

NONPROFIT CORPORATION ACT (EXCERPT)

Act 162 of 1982

CHAPTER 1

450.2101 Short title.

Sec. 101. This act shall be known and may be cited as the "nonprofit corporation act".

History: 1982, Act 162, Eff. Jan. 1, 1983.

450.2103 Construction and application of act.

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

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

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

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2104 Definitions generally.

Sec. 104. The definitions contained in sections 105 to 110 shall control the interpretation of this act, unless the context otherwise requires.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2105 Definitions; A, B.

Sec. 105. (1) "Administrator" means the director of the department or his or her designated representative.

(2) "Articles of incorporation" includes any of the following:

(a) The original articles of incorporation or any other instrument filed or issued under any statute to organize a domestic or foreign corporation, as amended, supplemented, or restated by certificates of amendment, merger, conversion, or consolidation, or other certificates or instruments filed or issued under any statute.

(b) A special act or charter creating a domestic or foreign corporation, as amended, supplemented, or restated.

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

(4) "Ballot" means an instrument in written or electronic form that is designed to record the vote or votes of shareholders or members under section 408 or section 409 or at a meeting of the shareholders or members.

(5) "Board" means board of directors or trustees or other governing board of a corporation.

(6) "Bonds" includes secured and unsecured bonds, debentures, and notes.

(7) "Business corporation" or "domestic business corporation" means a corporation for profit formed under the business corporation act, or existing on January 1, 1973 and formed before January 1, 1973 under any other statute of this state for a purpose for which a corporation for profit may be organized under that statute.

(8) "Business corporation act" means the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2106 Definitions; C to E.

Sec. 106. (1) "Charitable purpose corporation" means a domestic corporation that meets any of the following:

(a) Is recognized by the United States internal revenue service as exempt or qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501.

(b) Is a corporation whose purposes, structure, and activities are exclusively those that are described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501.

(c) Is a corporation organized or held out to be organized exclusively for 1 or more charitable purposes.

(2) "Corporation" or "domestic corporation" means a nonprofit corporation formed under this act, or formed under any other statute of this state and subject to this act under section 121 or 123 or under any other section of this act.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Director" means an individual who is a member of the board of a corporation. The term is synonymous with "trustee" of a corporation or other similar designation.

(5) "Distribution" means a direct or indirect transfer of money or other property, except the corporation's

shares or memberships, or debt incurred by the corporation to or for the benefit of its shareholders or members in connection with the corporation's shares or memberships. A distribution may be in the form of a dividend, a purchase, redemption or other acquisition of shares or memberships, an issuance of indebtedness, the conversion of stock or membership in the corporation to bonds or other indebtedness, or any other declaration or payment to or for the benefit of the shareholders or members.

(6) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

- (a) It does not directly involve the physical transmission of paper.
- (b) It creates a record that may be retained and retrieved by the recipient.
- (c) It may be directly reproduced in paper form by the recipient through an automated process.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2008, Act 9, Imd. Eff. Feb. 29, 2008;—Am. 2008, Act 222, Imd. Eff. July 16, 2008;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2107 Definitions; F.

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

(2) "Foreign corporation" means a nonprofit corporation formed under laws other than the laws of this state, if its purpose or purposes are a purpose or purposes for which a corporation may be formed under this act.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2108 Definitions; M to P.

Sec. 108. (1) "Member" means a person that has a membership in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(2) "Nonprofit corporation" means a corporation incorporated to carry out any lawful purpose or purposes that does not involve pecuniary profit or gain for its directors, officers, shareholders, or members.

(3) "Person" means an individual, a partnership, a domestic corporation, a domestic business corporation, a foreign corporation, a foreign business corporation, a limited liability company, or any other association, corporation, trust, or legal entity.

(4) "Predecessor act" means an act or part of an act repealed by this act, or an act or part of an act repealed by an act that this act repeals.

(5) "Private foundation" means a tax exempt corporation described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, that is classified as a private foundation under section 509(a) of the internal revenue code of 1986, 26 USC 509.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 1987, Act 170, Eff. Jan. 1, 1988;—Am. 1990, Act 39, Imd. Eff. Mar. 29, 1990;—Am. 1993, Act 129, Imd. Eff. July 22, 1993;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2109 Definitions; S.

Sec. 109. (1) "Shareholder" means a person that holds shares of a domestic corporation, foreign corporation, domestic business corporation, or foreign business corporation.

(2) "Shares" means the units into which interests of shareholders in a domestic corporation, foreign corporation, domestic business corporation, or foreign business corporation are divided.

