creating a domestic or for-
14 eign corporation, as amended, supplemented, or restated.

15 (3) "Authorized shares" means shares of all classes that a
16 corporation is authorized to issue.

17 (4) "Board" means board of directors or other governing
18 board of a corporation.

19 (5) "Bonds" includes secured and unsecured bonds,
20 debentures, and notes.

21 Sec. 106. (1) "Corporation" or "domestic corporation" means
22 a corporation formed under this act, or existing on January 1,
23 1973 and formed under any other statute of this state for a pur-
24 pose for which a corporation may be formed under this act.

25 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF CONSUMER AND
26 INDUSTRY SERVICES.

1 (3) ~~—(2)—~~ "Director" means a member of the board of a
2 corporation.

3 (4) ~~—(3)—~~ "Distribution" means a direct or indirect transfer
4 of money or other property, except the corporation's shares, or
5 the incurrence of indebtedness by the corporation to or for the
6 benefit of its shareholders in respect to the corporation's
7 shares. A distribution may be in the form of a dividend, a pur-
8 chase, redemption or other acquisition of shares, an issuance of
9 indebtedness, or any other declaration or payment to or for the
10 benefit of the shareholders.

11 (5) "ELECTRONIC TRANSMISSION" OR "ELECTRONICALLY
12 TRANSMITTED" MEANS ANY FORM OF COMMUNICATION THAT MEETS ALL OF
13 THE FOLLOWING:

14 (A) IT DOES NOT DIRECTLY INVOLVE THE PHYSICAL TRANSMISSION
15 OF PAPER.

16 (B) IT CREATES A RECORD THAT MAY BE RETAINED AND RETRIEVED
17 BY THE RECIPIENT.

18 (C) IT MAY BE DIRECTLY REPRODUCED IN PAPER FORM BY THE
19 RECIPIENT THROUGH AN AUTOMATED PROCESS.

20 Sec. 122. (1) A reference in any statute of this state to
21 parts of any act ~~—which—~~ THAT are repealed by this act is consid-
22 ered to be a reference to this act, unless the context requires
23 otherwise.

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

26 (a) ~~Chapter 55 of the Revised Statutes of 1846, entitled~~
27 ~~"general provisions relating to corporations", as amended, being~~

1 ~~sections 450.504 to 450.525 of the Michigan Compiled Laws~~ 1846
2 RS 55, MCL 450.504 TO 450.525.

3 (b) ~~Act No. 156 of the Public Acts of 1955, being sections~~
4 ~~450.701 to 450.704 of the Michigan Compiled Laws~~ 1955 PA 156,
5 MCL 450.701 TO 450.704.

6 (3) The uniform fraudulent ~~conveyance~~ TRANSFER act, ~~Act~~
7 ~~No. 310 of the Public Acts of 1919, being sections 566.11 to~~
8 ~~566.23 of the Michigan Compiled Laws, shall~~ 1998 PA 434,
9 MCL 566.31 TO 566.43, DOES not apply to distributions governed by
10 this act.

11 Sec. 123. (1) Unless otherwise provided in, or inconsistent
12 with, the act under which a corporation is or has been formed,
13 this act applies to deposit and security companies, summer resort
14 associations, brine pipeline companies, telegraph companies,
15 telephone companies, safety and collateral deposit companies,
16 canal, river, and harbor improvement companies, cemetery, burial,
17 and cremation associations, railroad, bridge, and tunnel com-
18 panies, ~~and~~ agricultural and horticultural fair societies, AND
19 PROFESSIONAL SERVICE CORPORATIONS FORMED UNDER THE PROFESSIONAL
20 SERVICE CORPORATION ACT, 1962 PA 192, MCL 450.221 TO 450.235.
21 The entities specified in this subsection shall not be incorpo-
22 rated under this act.

23 (2) This act does not apply to insurance, surety, savings
24 and loan associations, fraternal benefit societies, and banking
25 corporations.

26 Sec. 131. (1) A document required or permitted to be filed
27 under this act shall be filed by delivering the document to the

1 administrator together with the fees and accompanying documents
2 required by law. The administrator may establish a procedure for
3 accepting delivery by facsimile OR OTHER ELECTRONIC
4 transmission. If the document substantially conforms to the
5 requirements of this act, the administrator shall endorse upon it
6 the word "filed" with his or her official title and the date of
7 receipt and of filing and shall file and index the document or a
8 photostatic, micrographic, photographic, optical disc media, or
9 other reproduced copy in his or her office. If so requested at
10 the time of the delivery of the document to his or her office,
11 the administrator shall include the hour of filing in his or her
12 endorsement. The administrator shall prepare and return a true
13 copy of the document other than an annual report, or at his or
14 her discretion the original, to the person who submitted it for
15 filing showing the filing date. The records and files of the
16 administrator relating to domestic and foreign corporations shall
17 be open to reasonable inspection by the public. The records or
18 files, at the discretion of the administrator, may be maintained
19 either in their original form or in photostatic, micrographic,
20 photographic, optical disc media, or other reproduced form. The
21 administrator may make reproductions of documents filed under
22 this act, or any predecessor act, by photostatic, micrographic,
23 photographic, optical disc media, or other reproduced form and
24 may destroy the originals of the documents so reproduced.

25 (2) A photostatic, micrographic, photographic, optical disc
26 media, or other reproduced copy certified by the administrator,
27 which may be sent by facsimile OR OTHER ELECTRONIC transmission,

1 shall be considered an original for all purposes and is
2 admissible in evidence in like manner as an original.

3 (3) The document is effective at the time it is endorsed
4 unless a subsequent effective time, not later than 90 days after
5 the date of delivery, is set forth in the document.

6 Sec. 133. If a document relating to a domestic or foreign
7 corporation filed with the administrator under this act was at
8 the time of filing an inaccurate record of the corporation action
9 referred to in the document, or was defectively or erroneously
10 executed, OR THE DOCUMENT WAS ELECTRONICALLY TRANSMITTED AND THE
11 ELECTRONIC TRANSMISSION WAS DEFECTIVE, the document may be cor-
12 rected by filing with the administrator a certificate of correc-
13 tion on behalf of the corporation. A certificate, entitled
14 "certificate of correction of ... (correct title of document and
15 name of corporation)" shall be signed as provided in this act
16 with respect to the document being corrected and filed with the
17 administrator. The certificate shall set forth the name of the
18 corporation, the date the document to be corrected was filed by
19 the administrator, the provision in the document as it should
20 have originally appeared, and if the execution was defective, the
21 proper execution. The corrected document is effective in its
22 corrected form as of its original filing date except as to a
23 person who relied upon the inaccurate portion of the document and
24 was, as a result of the inaccurate portion of the document,
25 adversely affected by the correction.

