

CHAPTER 388

NONPROFIT CORPORATIONS

S. F. 113

AN ACT relating to nonprofit corporations and the formation, merger, consolidation, dissolution, liquidation, admission to do business in this state and withdrawal therefrom, authority, powers and rights thereof, and requirements therefor, and the regulation and conduct of affairs thereof.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. **Short title.** This Act shall be known and may be
2 cited as the "Iowa Nonprofit Corporation Act".

1 SEC. 2. **Definitions.** As used in this Act, unless the context
2 otherwise requires, the term:

3 1. "Person" means an individual, a corporation (domestic or for-
4 eign, whether nonprofit or for profit), a partnership, an association,
5 a trust or a fiduciary.

6 2. "Corporation" or "domestic corporation" means a nonprofit cor-
7 poration subject to the provisions of this Act, except a foreign cor-
8 poration.

9 3. "Foreign corporation" means a nonprofit corporation organized
10 under laws other than the laws of this state.

11 4. "Nonprofit corporation" means a corporation no part of the
12 income or profit of which is distributable to its members, directors
13 or officers except as provided in this Act.

14 5. "Articles of incorporation" means the original or restated arti-
15 cles of incorporation and all amendments thereto, and includes
16 articles of merger.

17 6. "Bylaws" means the code or codes of rules adopted for the
18 regulation or management of the affairs of the corporation irrespec-
19 tive of the name or names by which such rules are designated.

20 7. "Member" means a person as herein defined having membership
21 rights in a corporation in accordance with the provisions of its arti-
22 cles of incorporation or bylaws.

23 8. "Board of directors" means the person or group of persons
24 vested with the management of the affairs of the corporation ir-
25 respective of the name by which such person or group is designated.

26 9. "Insolvent" means inability of a corporation to pay its debts as
27 they become due in the usual course of its affairs.

1 SEC. 3. **Purposes.** Subject to the provisions of subsection one
2 (1) of section one hundred (100) of this Act, corporations may be
3 organized under this Act for any lawful purpose or purposes not for
4 pecuniary profit.

1 SEC. 4. **General powers.** Each corporation, unless otherwise
2 stated in its articles of incorporation, shall have power:

3 1. To have perpetual succession by its corporate name unless a
4 limited period of duration is stated in its articles of incorporation.

5 2. To sue and be sued, complain and defend, in its corporate name.

6 3. To have a corporate seal which may be altered at pleasure, and
7 to use the same by causing it, or a facsimile thereof, to be impressed
8 or affixed or in any other manner reproduced.

- 9 4. To purchase, take, receive, lease, take by gift, devise or bequest,
10 or otherwise acquire, own, hold, improve, use and otherwise deal in
11 and with real or personal property, or any interest therein, wherever
12 situated.
- 13 5. To sell, convey, mortgage, pledge, lease, exchange, transfer and
14 otherwise dispose of all or any part of its property and assets.
- 15 6. To lend money to its employees other than its officers and direc-
16 tors, and otherwise assist its employees, officers and directors.
- 17 7. To purchase, take, receive, subscribe for, or otherwise acquire,
18 own, hold, vote, use, employ, sell, mortgage, lend, pledge, or other-
19 wise dispose of, and otherwise use and deal in and with, shares or
20 other interests in, or obligations of, other domestic or foreign cor-
21 porations, whether for profit or not for profit, associations, partner-
22 ships or individuals, or direct or indirect obligations of the United
23 States, or of any other government, state, territory, governmental
24 district or municipality or of any instrumentality thereof.
- 25 8. To make contracts and guaranties and incur liabilities, borrow
26 money at such lawful rates of interest as the corporation may deter-
27 mine, issue its notes, bonds, and other obligations, and secure any of
28 its obligations by mortgage or pledge of all or any of its property,
29 franchises and income, and to guarantee the obligations of other
30 persons.
- 31 9. To lend money for its corporate purposes, invest and reinvest
32 its funds, and take and hold real and personal property as security
33 for the payment of funds so loaned or invested.
- 34 10. To conduct its affairs, carry on its operations, and have offices
35 and exercise the powers granted by this Act in any state, territory,
36 district, or possession of the United States, or in any foreign country.
- 37 11. To elect or appoint officers and agents of the corporation who
38 may be directors or members, and define their duties and fix their
39 compensation, and to pay pensions and establish pension plans, pen-
40 sion trusts, and other incentive, insurance and welfare plans for any
41 or all of its directors, officers and employees.
- 42 12. To make and alter bylaws, not inconsistent with its articles of
43 incorporation or with the laws of this state, for the administration
44 and regulation of the affairs of the corporation.
- 45 13. Unless otherwise provided in the articles of incorporation, to
46 make donations for the public welfare or for charitable, religious,
47 eleemosynary, benevolent, scientific or educational purposes; and in
48 time of war to make donations in aid of war activities.
- 49 14. To indemnify any director or officer or former director or
50 officer of the corporation, or any person who may have served at its
51 request as a director or officer of another corporation, whether non-
52 profit or for profit, against expenses actually and reasonably incurred
53 by him in connection with the defense of any action, suit or proceed-
54 ing, civil or criminal, in which he is made a party by reason of being
55 or having been such director or officer, except in relation to matters
56 as to which he shall be adjudged in such action, suit or proceeding
57 to be liable for negligence or misconduct in the performance of duty;
58 and to make any other indemnification that shall be authorized by
59 the articles of incorporation or bylaws, or resolution adopted after
60 notice by the members entitled to vote.