(3) "Services in a learned profession" means services provided by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney at law.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2110 Definitions; V.

Sec. 110. (1) "Volunteer" means an individual who performs services for a corporation, other than services as a volunteer director, who does not receive compensation or any other type of consideration for the services other than reimbursement for expenses actually incurred.

(2) "Volunteer director" means a director who does not receive anything of more than nominal value from the corporation for serving as a director other than reasonable per diem compensation and reimbursement for actual, reasonable, and necessary expenses incurred by a director in his or her capacity as a director.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 1987, Act 170, Eff. Jan. 1, 1988;—Am. 1990, Act 39, Imd. Eff. Mar. 29, 1990;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2121 Corporations to which act applicable; corporation formed under predecessor act.

Sec. 121. (1) Except as otherwise provided in this act or by other law, this act applies to all of the following:

(a) Every domestic corporation formed under this act or under a predecessor act, for a purpose or purposes for which a corporation might be formed under this act.

(b) Every foreign corporation that is authorized to or does conduct affairs in this state except as otherwise provided under this act or another statute.

(c) Any other domestic corporation or foreign corporation that is not formed under this act to the extent, if any, provided under section 123 or any other provision of this act or under a provision of any law governing that domestic or foreign corporation.

(2) A corporation formed under or subject to a predecessor act is subject to this act except to the extent that this act conflicts with the articles and bylaws of the corporation lawfully made under the predecessor act. The corporation may amend its articles and bylaws to bring itself in conformity with this act.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2122 Statutory reference to repealed act as reference to this act; statutes inapplicable to domestic corporation; uniform voidable transactions act inapplicable to distributions.

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

(2) The following statutes do not apply to a domestic corporation:

(a) 1846 RS 55, MCL 450.504 to 450.525.

(b) 1955 PA 156, MCL 450.701 to 450.704.

(3) The uniform voidable transactions act, 1998 PA 434, MCL 566.31 to 566.45, does not apply to distributions permitted under this act.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015;—Am. 2016, Act 554, Eff. Apr. 10, 2017.

450.2123 Applicability to corporation formed under other act not repealed by this act; organizations to which act inapplicable.

Sec. 123. (1) Subject to subsection (3), unless otherwise provided in, and to the extent not inconsistent with, the act under which a corporation is or has been formed, this act applies to a corporation that is or has been formed under an act other than this act and not repealed by this act.

(2) A corporation described in subsection (1) includes, but is not limited to, any of the following:

(a) A cooperative corporation classified as a nonprofit corporation under section 98 of 1931 PA 327, MCL 450.98.

(b) A secret society or lodge.

(c) A trustee corporation that holds property for charitable, religious, benevolent, educational, or other public benefit purposes.

(d) A church trustee corporation.

(e) An educational corporation that is organized as a trustee corporation or a nonprofit corporation.

(f) An ecclesiastical corporation.

(g) A public building corporation.

(h) A street railway under the nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27.

(3) Except as provided in subsection (2)(h), this act does not apply to insurance or surety companies, credit unions, savings and loan associations, fraternal benefit societies, railroad, bridge, or tunnel companies, union depot companies, or banking corporations.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 1990, Act 39, Imd. Eff. Mar. 29, 1990;—Am. 2008, Act 482, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2124 Requirements of other acts not modified; compliance; inconsistency between acts.

Sec. 124. (1) This act does not modify the requirements of the following:

(a) The supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) 1965 PA 169, MCL 450.251 to 450.253.

(c) The charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

(d) The uniform prudent management of institutional funds act.

(e) The career development and distance learning act, 2002 PA 36, MCL 390.1571 to 390.1579.

(2) A corporation subject to 1 or more of the acts listed in subsection (1) shall comply with those acts and shall comply with this act. If there is any inconsistency between those acts and this act, those acts shall control.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2002, Act 33, Imd. Eff. Mar. 7, 2002;—Am. 2009, Act 88, Imd. Eff. Sept. 10, 2009.
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450.2125 Applicability to commerce with foreign nations and among several states, and to corporations formed by act of congress.

Sec. 125. This act applies to commerce with foreign nations and among the several states and to corporations formed by or under any act of congress, only to the extent permitted under the constitution and laws of the United States.

History: 1982, Act 162, Eff. Jan. 1, 1983.