26 Sec. 141. When, under this act or the articles of
27 incorporation or bylaws of a corporation or by the terms of an

1 agreement or instrument, a corporation or the board or any
2 committee of the board may take action after notice to any person
3 or after lapse of a prescribed period of time, the action may be
4 taken without notice and without lapse of the period of time, if
5 at any time before or after the action is completed the person
6 entitled to notice or to participate in the action to be taken
7 or, in case of a shareholder, his or her attorney-in-fact, sub-
8 mits a signed waiver OR A WAIVER BY ELECTRONIC TRANSMISSION of
9 the requirements.

10 Sec. 143. (1) When a notice or communication is required or
11 permitted by this act to be given by mail, it shall be mailed,
12 except as otherwise provided in this act, to the person to whom
13 it is directed at the address designated by him OR HER for that
14 purpose or, if none is designated, at his OR HER last known
15 address. The notice or communication is given when deposited,
16 with postage thereon prepaid, in a post office or official depos-
17 itory under the exclusive care and custody of the United States
18 postal service. The mailing shall be registered, certified, or
19 other first-class mail except where otherwise provided in this
20 act.

21 (2) WHEN A NOTICE IS REQUIRED OR PERMITTED BY THIS ACT TO BE
22 GIVEN IN WRITING, ELECTRONIC TRANSMISSION IS WRITTEN NOTICE.

23 (3) WHEN A NOTICE OR COMMUNICATION IS PERMITTED BY THIS ACT
24 TO BE TRANSMITTED ELECTRONICALLY, THE NOTICE OR COMMUNICATION IS
25 GIVEN WHEN ELECTRONICALLY TRANSMITTED TO THE PERSON ENTITLED TO
26 THE NOTICE OR COMMUNICATION IN A MANNER AUTHORIZED BY THE PERSON.

1 Sec. 151. (1) If the administrator fails to promptly file a
2 document, other than an annual report, submitted for filing under
3 this act, the administrator shall ~~—~~ within 10 days after
4 receipt of a written request to file the document from the person
5 submitting the document for filing ~~—~~ give written notice of the
6 refusal to file the document to that person, specifying the rea-
7 sons for the refusal to file the document. IF THE DOCUMENT WAS
8 NOT ORIGINALLY SUBMITTED BY ELECTRONIC TRANSMISSION, THE ADMINIS-
9 TRATOR SHALL NOT GIVE THE WRITTEN NOTICE BY ELECTRONIC
10 TRANSMISSION. The person may seek judicial review of the refusal
11 to file the document pursuant to sections 103, 104, and 106 of
12 the administrative procedures act of 1969, 1969 PA 306,
13 MCL 24.303, 24.304, and 24.306.

14 (2) If the administrator refuses to authorize or revokes the
15 authorization of a foreign corporation to transact business in
16 this state pursuant to this act, the foreign corporation may seek
17 judicial review pursuant to sections 103, 104, and 106 of the
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.303,
19 24.304, and 24.306.

20 Sec. 338. (1) A corporation may issue ~~certificates for~~
21 ~~fractions of a share where necessary to effect share transfers,~~
22 ~~share distributions or a reclassification, merger, share~~
23 ~~exchange, or reorganization, which shall~~ SHARES AND MAY DO 1 OF
24 THE FOLLOWING:

25 (A) ISSUE CERTIFICATES FOR FRACTIONS OF SHARES THAT entitle
26 the holders ~~—, in proportion to their fractional holdings,~~ to

1 exercise voting rights and to receive dividends and distributions
2 IN PROPORTION TO THEIR FRACTIONAL HOLDINGS.

3 (B) ~~(2) As an alternative, a corporation may pay~~ PAY in
4 cash the fair value of fractions of ~~a share~~ SHARES as of the
5 time when those entitled to receive the fractions are
6 determined.

7 (C) ~~(3) As an alternative, a corporation may issue~~ ISSUE
8 scrip in registered or bearer form over the manual or facsimile
9 signature of an officer of the corporation or of its agent,
10 exchangeable as ~~therein~~ provided IN THE SCRIP for full shares.
11 ~~, but such~~ THE scrip shall not entitle the holder to any right
12 of a shareholder except as ~~therein~~ provided IN THE SCRIP. The
13 scrip shall be issued subject to the condition that it becomes
14 void if not exchanged for certificates representing full shares
15 before a specified date. The scrip MAY BE subject to the condi-
16 tion that the shares for which the scrip is exchangeable may be
17 sold by the corporation and the proceeds ~~thereof~~ OF THE SALE
18 distributed to the holders of the scrip, or subject to any other
19 condition ~~which~~ THAT the board may determine.

20 (2) ~~(4)~~ A corporation may provide reasonable opportunity
21 for persons entitled to fractions of a share or scrip to sell
22 them or to purchase additional fractions of a share or scrip
23 needed to acquire a full share.

24 Sec. 342a. (1) A corporation may issue rights, options, or
25 warrants for the purchase of shares OR OTHER SECURITIES of the
26 corporation. The board shall determine the terms upon which the

1 rights, options, or warrants are issued, their form and content,
2 and the consideration for which the shares are to be issued.

3 (2) THE TERMS AND CONDITIONS OF ANY RIGHT, OPTION, OR WAR-
4 RANT ISSUED UNDER SUBSECTION (1), INCLUDING THOSE OUTSTANDING ON
5 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSEC-
6 TION, MAY INCLUDE, WITHOUT LIMITATION, RESTRICTIONS OR CONDITIONS
7 THAT PRECLUDE OR LIMIT THE EXERCISE, TRANSFER, OR RECEIPT OF THE
8 RIGHT, OPTION, OR WARRANT BY ANY PERSON OWNING OR OFFERING TO
9 ACQUIRE A SPECIFIED NUMBER OR PERCENTAGE OF THE OUTSTANDING
10 COMMON SHARES OR OTHER SECURITIES OF A CORPORATION, OR ANY TRANS-
11 FEREE OR TRANSFEREES OF THAT PERSON, OR THAT INVALIDATE OR VOID
12 THE RIGHT, OPTION, OR WARRANT HELD BY A PERSON OR HIS OR HER
13 TRANSFEREE.