61 15. To cease its corporate activities and surrender its corporate
62 franchise.

63 16. To have and exercise all powers necessary or convenient to
64 effect any or all of the purposes for which the corporation is organ-
65 ized.

1 SEC. 5. **Defense of ultra vires.** No act of a corporation and no
2 conveyance or transfer of real or personal property to or by a cor-
3 poration shall be invalid by reason of the fact that the corporation
4 was without capacity or power to do such act or to make or receive
5 such conveyance or transfer, but such lack of capacity or power may
6 be asserted:

7 1. In a proceeding by a member or a director against the corpora-
8 tion to enjoin the doing or continuation of unauthorized acts, or the
9 transfer of real or personal property by or to the corporation. If
10 the unauthorized acts or transfers sought to be enjoined are being
11 or are to be, performed pursuant to any contract to which the cor-
12 poration is a party, the court may, if all of the parties to the contract
13 are parties to the proceeding and if it deems the same to be equitable,
14 set aside and enjoin the performance of such contract, and in so
15 doing may allow to the corporation or the other parties to the con-
16 tract, as the case may be, compensation for the loss or damage sus-
17 tained by either of them which may result from the action of the
18 court in setting aside and enjoining the performance of such con-
19 tract, but anticipated profits to be derived from the performance of
20 the contract shall not be awarded by the court as a loss or damage
21 sustained.

22 2. In a proceeding by the corporation, whether acting directly or
23 through a receiver, trustee, or other legal representative or through
24 members in a representative suit, against the incumbent or former
25 officers or directors of the corporation for exceeding their authority.

26 3. In a proceeding by the attorney general, as provided in this Act,
27 to dissolve the corporation, or in a proceeding by the attorney gen-
28 eral to enjoin the corporation from performing unauthorized acts, or
29 in any other proceeding by the attorney general.

1 SEC. 6. **Corporate name.** The corporate name:

2 1. Shall not contain any word or phrase which indicates or implies
3 that it is organized for any purpose other than one or more of the
4 purposes contained in its articles of incorporation.

5 2. Shall not be the same as, or deceptively similar to, the name of
6 any corporation, whether for profit or not for profit, existing under
7 the laws of this state, or any foreign corporation, whether for profit
8 or not for profit, authorized to transact business or conduct affairs
9 in this state, or a corporate name reserved or registered as permitted
10 by the laws of this state.

11 3. Shall be transliterated into letters of the English alphabet, if
12 it is not in English.

1 SEC. 7. **Reserved name.** The exclusive right to the use of a cor-
2 porate name may be reserved by filing in the office of the secretary
3 of state an application to reserve a specified corporate name, executed
4 by the applicant. If the secretary of state finds that such name is

5 available for corporate use, he shall reserve the same for the exclu-
6 sive use of such applicant for a period of one hundred twenty days.