450.2127 Effect of act on existing corporation, cause of action, liability, penalty, action, or special proceeding.

Sec. 127. (1) Except as provided in section 261(3), this act does not affect the duration of a corporation which exists on the effective date of this act. An existing corporation and its shareholders, members, directors, and officers have the same rights and are subject to the same limitations, restrictions, liabilities, and penalties as a corporation formed under this act, and its shareholders, members, directors, and officers.

(2) This act does not affect a cause of action, liability, penalty, or action or special proceeding, which on the effective date of this act is accrued, existing, incurred, or pending, but the same may be asserted, enforced, prosecuted, or defended as if this act had not been enacted.

History: 1982, Act 162, Eff. Jan. 1, 1983.

450.2129 Supplementation, alteration, amendment, or repeal of act by legislature.

Sec. 129. This act may be supplemented, altered, amended, or repealed by the legislature and every corporation, domestic or foreign, to which this act applies is bound thereby.

History: 1982, Act 162, Eff. Jan. 1, 1983.

450.2131 Submission of documents; delivery; endorsement; indexing; returning copy or original; public inspection; maintenance of records and files; reproductions; effective date of document; fees.

Sec. 131. (1) A document required or permitted to be filed under this act shall be submitted by delivering the document to the administrator together with the fees and accompanying documents required by law. The administrator may establish a procedure for accepting delivery of a document submitted under this subsection by facsimile or by other electronic transmission. The administrator shall accept delivery of documents submitted by electronic mail or over the internet.

(2) If a document submitted under subsection (1) substantially conforms to the requirements of this act, the administrator shall endorse on it the word "filed" with his or her official title and the dates of receipt and of filing, and shall file and index the document or a reproduction of the document pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, in his or her office. If requested at the time of the delivery of the document to the administrator's office, the administrator shall include the hour of filing in the endorsement on the document.

(3) The administrator may return a copy of a document filed under subsection (2), or, at his or her discretion, the original, to the person that submitted the document for filing. The administrator shall mark the filing date on the copy or original before returning it or may provide proof of the filing date to the person that submitted the document for filing in another manner determined by the administrator.

(4) The records and files of the administrator relating to domestic and foreign corporations shall be open to reasonable inspection by the public. The administrator may maintain the records or files either in their original form or in the form of reproductions pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, and may destroy the original of the reproduced documents.

(5) The administrator may make reproductions of any documents filed under this act, or any predecessor act, pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, and may destroy the originals of the reproduced documents.

(6) A document filed under subsection (2) is effective at the time it is endorsed unless a subsequent effective time, not later than 90 days after the date of delivery, is set forth in the document.

(7) The administrator shall charge 1 of the following nonrefundable fees if expedited filing of a document by the administrator is requested and the administrator shall retain the revenue collected under this subsection and the department shall use it to carry out its duties required by law:

(a) For any filing that a person requests the administrator to complete within 1 hour on the same day as the day of the request, \$1,000.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(b) For any filing that a person requests the administrator to complete within 2 hours on the same day as

the day of the request, \$500.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(c) Except for a filing request under subdivision (a) or (b), for the filing of any formation or qualification document that a person requests the administrator to complete on the same day as the day of the request, \$100.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(d) Except for a filing request under subdivision (a) or (b), for the filing of any other document concerning an existing domestic corporation or a qualified foreign corporation that a person requests the administrator to complete on the same day as the day of the request, \$200.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(e) For the filing of any formation or qualification document that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, \$50.00.

(f) For the filing of any other document concerning an existing domestic corporation or a qualified foreign corporation that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, \$100.00.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 1992, Act 198, Imd. Eff. Oct. 5, 1992;—Am. 2005, Act 219, Eff. Jan. 1, 2006;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2132 English language; signatures; contents of documents.

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

(2) A document required or permitted to be filed under this act that is also required by this act to be executed on behalf of the domestic or foreign corporation shall be signed by an authorized officer or agent of the domestic or foreign corporation. If the board has not yet met, the document shall be signed by the incorporator or a majority of incorporators if there are more than 1. If the domestic or foreign corporation is in the hands of a receiver, trustee, or other court appointed officer, the document shall be signed by the fiduciary or a majority of the fiduciaries, if there are more than 1. The name of a person signing the document and the capacity in which he or she signs shall be stated beneath or opposite his or her signature. The document may, but need not, contain any of the following:

(a) The corporate seal.

(b) An attestation by the secretary or an assistant secretary of the corporation.

(c) An acknowledgment or proof.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2133 Correction of document; certificate; effective date of corrected document.

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

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2008, Act 9, Imd. Eff. Feb. 29, 2008;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2141 Taking action without notice and without lapse of prescribed period of time; waiver.