14 Sec. 344. (1) Subject to restrictions imposed by this act
15 or the articles of incorporation, a corporation may acquire its
16 own shares and those shares constitute authorized but unissued
17 shares, except as provided in subsection (4).

18 (2) If the articles of incorporation prohibit reissue of any
19 shares acquired pursuant to subsection (1), the board, by resolu-
20 tion, shall adopt and file an amendment of the articles of incor-
21 poration reducing the number of authorized shares accordingly.

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

26 (4) ~~Shares of a~~ A corporation ~~acquired by the corporation~~
27 ~~may be pledged~~ THAT ACQUIRES ITS OWN SHARES MAY GRANT A SECURITY

1 INTEREST IN THE SHARES as security for the payment of the
2 purchase price of the shares. ~~and, until the purchase price is~~
3 ~~paid by the corporation, the~~ ANY shares ~~of the corporation~~
4 acquired by the corporation IN WHICH IT HAS GRANTED A SECURITY
5 INTEREST are not canceled and do not constitute authorized but
6 unissued shares UNTIL THE CORPORATION PAYS THE PURCHASE PRICE.
7 ~~However, the acquired and pledged~~ IF THE CORPORATION HAS
8 GRANTED A SECURITY INTEREST IN THE SHARES, THE shares shall not
9 be voted directly or indirectly ~~at any meeting or otherwise~~ and
10 shall not be counted in determining the total number of issued
11 shares entitled to vote at any given time, except to the extent
12 provided by the ~~pledge~~ agreement CREATING THE SECURITY INTEREST
13 in the event of default. Upon payment of the purchase price, the
14 ~~acquired and pledged~~ shares shall be canceled and constitute
15 authorized but unissued shares. If the articles of incorporation
16 prohibit reissue of canceled shares, then the amendment required
17 by subsection (2) shall be filed.

18 Sec. 404. (1) Except as otherwise provided in this act,
19 written notice of the time, place IF ANY, and purposes of a meet-
20 ing of shareholders shall be given not less than 10 nor more than
21 60 days before the date of the meeting ~~, either personally or by~~
22 ~~mail,~~ to each shareholder of record entitled to vote at the
23 meeting. NOTICE MAY BE GIVEN PERSONALLY, BY MAIL, OR BY ELEC-
24 TRONIC TRANSMISSION. IF A SHAREHOLDER OR PROXY HOLDER MAY BE
25 PRESENT AND VOTE AT THE MEETING BY REMOTE COMMUNICATION, THE
26 MEANS OF REMOTE COMMUNICATION ALLOWED SHALL BE INCLUDED IN THE
27 NOTICE.

1 (2) Unless the corporation has securities registered under
2 section 12 of TITLE I OF the securities exchange act of 1934,
3 chapter 404, 48 Stat. 892, 15 U.S.C. 78l, notice of the purposes
4 of a meeting shall include notice of shareholder proposals that
5 are proper subjects for shareholder action and are intended to be
6 presented by shareholders who have notified the corporation in
7 writing of their intention to present the proposals at the
8 meeting. The bylaws may establish reasonable procedures for the
9 submission of proposals to the corporation in advance of the
10 meeting.

11 (3) If a meeting is adjourned to another time or place, it
12 is not necessary, unless the bylaws otherwise provide, to give
13 notice of the adjourned meeting if the time, and place IF ANY, to
14 which the meeting is adjourned are announced at the meeting at
15 which the adjournment is taken. ~~and at~~ A SHAREHOLDER OR PROXY
16 HOLDER MAY BE PRESENT AND VOTE AT THE ADJOURNED MEETING BY A
17 MEANS OF REMOTE COMMUNICATION IF HE OR SHE WAS PERMITTED TO BE
18 PRESENT AND VOTE BY THAT MEANS OF REMOTE COMMUNICATION IN THE
19 ORIGINAL MEETING NOTICE. AT the adjourned meeting, only business
20 ~~is transacted~~ that might have been transacted at the original
21 meeting MAY BE TRANSACTED IF A NOTICE OF THE ADJOURNED MEETING IS
22 NOT GIVEN. If after the adjournment the board fixes a new record
23 date for the adjourned meeting, a notice of the adjourned meeting
24 shall be given to each shareholder of record on the new record
25 date entitled to notice under subsection (1).

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

1 (a) Waiver of objection to lack of notice or defective
2 notice of the meeting, unless the shareholder at the beginning of
3 the meeting objects to holding the meeting or transacting busi-
4 ness at the meeting.

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

9 Sec. 405. (1) Unless otherwise restricted by the articles
10 of incorporation or bylaws, a shareholder may participate in a
11 meeting of shareholders by a conference telephone or by other
12 ~~similar communications equipment~~ MEANS OF REMOTE COMMUNICATION
13 through which all persons participating in the meeting may commu-
14 nicate with the other participants. All participants shall be
15 advised of the ~~communications equipment~~ MEANS OF REMOTE
16 COMMUNICATION and the names of the participants in the
17 ~~conference~~ MEETING shall be divulged to all participants.

18 (2) Participation in a meeting pursuant to this section con-
19 stitutes presence in person at the meeting.

20 (3) UNLESS OTHERWISE RESTRICTED BY THE ARTICLES OF INCORPO-
21 RATION OR BYLAWS, THE BOARD OF DIRECTORS MAY HOLD A MEETING OF
22 SHAREHOLDERS CONDUCTED SOLELY BY MEANS OF REMOTE COMMUNICATION.

23 (4) SUBJECT TO ANY GUIDELINES AND PROCEDURES ADOPTED BY THE
24 BOARD OF DIRECTORS, SHAREHOLDERS AND PROXY HOLDERS NOT PHYSICALLY
25 PRESENT AT A MEETING OF SHAREHOLDERS MAY PARTICIPATE IN THE MEET-
26 ING BY MEANS OF REMOTE COMMUNICATION AND ARE CONSIDERED PRESENT

1 IN PERSON AND MAY VOTE AT THE MEETING IF ALL OF THE FOLLOWING ARE
2 MET:

3 (A) THE CORPORATION IMPLEMENTS REASONABLE MEASURES TO VERIFY
4 THAT EACH PERSON CONSIDERED PRESENT AND PERMITTED TO VOTE AT THE
5 MEETING BY MEANS OF REMOTE COMMUNICATION IS A SHAREHOLDER OR
6 PROXY HOLDER.