7 The right to the exclusive use of a specified corporate name so
8 reserved may be assigned by filing in the office of the secretary of
9 state a notice of such assignment, executed by the person for whom
10 such name was reserved and specifying the name and address of the
11 transferee.

1 **SEC. 8. Registered office and registered agent.** Each corporation
2 shall have and continuously maintain in this state:

3 1. A registered office which may be, but need not be, the same as
4 its principal office.

5 2. A registered agent or agents who may be either an individual
6 or individuals resident in this state, the business office of whom shall
7 be identical with such registered office, or a domestic corporation,
8 whether for profit or not for profit, or a foreign corporation, whether
9 for profit or not for profit, authorized to transact business or conduct
10 affairs in this state, having an office identical with such registered
11 office.

1 **SEC. 9. Change of registered office or registered agent.** A cor-
2 poration may change its registered office or change its registered
3 agent or agents, or both office and agent or agents upon filing in the
4 office of the secretary of state a statement setting forth:

5 1. The name of the corporation.

6 2. The address of its then registered office.

7 3. If the address of its registered office be changed, the address to
8 which the registered office is to be changed.

9 4. The name of its then registered agent or agents.

10 5. If its registered agent or agents be changed, the name of its
11 successor registered agent or agents.

12 6. That the address of its registered office and the address of the
13 business office of its registered agent or agents, as changed, will be
14 identical.

15 7. That such change was authorized by resolution duly adopted by
16 its board of directors.

17 Such statements shall be executed by the corporation by its presi-
18 dent or a vice-president. If the registered office is changed from one
19 county to another, such statement shall be executed in duplicate.
20 Such statement shall be delivered to the secretary of state for filing
21 and recording in his office, and the statement shall be filed and re-
22 corded in the office of the county recorder; and if the registered office
23 is changed from one county to another, the same shall be filed and
24 recorded in the office of the recorder of the county in which the
25 registered office was located prior to the filing of such statement in
26 the office of the secretary of state, and in the office of the recorder
27 of the county to which the registered office is changed.

28 If the registered office is changed from one county to another, the
29 corporation shall also cause to be filed and recorded forthwith in the
30 office of the recorder of the county to which such registered office is
31 changed, its original articles of incorporation and all amendments
32 thereto, or copies thereof certified by the secretary of state, or its
33 restated articles and all amendments thereto, or copies thereof cer-
34 tified by the secretary of state.

35 If a registered agent or agents change his, their or its business
36 address to another place within the same county, he, they or it may
37 change the address of the registered office of any corporations of
38 which he, they or it is registered agent by filing a statement as
39 required above for each corporation, or a single statement for all
40 corporations named therein, except that it need be signed only by the
41 registered agent or agents and need not be responsive to subsections
42 five (5) and seven (7) above, and must recite that notification of
43 such change has been mailed to each such corporation.

44 The change of address of registered office or the change of regis-
45 tered agent or agents or both registered office and agent or agents,
46 as the case may be, shall become effective upon the filing of such
47 statement by the secretary of state, but until such statement is re-
48 corded in the office of the recorder as above prescribed, service of
49 process, notice or demand required or permitted by law to be served
50 upon the corporation may be served upon the person who was its
51 registered agent at its registered office prior to the filing of such
52 statement with the same force and effect as if no change in registered
53 office or registered agent had been made.

54 Any registered agent of a corporation may resign as such agent
55 upon filing a written notice thereof, executed in duplicate, with the
56 secretary of state, who shall record one copy and forthwith mail the
57 other copy thereof to the corporation in care of an officer, who is not
58 the resigning registered agent, at the address of such officer as
59 shown by the most recent annual report of the corporation. The copy
60 recorded by the secretary of state shall be sent by him to the county
61 recorder of the county in which the registered office is located for
62 recording in his office. The appointment of such agent shall termi-
63 nate upon the expiration of thirty days after receipt of such notice
64 by the secretary of state.

1 **SEC. 10. Service of process on corporation.** The registered agent
2 so appointed by a corporation shall be an agent of such corporation
3 upon whom any process, notice or demand required or permitted by
4 law to be served upon the corporation may be served.

