

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

**450.1791 “Control share acquisition” defined; acquisition of shares or power to direct exercise of voting power; acquisition of shares in ordinary course of business for benefit of others in good faith; acquisition of shares not constituting control share acquisition; formation of group.**

Sec. 791. (1) As used in this chapter, “control share acquisition” means the acquisition, directly or indirectly, by any person of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares.

(2) For purposes of this section, shares or the power to direct the exercise of voting power acquired within a 90-day period, or shares or the power to direct the exercise of voting power acquired pursuant to a plan to make a control share acquisition, are considered to have been acquired in the same acquisition.

(3) For purposes of this section, a person who acquires shares in the ordinary course of business for the benefit of others in good faith and not for the purpose of circumventing this chapter has voting power only of shares in respect of which that person would be able to exercise or direct the exercise of votes without further instruction from others.

(4) For purposes of this section, the acquisition of any shares of an issuing public corporation does not constitute a control share acquisition if the acquisition is consummated in any of the following circumstances:

(a) Before January 1, 1988.

(b) Pursuant to a contract existing before January 1, 1988.

(c) By gift, testamentary disposition, marital settlement, descent and distribution, or otherwise without consideration.

(d) Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this chapter.

(e) Pursuant to a merger or share exchange effected in compliance with sections 701 to 735 if the issuing public corporation is a party to the agreement of merger or share exchange.

(f) By a governmental official acting in an official or fiduciary capacity.

(5) For purposes of this section, the acquisition of shares of an issuing public corporation in good faith and not for the purpose of circumventing this chapter by any person whose voting rights previously had been authorized by shareholders in compliance with this chapter, or whose previous acquisition of shares of an issuing public corporation would have constituted a control share acquisition but for subsection (4), does not constitute a control share acquisition, unless the acquisition entitles a person, directly or indirectly, alone or as part of a group, to exercise or direct the exercise of voting power of the corporation in the election of directors in excess of the range of the voting power which the acquiring person was entitled to exercise or direct prior to such acquisition.

(6) For purposes of this section, the formation of a group does not constitute a control share acquisition of shares of an issuing public corporation held by members of the group.

**History:** Add. 1988, Act 58, Eff. Apr. 1, 1988;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2003, Act 181, Imd. Eff. Oct. 7, 2003.

**Compiler's note:** Section 2 of Act 58 of 1988 provides: “This amendatory act shall not apply to any domestic corporation before June 1, 1989, unless the corporation's board of directors adopts a resolution, pursuant to this section, electing to have this act apply to the corporation. The resolution shall specify the date after January 1, 1988 and before June 1, 1989 on which this act will apply to the corporation. The resolution shall be filed with the department of commerce, corporation and securities bureau, on or before the date that the act will apply to the corporation.”