7 (B) THE CORPORATION IMPLEMENTS REASONABLE MEASURES TO PRO-
8 VIDE EACH SHAREHOLDER AND PROXY HOLDER A REASONABLE OPPORTUNITY
9 TO PARTICIPATE IN THE MEETING AND TO VOTE ON MATTERS SUBMITTED TO
10 THE SHAREHOLDERS, INCLUDING AN OPPORTUNITY TO READ OR HEAR THE
11 PROCEEDINGS OF THE MEETING SUBSTANTIALLY CONCURRENTLY WITH THE
12 PROCEEDINGS.

13 (C) IF ANY SHAREHOLDER OR PROXY HOLDER VOTES OR TAKES OTHER
14 ACTION AT THE MEETING BY MEANS OF REMOTE COMMUNICATION, A RECORD
15 OF THE VOTE OR OTHER ACTION IS MAINTAINED BY THE CORPORATION.

16 SEC. 406A. IN ADDITION TO ANY OTHER FORM OF NOTICE TO A
17 SHAREHOLDER PERMITTED BY THE ARTICLES OF INCORPORATION, THE
18 BYLAWS, OR THIS CHAPTER, ANY NOTICE GIVEN TO A SHAREHOLDER BY A
19 FORM OF ELECTRONIC TRANSMISSION TO WHICH THE SHAREHOLDER HAS CON-
20 SENTED IS EFFECTIVE.

21 Sec. 407. (1) The articles of incorporation may provide
22 that any action required or permitted by this act to be taken at
23 an annual or special meeting of shareholders may be taken without
24 a meeting, without prior notice, and without a vote, if consents
25 in writing, setting forth the action so taken, are signed by the
26 holders of outstanding shares having not less than the minimum
27 number of votes that would be necessary to authorize or take the

1 action at a meeting at which all shares entitled to vote on the
2 action were present and voted. ~~The~~ A written ~~consents~~
3 CONSENT shall bear the date of signature of ~~each~~ THE share-
4 holder who signs the consent. ~~No written~~ WRITTEN consents
5 ~~shall be~~ ARE NOT effective to take ~~the~~ corporate action
6 ~~referred to~~ unless ~~—~~, within 60 days after the record date for
7 determining shareholders entitled to express consent to or to
8 dissent from a proposal without a meeting, written consents dated
9 not more than 10 days before the record date and signed by a suf-
10 ficient number of shareholders to take the action are delivered
11 to the corporation. Delivery shall be to the corporation's reg-
12 istered office, its principal place of business, or an officer or
13 agent of the corporation having custody of the minutes of the
14 proceedings of its shareholders. Delivery made to a
15 corporation's registered office shall be by hand or by certified
16 or registered mail, return receipt requested. Prompt notice of
17 the taking of the corporate action without a meeting by less than
18 unanimous written consent shall be given to shareholders who
19 would have been entitled to notice of the shareholder meeting if
20 the action had been taken at a meeting and who have not consented
21 TO THE ACTION in writing. If the action consented to would have
22 required filing of a certificate under any other section of this
23 act ~~—~~, if the action had been voted upon by shareholders at a
24 meeting of the shareholders, the certificate filed under ~~such~~
25 THE other section shall state, in lieu of any statement required
26 by the section concerning a vote of shareholders, that both

1 written consent and written notice have been given as provided in
2 this section.

3 (2) Any action required or permitted by this act to be taken
4 at an annual or special meeting of shareholders may be taken
5 without a meeting, without prior notice, and without a vote, if
6 before or after the action all the shareholders entitled to vote
7 consent in writing. If the action consented to would have
8 required filing of a certificate under any other section of this
9 act if the action had been voted upon by shareholders at a meet-
10 ing, the certificate filed under the other section shall state,
11 in lieu of any statement required by the section concerning a
12 vote of shareholders, that written consent has been given as pro-
13 vided ~~by~~ IN this section.

14 (3) AN ELECTRONIC TRANSMISSION CONSENTING TO AN ACTION
15 TRANSMITTED BY A SHAREHOLDER OR PROXY HOLDER, OR BY A PERSON
16 AUTHORIZED TO ACT FOR THE SHAREHOLDER OR PROXY HOLDER, IS WRIT-
17 TEN, SIGNED, AND DATED FOR THE PURPOSES OF THIS SECTION IF THE
18 ELECTRONIC TRANSMISSION IS DELIVERED WITH INFORMATION FROM WHICH
19 THE CORPORATION CAN DETERMINE THAT THE ELECTRONIC TRANSMISSION
20 WAS TRANSMITTED BY THE SHAREHOLDER OR PROXY HOLDER, OR BY THE
21 PERSON AUTHORIZED TO ACT FOR THE SHAREHOLDER OR PROXY HOLDER, AND
22 THE DATE ON WHICH THE ELECTRONIC TRANSMISSION WAS TRANSMITTED.
23 THE DATE ON WHICH AN ELECTRONIC TRANSMISSION IS TRANSMITTED IS
24 THE DATE ON WHICH THE CONSENT WAS SIGNED FOR PURPOSES OF THIS
25 SECTION. A CONSENT GIVEN BY ELECTRONIC TRANSMISSION IS NOT
26 DELIVERED UNTIL REPRODUCED IN PAPER FORM AND THE PAPER FORM
27 DELIVERED TO THE CORPORATION BY DELIVERY TO ITS REGISTERED OFFICE

1 IN THIS STATE, ITS PRINCIPAL PLACE OF BUSINESS, OR AN OFFICER OR
2 AGENT OF THE CORPORATION HAVING CUSTODY OF THE BOOK IN WHICH PRO-
3 CEEDINGS OF MEETINGS OF SHAREHOLDERS ARE RECORDED. DELIVERY TO A
4 CORPORATION'S REGISTERED OFFICE SHALL BE MADE BY HAND OR BY CER-
5 TIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED. DELIVERY TO
6 A CORPORATION'S PRINCIPAL PLACE OF BUSINESS OR TO AN OFFICER OR
7 AGENT OF THE CORPORATION HAVING CUSTODY OF THE BOOK IN WHICH PRO-
8 CEEDINGS OF MEETINGS OF SHAREHOLDERS ARE RECORDED SHALL BE MADE
9 BY HAND, BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT
10 REQUESTED, OR IN ANY OTHER MANNER PROVIDED IN THE ARTICLES OF
11 INCORPORATION OR BYLAWS OR BY RESOLUTION OF THE BOARD OF DIREC-
12 TORS OF THE CORPORATION.