5 Whenever a corporation shall fail to appoint or maintain a regis-
6 tered agent in this state, or whenever its registered agent cannot
7 with reasonable diligence be found at the registered office, then the
8 secretary of state shall be an agent of such corporation upon whom
9 any such process, notice, or demand may be served. Service on the
10 secretary of state of any such process, notice, or demand shall be
11 made by delivering to and leaving with him, or with any clerk having
12 charge of the corporation department of his office, duplicate copies of
13 such process, notice or demand. In the event any such process, notice
14 or demand is served on the secretary of state, he shall immediately
15 cause one of the copies thereof to be forwarded by registered or cer-
16 tified mail, addressed to the corporation at its registered office. No
17 corporation served in accordance with the procedure provided for by
18 this paragraph shall be in default until thirty days have elapsed fol-
19 lowing such service on the secretary of state.

20 The secretary of state shall keep a record of all processes, notices
21 and demands served upon him under this section, and shall record
22 therein the time of such service and his action with reference thereto.

23 Nothing herein contained shall limit or affect the right to serve
24 any process, notice or demand required or permitted by law to be
25 served upon a corporation in any other manner now or hereafter per-
26 mitted by law.

1 **SEC. 11. Members.** A corporation may have one or more classes
2 of members or may have no members. If the corporation has one or
3 more classes of members, the designation of such class or classes,
4 the manner of election or appointment and the qualifications and
5 rights of the members of each class shall be set forth in the articles
6 of incorporation or the bylaws. If the corporation has no members,
7 that fact shall be set forth in the articles of incorporation or the by-
8 laws. A corporation may issue certificates evidencing membership
9 therein.

1 **SEC. 12. Bylaws.** The initial bylaws of a corporation shall be
2 adopted by its board of directors. The power to alter, amend or
3 repeal the bylaws or adopt new bylaws shall be vested in the board
4 of directors unless otherwise provided in the articles of incorpora-
5 tion. The bylaws may contain any provisions for the regulation and
6 management of the affairs of a corporation not inconsistent with law
7 or the articles of incorporation.

8 The board of directors of any corporation may adopt emergency
9 bylaws, subject to repeal or change by action of the members, which
10 shall, notwithstanding any different provision elsewhere in this Act
11 or in the articles of incorporation or bylaws, be operative during any
12 emergency, in the conduct of the affairs of the corporation resulting
13 from an attack on the United States or any nuclear or atomic dis-
14 aster. The emergency bylaws may make any provision that may be
15 practical and necessary for the circumstances of the emergency in-
16 cluding provisions that:

17 1. A meeting of the board of directors may be called by any officer
18 or director in such manner and under such conditions as shall be
19 prescribed in the emergency bylaws;

20 2. The director or directors in attendance at the meeting, or any
21 greater number fixed by the emergency bylaws, shall constitute a
22 quorum; and

23 3. The officers or other persons designated on a list approved by
24 the board of directors before the emergency, all in such order of
25 priority and subject to such conditions and for such period of time
26 (not longer than reasonably necessary after the termination of the
27 emergency) as may be provided in the emergency bylaws or in the
28 resolution approving the list, shall, to the extent required to provide
29 a quorum at any meeting of the board of directors, be deemed direc-
30 tors for such meeting.

31 The board of directors, either before or during any such emer-
32 gency, may provide, and from time to time modify, lines of succes-
33 sion in the event that during such an emergency any or all officers
34 or agents of the corporation shall for any reason be rendered in-
35 capable of discharging their duties.

36 To the extent not inconsistent with any emergency bylaws so
37 adopted, the bylaws of the corporation shall remain in effect during

38 any such emergency and upon its termination the emergency bylaws
39 shall cease to be operative.

40 Unless otherwise provided in emergency bylaws, notice of any
41 meeting of the board of directors during any such emergency may
42 be given only to such of the directors as it may be feasible to reach
43 at the time and by such means as may be feasible at the time, in-
44 cluding publication or radio.

45 To the extent required to constitute a quorum at any meeting of
46 the board of directors during any such emergency, the officers of the
47 corporation who are present shall, unless otherwise provided in
48 emergency bylaws, be deemed, in order of rank and within the same
49 rank in order of seniority, directors for such meeting.