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

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2008, Act 9, Imd. Eff. Feb. 29, 2008;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2142 Dispensing with notice or communication to person with whom communication unlawful; affidavit, certificate, or other instrument.

Sec. 142. When a notice or communication is required to be given to a person by this act, by the articles of incorporation or bylaws, or by the terms of an agreement or instrument relating to the internal affairs of the corporation, or as a condition precedent to taking corporate action, and communication with the person is then unlawful under a statute of this state or the United States or a rule, regulation, proclamation, or order issued under any of those statutes, the giving of the notice or communication to the person is not required and there is no duty to apply for a license or other permission to do so. An affidavit, certificate or other instrument which is required to be made or filed as proof of the giving of a notice or communication required by this act, if the notice or communication to any person is dispensed with under this section, shall include a statement that the notice or communication was not given to any person with whom communication is unlawful. The affidavit, certificate or other instrument is as effective for all purposes as though the notice or communication had been personally given to the person.

History: 1982, Act 162, Eff. Jan. 1, 1983.

450.2143 Giving notice or communication by mail; electronic transmission as written notice; delivery of notice or documents to common address; delivery of notice to resident agent; "address" defined.

Sec. 143. (1) If a notice or communication is required or permitted by this act to be given by mail, it shall be mailed, except as otherwise provided in this act, to the person to which it is directed at the address designated by that person for that purpose or, if none is designated, at that person's last known address. The notice or communication is given when deposited, with postage prepaid, in a post office or official depository under the exclusive care and custody of the United States postal service. The mailing shall be sent by registered, certified, or other first class mail unless otherwise required under this act.

(2) If a notice is required or permitted by this act to be given in writing, electronic transmission is written notice.

(3) If a corporation is required or permitted to provide its shareholders or members with a written notice or other written report, statement, or communications under this act, the articles of incorporation, or the bylaws, the corporation may provide that notice, report, statement, or communication to all shareholders or members that share a common address by delivering 1 copy of it to the common address if all of the following are met:

(a) The corporation addresses the notice, report, statement, or communication to the shareholders or members that share the common address as a group, individually, or in any other form to which any of those shareholders or members have not objected.

(b) At least 60 days before the first delivery or any delivery to a common address under this subsection, the corporation gives notice to each of the shareholders or members that share that common address that it intends to provide only 1 copy of notices, reports, statements, or other communications to shareholders or members that share a common address.

(c) The corporation has not received a written objection from any shareholder or member that shares a common address to deliveries under this subsection to that shareholder or member. If it receives a written objection under this subdivision, the corporation within 30 days shall begin providing the objecting shareholder or member with separate copies of any notices, reports, statements, or communications to the shareholders or members, but the corporation may deliver 1 copy of the notices, reports, statements, or communications to all of the shareholders or members at that common address that have not objected.

(4) If a notice or communication is permitted by this act to be transmitted electronically, the notice or communication is given when electronically transmitted to the person entitled to the notice or communication in a manner authorized by the person.

(5) If the administrator is required under this act to give notice to a corporation, the administrator may electronically transmit the notice to the corporation's resident agent in the manner authorized by the corporation.

(6) As used in subsection (3), "address" means a street address, post office box, electronic mail address for electronic transmissions by electronic mail, or telephone facsimile number for electronic transmissions by facsimile.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2008, Act 9, Imd. Eff. Feb. 29, 2008;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.

450.2151 Failure of administrator to file document promptly; notice of failure to file; posting notice on website or sending by mail or electronic mail address; refusal or revocation of authorization of foreign corporation to conduct affairs in state; judicial review.

Sec. 151. (1) If the administrator fails to promptly file a document, other than an annual report, submitted for filing under this act, the administrator shall within 10 days after receiving a written request to file the document from the person that submitted the document for filing give written notice of the failure to file the document to that person, specifying the reasons for the failure to file the document. The administrator may give written notice under this subsection by posting the notice on the administrator's website; by sending the notice by mail to the address provided by the person that submitted the document; or, if the person that submitted the document has provided the administrator with an electronic mail address, by sending the notice to that electronic mail address. The person may seek judicial review of the refusal to file the document under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.306.

(2) If the administrator refuses to authorize or revokes the authorization of a foreign corporation to conduct affairs in this state under this act, the foreign corporation may seek judicial review under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.306.

History: 1982, Act 162, Eff. Jan. 1, 1983;—Am. 2008, Act 9, Imd. Eff. Feb. 29, 2008;—Am. 2014, Act 557, Imd. Eff. Jan. 15, 2015.