13 Sec. 413. (1) The officer or agent having charge of the
14 stock transfer books for shares of a corporation shall make and
15 certify a complete list of the shareholders entitled to vote at a
16 shareholders' meeting or any ~~adjournment thereof~~ ADJOURNED
17 SHAREHOLDERS' MEETING. The list shall BE ALL OF THE FOLLOWING:

18 (a) ~~Be arranged~~ ARRANGED alphabetically within each class
19 and series, with the address of —, and the number of shares held
20 by —, each shareholder.

21 (b) ~~Be produced~~ PRODUCED at the time and place of the
22 meeting.

23 (c) ~~Be subject~~ SUBJECT to inspection by any shareholder
24 during the ~~whole time of the~~ ENTIRE meeting. IF THE MEETING IS
25 HELD SOLELY BY MEANS OF REMOTE COMMUNICATION, THEN THE LIST SHALL
26 BE OPEN TO THE EXAMINATION OF ANY SHAREHOLDER DURING THE ENTIRE
27 MEETING BY POSTING THE LIST ON A REASONABLY ACCESSIBLE ELECTRONIC

1 NETWORK AND THE INFORMATION REQUIRED TO ACCESS THE LIST SHALL BE
2 PROVIDED WITH THE NOTICE OF THE MEETING.

3 (d) ~~Be prima~~ PRIMA facie evidence as to who are the share-
4 holders entitled to examine the list or to vote at the meeting.

5 (2) If the requirements of this section have not been com-
6 plied with, ~~on demand of~~ AND a shareholder PRESENT in person or
7 by proxy ~~, who~~ in good faith challenges the existence of suffi-
8 cient votes to carry any action at the meeting, the meeting shall
9 be adjourned until the requirements are complied with. Failure
10 to comply with the requirements of this section does not affect
11 the validity of an action taken at the meeting before ~~the making~~
12 ~~of such a demand~~ A CHALLENGE DESCRIBED IN THIS SUBSECTION.

13 Sec. 488. (1) An agreement among the shareholders of a cor-
14 poration that complies with this section is effective among the
15 shareholders and the corporation even though it is inconsistent
16 with this act in 1 or more of the following ways:

17 (a) It eliminates the board or restricts the discretion or
18 powers of the board.

19 (b) It governs the authorization or making of distributions
20 whether or not in proportion to ownership of shares, subject to
21 limitations in sections 345 and 855a pertaining to the protection
22 of creditors.

23 (c) It establishes who shall be directors or officers of the
24 corporation, or the terms of office or manner of selection or
25 removal of directors or officers of the corporation.

26 (d) ~~It governs, in~~ IN general or in regard to specific
27 matters, IT GOVERNS the exercise or division of voting power by

1 or between the shareholders and directors or by or among any of
2 the shareholders or directors, including use of weighted voting
3 rights or director proxies.

4 (e) It establishes the terms and conditions of any agreement
5 for the transfer or use of property or the provision of services
6 between the corporation and any shareholder, director, officer,
7 or employee of the corporation or among the shareholders, direc-
8 tors, officers, or employees of the corporation.

9 (f) It transfers to 1 or more shareholders or other persons
10 all or part of the authority to exercise the corporate powers or
11 to manage the business and affairs of the corporation, including
12 the resolution of any issue about which there exists a deadlock
13 among directors or shareholders.

14 (g) It requires dissolution of the corporation at the
15 request of 1 or more of the shareholders or upon the occurrence
16 of a specified event or contingency.

17 (h) It otherwise governs the exercise of the corporate
18 powers or the management of the business and affairs of the cor-
19 poration or the relationship among the shareholders, the direc-
20 tors, and the corporation, or among any of the shareholders or
21 directors, and is not contrary to public policy.

22 (2) An agreement authorized by this section shall meet both
23 of the following requirements:

24 (a) Be set forth in a provision of the articles of incorpo-
25 ration or bylaws approved by all persons who are shareholders at
26 the time of the agreement, or in a written agreement that is

1 signed by all persons who are shareholders at the time of the
2 agreement and made known to the corporation.

3 (b) Be subject to amendment only by all persons who are
4 shareholders at the time of the amendment, unless the agreement
5 provides otherwise. ~~If amended by an amendment to the articles~~
6 ~~of incorporation or bylaws, the amendment shall be approved by~~
7 ~~all shareholders. If amended by written agreement, the amendment~~
8 ~~shall be in a writing signed by all shareholders and made known~~
9 ~~to the corporation.~~

10 (3) The existence of an agreement authorized by this section
11 shall be noted conspicuously on the face or back of a certificate
12 for shares issued by the corporation or on the information state-
13 ment required by section 336. If at the time of the agreement
14 the corporation has shares outstanding represented by certifi-
15 cates, the corporation shall recall the outstanding certificates
16 and issue substitute certificates that comply with this
17 subsection. The failure to note the existence of the agreement
18 on the certificate or information statement does not affect the
19 validity of the agreement or any action taken pursuant to it.
20 Any purchaser of shares who ~~, at the time ownership is~~
21 ~~transferred,~~ did not have knowledge of the existence of the
22 agreement AT THE TIME OWNERSHIP IS TRANSFERRED is entitled to
23 rescission of the purchase. A purchaser ~~is deemed to have~~ HAS
24 knowledge of the existence of the agreement at the time ownership
25 is transferred if the agreement's existence is noted on the cer-
26 tificate or information statement in compliance with this
27 subsection and, if the shares are not represented by a

1 certificate, the information statement is delivered to the
2 purchaser at or prior to the time ownership of the shares is
3 transferred. An action to enforce the right of rescission autho-
4 rized by this subsection must be commenced within 90 days after
5 discovery of the existence of the agreement or 2 years after the
6 shares are transferred, whichever is earlier.

7 (4) An agreement authorized by this section shall cease to
8 be effective when shares of the corporation are listed on a
9 national securities exchange or regularly traded in a market
10 maintained by 1 or more members of a national or affiliated
11 securities association.

12 (5) If the agreement ceases to be effective for any reason
13 and is contained or referred to in the corporation's articles of
14 incorporation or bylaws, the board may WITHOUT SHAREHOLDER ACTION
15 adopt an amendment to the articles of incorporation or bylaws —
16 ~~without shareholder action,~~ to delete the agreement and any ref-
17 erences to it.