50 No officer, director or employee acting in accordance with any
51 emergency bylaws shall be liable except for willful misconduct. No
52 officer, director or employee shall be liable for any action taken by
53 him in good faith in such an emergency in furtherance of the ordi-
54 nary affairs of the corporation, even though not authorized by the
55 bylaws then in effect.

1 **SEC. 13. Meetings of members.** Meetings of members may be
2 held at such places, either within or without this state, as may be
3 provided in the articles of incorporation or the bylaws, or as may be
4 fixed from time to time in accordance with the provisions thereof.
5 In the absence of any such provision, all meetings shall be held at
6 the registered office of the corporation.

7 An annual meeting of the members shall be held at such time as
8 may be provided in the articles of incorporation or the bylaws. Fail-
9 ure to hold the annual meeting at the designated time shall not work a
10 forfeiture or dissolution of the corporation.

11 Special meetings of the members may be called by the president or
12 by the board of directors. Special meetings of the members may also
13 be called by such other officers or persons or number or proportion
14 of members as may be provided in the articles of incorporation or the
15 bylaws. In the absence of a provision fixing the number or propor-
16 tion of members entitled to call a meeting, a special meeting of mem-
17 bers may be called by members having one-twentieth of the votes
18 entitled to be cast at such meeting.

1 **SEC. 14. Notice of members' meetings.** Unless the articles of
2 incorporation or the bylaws otherwise provide, written notice stating
3 the place, day and hour of the meeting and, in case of a special
4 meeting, the purpose or purposes for which the meeting is called,
5 shall be delivered no less than ten nor more than fifty days before
6 the date of the meeting, either personally or by mail, by or at the
7 direction of the president, the secretary, or the officer or persons
8 calling the meeting, to each member entitled to vote at such meeting.
9 If mailed, such notice shall be deemed to be delivered when deposited
10 in the United States mail addressed to the member at his address as
11 it appears on the records of the corporation, with postage thereon
12 prepaid.

1 **SEC. 15. Voting.** The right of the members, or any class or
2 classes of members, to vote may be limited, enlarged or denied to the
3 extent specified in the articles of incorporation or, if the articles of

4 incorporation so provide, by the bylaws. Unless so limited, enlarged
5 or denied, each member, regardless of class, shall be entitled to one
6 vote on each matter submitted to a vote of members.

7 A member entitled to vote may vote in person or, unless the arti-
8 cles of incorporation or the bylaws otherwise provide, may vote by
9 proxy executed in writing by the member or by his duly authorized
10 attorney-in-fact. No proxy shall be valid after eleven months from
11 the date of its execution, unless otherwise provided in the proxy.
12 Where directors or officers are to be elected by members the bylaws
13 may provide that such elections may be conducted by mail.

14 The articles of incorporation may provide that in all elections for
15 directors every member entitled to vote shall have the right to cumu-
16 late his vote and to give one candidate a number of votes equal to
17 his vote multiplied by the number of directors to be elected, or by
18 distributing such votes on the same principle among any number of
19 such candidates.

20 If a corporation has no members or its members have no right to
21 vote, the directors shall have the sole voting power.

1 **SEC. 16. Quorum.** The bylaws may provide the number or per-
2 centage of members entitled to vote represented in person or by
3 proxy, or the number or percentage of votes represented in person or
4 by proxy, which shall constitute a quorum at a meeting of members.
5 In the absence of any such provision, members holding one-tenth of
6 the votes entitled to be cast on the matter to be voted upon repre-
7 sented in person or by proxy shall constitute a quorum. A majority
8 of the votes entitled to be cast on a matter to be voted upon by the
9 members present or represented by proxy at a meeting at which a
10 quorum is present shall be necessary for the adoption thereof unless
11 a greater proportion is required by this Act, the articles of incorpora-
12 tion or the bylaws.

1 **SEC. 17. Board of directors.** The affairs of a corporation shall
2 be managed by a board of one or more directors. Directors need not
3 be residents of this state or members of the corporation unless the
4 articles of incorporation so require. The articles of incorporation or
5 the bylaws may prescribe other qualifications for directors.

