

NONPROFIT CORPORATION ACT (EXCERPT)
Act 162 of 1982

450.2343 Preemptive right of shareholder of corporation organized on stock basis to acquire unissued shares; extent; statement; principles; "shares" defined.

Sec. 343. (1) The shareholders of a corporation organized on a stock basis do not have a preemptive right to acquire the corporation's unissued shares except to the extent provided in the articles of incorporation or by agreement between the corporation and 1 or more shareholders.

(2) If a statement is included in the articles of incorporation or an agreement described in subsection (1) that the corporation elects to have preemptive rights, or words of similar import are included in the articles or agreement, the following principles apply except to the extent the articles of incorporation or agreement expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board, to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares if the board decides to issue them.

(b) A shareholder may waive his or her preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(c) There is no preemptive right with respect to any of the following:

(i) Shares that are authorized in the articles of incorporation and are issued within 6 months after the effective date of incorporation.

(ii) Shares that are not issued for money.

(d) Holders of shares of any class that do not have general voting rights but do have preferential rights to distributions or assets do not have preemptive rights with respect to shares of any class.

(e) Holders of shares of any class that have general voting rights but do not have preferential rights to distributions or assets do not have preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares that are subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of 1 year after the shares are offered to shareholders at a consideration set by the board that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of 1 year is subject to the shareholders' preemptive rights.

(3) The preemptive rights, if any, whether created by statute or common law, of shareholders of a corporation formed before January 1, 1973, are not affected by subsections (1) and (2). A corporation may alter or abolish its shareholders' preemptive rights by an amendment to its articles of incorporation.

(4) As used in this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

History: Add. 2014, Act 557, Imd. Eff. Jan. 15, 2015.