18 (6) An agreement authorized by this section that limits the
19 discretion or powers of the board shall relieve the directors of,
20 and impose upon the person or persons in whom the discretion or
21 powers are vested, liability for acts or omissions imposed by law
22 on directors to the extent that the discretion or powers of the
23 directors are limited by the agreement. The person or persons in
24 whom the discretion or powers are vested ~~shall be~~ ARE treated
25 as a director or directors for purposes of any indemnification
26 and any limitation on liability under section 209(1)(c).

1 (7) The existence or performance of an agreement authorized
2 by this section is not grounds for imposing personal liability on
3 any shareholder for the acts or debts of the corporation or for
4 treating the corporation as if it were a partnership or unincor-
5 porated entity, even if the agreement or its performance results
6 in failure to observe the corporate formalities otherwise appli-
7 cable to the matters governed by the agreement.

8 (8) Dissolution pursuant to an agreement authorized in
9 subsection (1)(g) shall be implemented by filing a certificate of
10 dissolution under section 805.

11 (9) Incorporators or subscribers for shares may act as
12 shareholders with respect to an agreement authorized by this sec-
13 tion if no shares have been issued when the agreement is made.

14 (10) The failure to satisfy the unanimity requirement of
15 subsection (2) with respect to an agreement authorized by this
16 section does not invalidate any agreement that would otherwise be
17 considered valid.

18 Sec. 489. (1) A shareholder may bring an action in the cir-
19 cuit court of the county in which the principal place of business
20 or registered office of the corporation is located to establish
21 that the acts of the directors or those in control of the corpo-
22 ration are illegal, fraudulent, or willfully unfair and oppres-
23 sive to the corporation or to the shareholder. If the share-
24 holder establishes grounds for relief, the circuit court may make
25 an order or grant relief as it considers appropriate, including,
26 without limitation, an order providing for any of the following:

1 (a) The dissolution and liquidation of the assets and
2 business of the corporation.

3 (b) The cancellation or alteration of a provision contained
4 in the articles of incorporation, an amendment of the articles of
5 incorporation, or the bylaws of the corporation.

6 (c) The cancellation, alteration, or injunction against a
7 resolution or other act of the corporation.

8 (d) The direction or prohibition of an act of the corpora-
9 tion or of shareholders, directors, officers, or other persons
10 party to the action.

11 (e) The purchase at fair value of the shares of a sharehold-
12 er, either by the corporation or by the officers, directors, or
13 other shareholders responsible for the wrongful acts.

14 (f) ~~Award~~ AN AWARD of damages to the corporation or a
15 shareholder. AN ACTION SEEKING AN AWARD OF DAMAGES MUST BE COM-
16 MENCED WITHIN 3 YEARS AFTER THE CAUSE OF ACTION UNDER THIS SEC-
17 TION HAS ACCRUED, OR WITHIN 2 YEARS AFTER THE SHAREHOLDER DISCOV-
18 ERS OR REASONABLY SHOULD HAVE DISCOVERED THE CAUSE OF ACTION
19 UNDER THIS SECTION, WHICHEVER OCCURS FIRST.

20 (2) No action under this section shall be brought by a
21 shareholder whose shares are listed on a national securities
22 exchange or regularly traded in a market maintained by 1 or more
23 members of a national or affiliated securities association.

24 (3) AS USED IN THIS SECTION, "WILLFULLY UNFAIR AND OPPRES-
25 SIVE CONDUCT" MEANS A CONTINUING COURSE OF CONDUCT OR A SIGNIFI-
26 CANT ACTION OR SERIES OF ACTIONS THAT SUBSTANTIALLY INTERFERES
27 WITH THE INTERESTS OF THE SHAREHOLDER AS A SHAREHOLDER. THE TERM

1 DOES NOT INCLUDE CONDUCT OR ACTIONS THAT ARE PERMITTED BY AN
2 AGREEMENT, THE ARTICLES OF INCORPORATION, THE BYLAWS, OR A CON-
3 SISTENTLY APPLIED WRITTEN CORPORATE POLICY OR PROCEDURE.

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

6 (2) A regular meeting may be held with or without notice as
7 prescribed in the bylaws. A special meeting shall be held upon
8 notice as prescribed in the bylaws. A director's attendance at
9 or participation in a meeting waives any required notice to him
10 or her of the meeting unless he or she at the beginning of the
11 meeting, or upon his or her arrival, objects to the meeting or
12 the transacting of business at the meeting and does not thereaf-
13 ter vote for or assent to any action taken at the meeting.

14 Unless required by the bylaws, neither the business to be trans-
15 acted at, nor the purpose of, a regular or special meeting need
16 be specified in the notice or waiver of notice of the meeting.

17 (3) Unless otherwise restricted by the articles of incorpo-
18 ration or bylaws, a member of the board or of a committee desig-
19 nated by the board may participate in a meeting by means of con-
20 ference telephone or ~~similar communications equipment~~ OTHER
21 MEANS OF REMOTE COMMUNICATION through which all persons partici-
22 pating in the meeting can communicate with the other
23 participants. Participation in a meeting pursuant to this sub-
24 section constitutes presence in person at the meeting.

25 Sec. 525. Unless prohibited by the articles of incorpora-
26 tion or bylaws, action required or permitted to be taken under
27 authorization voted at a meeting of the board or a committee of

1 the board, may be taken without a meeting if, before or after the
2 action, all members of the board then in office or of the commit-
3 tee consent to the action in writing OR BY ELECTRONIC
4 TRANSMISSION. The written consents shall be filed with the
5 minutes of the proceedings of the board or committee. The con-
6 sent has the same effect as a vote of the board or committee for
7 all purposes.

8 Sec. 563. To the extent that a director —, OR officer —,
9 ~~employee, or agent~~ of a corporation has been successful on the
10 merits or otherwise in defense of an action, suit, or proceeding
11 referred to in section 561 or 562, or in defense of a claim,
12 issue, or matter in the action, suit, or proceeding, ~~he or she~~
13 ~~shall be indemnified~~ THE CORPORATION SHALL INDEMNIFY HIM OR HER
14 against actual and reasonable expenses, including attorneys'
15 fees, incurred by him or her in connection with the action, suit,
16 or proceeding and an action, suit, or proceeding brought to
17 enforce the mandatory indemnification provided in this section.