1 **SEC. 18. Number and election of directors.** The number of di-
2 rectors shall be fixed by the bylaws, except as to the number con-
3 stituting the initial board of directors, which number shall be fixed
4 by the articles of incorporation. The number of directors may be
5 increased or decreased from time to time by amendment to the by-
6 laws, unless the articles of incorporation provide that a change in
7 the number of directors shall be made only by amendment of the
8 articles of incorporation. No decrease in number shall have the effect
9 of shortening the term of any incumbent director. In the absence of
10 a bylaw fixing the number of directors, the number shall be the same
11 as that stated in the articles of incorporation.

12 The directors constituting the first board of directors shall be
13 named in the articles of incorporation and shall hold office until the
14 first annual election of directors or for such other period as may be
15 specified in the articles of incorporation or the bylaws. Thereafter,
16 directors shall be elected or appointed in a manner and for the terms

17 provided in the articles of incorporation or the bylaws. In the ab-
18 sence of a provision fixing the term of office, the term of office of a
19 director shall be one year.

20 Directors may be divided into classes and the terms of office of
21 the several classes need not be uniform. Each director shall hold
22 office for the term for which he is elected or appointed and until his
23 successor shall have been elected or appointed and qualified.

24 A director may be removed from office pursuant to any procedure
25 therefor provided in the articles of incorporation.

1 SEC. 19. **Vacancies.** Any vacancy occurring in the board of di-
2 rectors and any directorship to be filled by reason of an increase in
3 the number of directors may be filled by the affirmative vote of a
4 majority of the remaining directors, though less than a quorum of
5 the board of directors unless the articles of incorporation or the by-
6 laws provide that a vacancy or directorship so created shall be filled
7 in some other manner, in which case such provision shall control.

8 Unless otherwise provided in the articles of incorporation or the
9 bylaws, a director so elected or appointed shall be elected or appointed
10 for the unexpired term of his predecessor in office or the full term of
11 such new directorship.

1 SEC. 20. **Quorum of directors.** A majority of the number of di-
2 rectors fixed by the bylaws, or in the absence of a bylaw fixing the
3 number of directors, then of the number stated in the articles of
4 incorporation, shall constitute a quorum for the transaction of busi-
5 ness unless otherwise provided in the articles of incorporation or the
6 bylaws; but in no event shall a quorum consist of less than one third
7 of the number of directors so fixed or stated. The act of the majority
8 of the directors present at a meeting at which a quorum is present
9 shall be the act of the board of directors, unless the act of a greater
10 number is required by this Act, the articles of incorporation or the
11 bylaws.

1 SEC. 21. **Committees.** If the articles of incorporation or the by-
2 laws so provide, the board of directors, by resolution adopted by a
3 majority of the full board of directors, may designate from among
4 its members an executive committee and one or more other commit-
5 tees each of which, to the extent provided in such resolution or in the
6 articles of incorporation or the bylaws of the corporation, shall have
7 and may exercise all the authority of the board of directors; but no
8 such committee shall have the authority of the board of directors in
9 reference to amending the articles of incorporation, adopting a plan
10 of merger or consolidation, recommending to the members the sale,
11 lease, exchange or other disposition of all or substantially all the
12 property and assets of the corporation, recommending to the mem-
13 bers a voluntary dissolution of the corporation or a revocation there-
14 of, or amending the bylaws of the corporation. The designation of
15 any such committee and the delegation thereto of authority shall not
16 operate to relieve the board of directors, or any member thereof, of
17 any responsibility imposed by law.

1 SEC. 22. **Place and notice of directors' meetings.** Meetings of the
2 board of directors, regular or special, may be held either within or

3 without this state, and upon such notice as the bylaws may prescribe.
4 Attendance of a director at any meeting shall constitute a waiver of
5 notice of such meeting except where a director attends a meeting for
6 the express purpose of objecting to the transaction of any business
7 because the meeting is not lawfully called or convened. Neither the
8 business to be transacted at, nor the purpose of, any regular or special
9 meeting of the board of directors need be specified in the notice or
10 waiver of notice of such meeting unless required by the bylaws.

