

**BUSINESS CORPORATION ACT (EXCERPT)**  
**Act 284 of 1972**

**450.1488 Shareholder agreement.**

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

- (a) It eliminates the board or restricts the discretion or powers of the board.
  - (b) It governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to limitations in sections 345 and 855a pertaining to the protection of creditors.
  - (c) It establishes who shall be directors or officers of the corporation, or the terms of office or manner of selection or removal of directors or officers of the corporation.
  - (d) In general or in regard to specific matters, it governs the exercise or division of voting power by or between the shareholders and directors or by or among any of the shareholders or directors, including use of weighted voting rights or director proxies.
  - (e) It establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among the shareholders, directors, officers, or employees of the corporation.
  - (f) It transfers to 1 or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.
  - (g) It requires dissolution of the corporation at the request of 1 or more of the shareholders or if a specified event or contingency occurs.
  - (h) It establishes that shares of the corporation are assessable and includes the procedures for an assessment and the consequences of a failure by a shareholder to pay an assessment.
  - (i) It otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of the shareholders or directors, and is not contrary to public policy.
- (2) An agreement authorized by this section shall meet both of the following requirements:
- (a) Is set forth in a provision of the articles of incorporation or bylaws approved by all persons that are shareholders at the time of the agreement, or in a written agreement that is signed by all persons that are shareholders at the time of the agreement and that is made known to the corporation.
  - (b) Is subject to amendment only by all persons that are shareholders at the time of the amendment, unless the agreement provides otherwise.
- (3) The existence of an agreement authorized under this section shall be noted conspicuously on the face or back of a certificate for shares issued by the corporation or on the information statement required under section 336. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement does not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares that did not have knowledge of the existence of the agreement at the time ownership is transferred is entitled to rescission of the purchase. A purchaser has knowledge of the existence of the agreement at the time ownership is transferred if the agreement's existence is noted on the certificate or information statement in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or before the time ownership of the shares is transferred. An action to enforce the right of rescission authorized under this subsection must be commenced within 90 days after discovery of the existence of the agreement or 2 years after the shares are transferred, whichever is earlier.
- (4) An agreement authorized under this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by 1 or more members of a national or affiliated securities association.
- (5) If an agreement authorized under this section is no longer effective for any reason and is contained or referred to in the corporation's articles of incorporation or bylaws, the board may without shareholder action adopt an amendment to the articles of incorporation or bylaws to delete the agreement and any references to it.

(6) An agreement authorized under this section that limits the discretion or powers of the board shall relieve the directors of, and impose on the person or persons in which the discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement. The person or persons in whom the discretion or powers are vested are

treated as a director or directors for purposes of any indemnification and any limitation on liability under section 209(1)(c).

(7) The existence or performance of an agreement authorized under this section is not grounds for imposing personal liability on any shareholder for the acts or debts of the corporation or for treating the corporation as if it were a partnership or unincorporated entity, even if the agreement or its performance results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

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

(9) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized under this section if shares have not been issued when the agreement is made.

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

**History:** Add. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.