18 Sec. 564b. (1) A corporation may pay or reimburse the rea-
19 sonable expenses incurred by a director, officer, employee, or
20 agent who is a party or threatened to be made a party to an
21 action, suit, or proceeding in advance of final disposition of
22 the proceeding if ~~both of the following apply:~~ (a) ~~The person~~
23 ~~furnishes the corporation a written affirmation of his or her~~
24 ~~good faith belief that he or she has met the applicable standard~~
25 ~~of conduct set forth in sections 561 and 562.~~ (b) ~~The~~ THE
26 person furnishes the corporation a written undertaking, executed
27 personally or on his or her behalf, to repay the advance if it is

1 ultimately determined that he or she did not meet the APPLICABLE
2 standard of conduct, ~~set forth in sections 561 and 562~~ IF ANY,
3 REQUIRED BY THIS ACT FOR THE INDEMNIFICATION OF A PERSON UNDER
4 THE CIRCUMSTANCES.

5 (2) The undertaking required by subsection ~~(1)(b)~~ (1) must
6 be an unlimited general obligation of the person but need not be
7 secured and may be accepted without reference to the financial
8 ability of the person to make repayment.

9 (3) ~~Determinations and evaluations~~ AN EVALUATION OF
10 REASONABLENESS under this section shall be made in the manner
11 specified in section 564a(1) FOR AN EVALUATION OF REASONABLENESS
12 OF EXPENSES, and ~~authorizations~~ AN AUTHORIZATION shall be made
13 in the manner specified in section 564a(4) UNLESS AN ADVANCE IS
14 MANDATORY.

15 (4) A provision in the articles of incorporation or bylaws,
16 a resolution of the board or shareholders, or an agreement making
17 indemnification mandatory shall also make the advancement of
18 expenses mandatory unless the provision, resolution, or agreement
19 specifically provides otherwise.

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

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

26 (a) The board must recommend the plan of merger or share
27 exchange to the shareholders, unless the board determines that

1 because of conflict of interest, EVENTS OCCURRING AFTER THE BOARD
2 ADOPTS THE PLAN, CONTRACTUAL OBLIGATIONS, or other special cir-
3 cumstances it should make no recommendation and communicates the
4 basis for its determination to the shareholders with the plan.

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

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

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

15 (ii) A statement informing shareholders who ~~—, under~~
16 ~~section 762,~~ are entitled to dissent ~~—,~~ UNDER SECTION 762 that
17 they have the right to dissent and to be paid the fair value of
18 their shares by complying with the procedures set forth in sec-
19 tions 764 to 772.

20 (d) At the meeting, a vote of the shareholders shall be
21 taken on the proposed plan of merger or share exchange. The plan
22 ~~shall be~~ IS approved ~~upon receiving~~ IF IT RECEIVES the affir-
23 mative vote of the holders of a majority of the outstanding
24 shares of the corporation entitled to vote on the plan, and if a
25 class or series is entitled to vote on the plan as a class, the
26 affirmative vote of the holders of a majority of the outstanding
27 shares of the class or series. A class or series of shares is

1 entitled to vote as a class in the case of a merger, if the plan
2 of merger contains a provision that, if contained in a proposed
3 amendment to the articles of incorporation, would entitle the
4 class or series of shares to vote as a class, or, in the case of
5 a share exchange, if the class or series is included in the
6 exchange. A class or series of shares is not entitled to vote as
7 a class in the case of a merger ~~the sole purpose of which is to~~
8 ~~change the corporation's jurisdiction of incorporation~~ OR SHARE
9 EXCHANGE, IF THE BOARD OF DIRECTORS DETERMINES ON A REASONABLE
10 BASIS THAT THE CLASS OR SERIES IS TO RECEIVE CONSIDERATION UNDER
11 THE PLAN OF MERGER OR SHARE EXCHANGE THAT HAS A FAIR VALUE THAT
12 IS NOT LESS THAN THE FAIR VALUE OF THE SHARES OF THE CLASS OR
13 SERIES ON THE DATE OF ADOPTION OF THE PLAN.

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

18 (i) The articles of incorporation of the surviving corpora-
19 tion will not differ from its articles of incorporation before
20 the merger.

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

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

4 (G) A PLAN OF MERGER OR SHARE EXCHANGE MAY PROVIDE FOR DIF-
5 FERING FORMS OF CONSIDERATION FOR HOLDERS OF SHARES WITHIN THE
6 SAME CLASS BASED UPON THE ELECTION OF THE HOLDERS, THE AMOUNT OF
7 SHARES HELD, OR ANOTHER REASONABLE BASIS.

8 Sec. 753. (1) Except as provided in section 751, a corpora-
9 tion may sell, lease, exchange, or otherwise dispose of all, or
10 substantially all, of its property and assets, with or without
11 the goodwill, if not in the usual and regular course of its busi-
12 ness as conducted by the corporation, upon terms and conditions
13 and for a consideration, which may consist in whole or in part of
14 cash or other property, including shares, bonds, or other securi-
15 ties of any other corporation, domestic or foreign, as authorized
16 as provided in this section. A CORPORATION HAS NOT DISPOSED OF
17 ALL OR SUBSTANTIALLY ALL OF ITS PROPERTY AND ASSETS IF IT RETAINS
18 A SIGNIFICANT CONTINUING BUSINESS ACTIVITY. FOR PURPOSES OF THIS
19 SUBSECTION, IT IS CONCLUSIVELY PRESUMED THAT A CORPORATION HAS
20 RETAINED A SIGNIFICANT CONTINUING BUSINESS ACTIVITY IF THE CORPO-
21 RATION RETAINS A BUSINESS ACTIVITY THAT REPRESENTED AT LEAST 25%
22 OF TOTAL ASSETS AT THE END OF THE MOST RECENTLY COMPLETED FISCAL
23 YEAR, AND 25% OF EITHER INCOME FROM CONTINUING OPERATIONS BEFORE
24 TAXES OR REVENUES FROM CONTINUING OPERATIONS FOR THAT FISCAL
25 YEAR, IN EACH CASE OF THE CORPORATION AND ITS SUBSIDIARIES ON A
26 CONSOLIDATED BASIS.

1 (2) The board must recommend the proposed transaction to the
2 shareholders unless the board determines that because of conflict
3 of interest, EVENTS OCCURRING AFTER THE BOARD ADOPTS THE PLAN,
4 CONTRACTUAL OBLIGATIONS, or other special circumstances it should
5 make no recommendation and communicates the basis for its deter-
6 mination to the shareholders with the submission of the proposed
7 transaction.

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

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

16 (a) A statement summarizing the principal terms of the pro-
17 posed transaction or a copy of any documents containing the prin-
18 cipal terms.

19 (b) A statement informing shareholders who ~~—, under section~~
20 ~~762,~~ are entitled to dissent UNDER SECTION 762 that they have
21 the right to dissent and to be paid the fair value of their
22 shares by complying with the procedures set forth in sections 762
23 to 772.

24 (5) At the meeting, the shareholders may authorize the sale,
25 lease, exchange, or other disposition and may fix, or may autho-
26 rize the board to fix, any term or condition and the
27 consideration to be received by the corporation. The

1 authorization requires the affirmative vote of the holders of a
2 majority of the outstanding shares of the corporation entitled to
3 vote on the sale, lease, exchange, or other disposition.

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

9 (7) A sale, lease, exchange, or other disposition of all, or
10 substantially all, of the property and assets of a corporation or
11 other entity a majority of the shares or beneficial interests of
12 which are owned by a second corporation, including a change in
13 shares of the corporation or beneficial interest in another
14 entity held by the second corporation because of a merger or
15 share exchange, is a disposition by the second corporation of its
16 pro rata share of the property and assets of the corporation or
17 other entity ON A CONSOLIDATED BASIS for purposes of this
18 section.

19 (8) A transaction that is a distribution is governed by sec-
20 tion 345 and not by this section or section 751.

21 Sec. 754. Shareholders of a corporation ~~which~~ THAT pro-
22 poses to issue, directly or through a subsidiary, its shares,
23 obligations, or securities in the course of a merger, acquisition
24 of some or all of the outstanding shares of another corporation
25 OR INTERESTS IN ANOTHER ENTITY, or ACQUISITION OF some or all of
26 the assets OTHER THAN CASH of a corporation ~~, proprietorship,~~
27 ~~partnership, or other type of business organization, shall~~ OR

1 OTHER ENTITY, have the ~~same~~ rights to receive notice and to
2 vote on the proposed MERGER OR acquisition ~~as~~ provided in
3 section 703a(2) and to receive dissenters' rights as provided in
4 section 762 if both of the following apply:

5 (a) The securities to be issued or delivered in the acquisi-
6 tion are ~~—~~ or may be converted into ~~—~~ shares of the acquiring
7 corporation's common stock.

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

15 Sec. 901. (1) Each domestic corporation at least once in
16 each year shall cause a financial report of the corporation for
17 the preceding fiscal year to be made and distributed to each
18 shareholder thereof within 4 months after the end of the fiscal
19 year. The report shall include the corporation's statement of
20 income, its year-end balance sheet, ~~and, if prepared by the~~
21 ~~corporation,~~ its statement of source and application of funds IF
22 PREPARED BY THE CORPORATION, and ~~such~~ ANY other information as
23 may be required by this act.

24 (2) THE FINANCIAL REPORT REQUIRED BY SUBSECTION (1) MAY BE
25 DISTRIBUTED ELECTRONICALLY, EITHER BY ELECTRONIC TRANSMISSION OF
26 THE REPORT OR BY MAKING THE REPORT AVAILABLE FOR ELECTRONIC
27 TRANSMISSION. IF THE REPORT IS DISTRIBUTED ELECTRONICALLY UNDER

1 THIS SUBSECTION, THE CORPORATION SHALL PROVIDE THE REPORT IN
2 WRITTEN FORM TO A SHAREHOLDER ON REQUEST.

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

6 (a) Articles of domestic corporations, \$10.00.

7 (b) Application of a foreign corporation for a certificate
8 of authority to transact business in this state, \$10.00.

9 (c) Amendment to the articles of a domestic corporation,
10 \$10.00.

11 (d) Amended application for a certificate of authority to
12 transact business in this state, \$10.00.

13 (e) Certificate of merger or share exchange as provided in
14 chapter 7, \$50.00.

15 (f) Certificate attesting to the occurrence of a merger of a
16 foreign corporation ~~—~~ as provided in section 1021, \$10.00.

17 (g) Certificate of dissolution, \$10.00.

18 (h) Application for withdrawal and issuance of a certificate
19 of withdrawal of a foreign corporation, \$10.00.

20 (i) Application for reservation of corporate name, \$10.00.

21 (j) Certificate of assumed name or a certificate of termina-
22 tion of assumed name, \$10.00.

23 (k) Statement of change of registered office or resident
24 agent, \$5.00.

25 (l) Restated articles of domestic corporations, \$10.00.

26 (m) Certificate of abandonment, \$10.00.

- 1 (n) Certificate of correction, \$10.00.
- 2 (o) Certificate of revocation of dissolution proceedings,
3 \$10.00.
- 4 (p) Certificate of renewal of corporate existence, \$10.00.
- 5 (q) For examining a special report required by law, \$2.00.
- 6 (r) Certificate of registration of corporate name of a for-
7 eign corporation, \$50.00.
- 8 (s) Certificate of renewal of registration of corporate name
9 of a foreign corporation, \$50.00.
- 10 (t) Certificate of termination of registration of corporate
11 name of a foreign corporation, \$10.00.
- 12 (2) The fees prescribed in subsection (1), no part of which
13 shall be refunded, shall be in addition to the franchise fees
14 prescribed in this act, and shall, when collected, be paid into
15 the treasury of the state and credited to the administrator to be
16 used solely by the ~~corporation and securities bureau~~ DEPARTMENT
17 in carrying out those duties required by law.
- 18 (3) Fees paid by or on behalf of domestic and foreign regu-
19 lated investment companies as defined in section 1064 ~~shall be~~
20 ARE the same as are charged foreign and domestic corporations for
21 the purposes specified in this section.
- 22 (4) The fees received pursuant to section 915 shall be
23 deposited in the state treasury to the credit of the administra-
24 tor to be used by the ~~corporation and securities bureau~~
25 DEPARTMENT in carrying out those duties required by law. After
26 the payment of the amounts appropriated by the legislature for
27 the necessary expenses incurred in the administration of this

1 act, the money remaining shall be credited to the general fund of
2 the state.

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

15 (6) If a domestic or foreign corporation pays fees or penal-
16 ties by check and the check is dishonored, the fee ~~shall be~~
17 ~~considered~~ IS unpaid and the filing of all related documents
18 will be rescinded.

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

23 (8) The administrator may charge a nonrefundable fee of up
24 to \$50.00 for any document submitted or certificate sent by fac-
25 simile OR ELECTRONIC transmission. The administrator shall
26 retain the revenue collected under this section and to be used by

SB206, As Passed House, June 26, 2001

Senate Bill No. 206

36

1 the ~~corporation and securities bureau~~ DEPARTMENT in carrying
2 out its duties required by law.