1 **SEC. 23. Officers.** The officers of a corporation shall consist of a
2 president, one or more vice-presidents, a secretary, a treasurer and
3 such other officers and assistant officers as may be deemed necessary,
4 each of whom shall be elected or appointed at such time and in such
5 manner and for such terms as may be prescribed in the articles of
6 incorporation or the bylaws. In the absence of any such provision,
7 all officers shall be elected or appointed annually by the board of direc-
8 tors. Any two or more offices may be held by the same person.

9 The articles of incorporation or the bylaws may provide that any
10 one or more officers of the corporation shall be ex officio members of
11 the board of directors.

12 The officers of a corporation may be designated by such additional
13 titles as may be provided in the articles of incorporation or the by-
14 laws.

1 **SEC. 24. Removal of officers.** Unless otherwise provided in the
2 articles of incorporation, any officers elected or appointed may be
3 removed by the persons authorized to elect or appoint such officer
4 whenever in their judgment the best interests of the corporation will
5 be served thereby. The removal of an officer shall be without preju-
6 dice to the contract rights, if any, of the officers so removed. Election
7 or appointment of an officer or agent shall not of itself create con-
8 tract rights.

1 **SEC. 25. Books and records.** Each corporation shall keep correct
2 and complete books and records of account and shall keep minutes of
3 the proceedings of its members, board of directors and committees
4 having any of the authority of the board of directors; and shall keep
5 at its registered office or principal office in this state a record of the
6 names and addresses of its members entitled to vote. All books and
7 records of a corporation may be inspected by any member, or his
8 agent or attorney, for any proper purpose at any reasonable time.

1 **SEC. 26. Shares of stock and dividends prohibited.** A corpora-
2 tion shall not have or issue shares of stock. No dividend shall be paid
3 and no part of the income or profit of a corporation shall be distrib-
4 uted to its members, directors or officers. A corporation may pay
5 compensation in a reasonable amount to its members, directors or
6 officers for services rendered, may confer benefits upon its members
7 in conformity with its purposes, and upon dissolution or final liquida-
8 tion may make distributions to its members as permitted by this Act,
9 and no such payment, benefit or distribution shall be deemed to be a
10 dividend or a distribution of income or profit.

1 SEC. 27. **Loans to directors and officers prohibited.** No loans
2 shall be made by a corporation to its directors or officers. Any direc-
3 tor or officer who assents to or participates in the making of any such
4 loan shall be liable to the corporation for the amount of such loan
5 until the repayment thereof.

1 SEC. 28. **Incorporators.** One or more persons as defined in this
2 Act having capacity to contract, may act as incorporators of a cor-
3 poration by signing, acknowledging and delivering to the secretary
4 of state articles of incorporation for such corporation.

1 SEC. 29. **Articles of incorporation.** The articles of incorporation
2 shall set forth:

3 1. The name of the corporation and the chapter of the Code or Ses-
4 sion Laws under which incorporated.

5 2. The period of duration if for a limited period, but in the ab-
6 sence of any statement in the articles all corporations organized here-
7 under shall have perpetual duration.

8 3. The purpose or purposes for which the corporation is organized.

9 4. Any provision, not inconsistent with law, which the incorpo-
10 rators elect to set forth in the articles of incorporation for the regu-
11 lation of the internal affairs of the corporation, including any provi-
12 sion for distribution of assets on dissolution or final liquidation.

13 5. The address of its initial registered office including street and
14 number, if any, the name of the county in which the registered office
15 is located, and the name of its initial registered agent or agents at
16 such address.

17 6. The number of directors constituting the initial board of direc-
18 tors and the names and addresses of the persons who are to serve as
19 the initial directors.

20 7. Any provision not inconsistent with law or the purposes for
21 which the corporation is organized, which the incorporators elect to
22 set forth; or any provision limiting any of the corporate powers
23 enumerated in this Act.

24 8. The date on which the corporate existence shall begin, which
25 may be any date identified by year, month and day not more than
26 ninety days in the future. In the absence of any statement in the
27 articles as to date of beginning of corporate existence, such existence
28 shall commence on the date on which the secretary of state issues the
29 certificate of incorporation.

30 9. The name and address of each incorporator.

31 It shall not be necessary to set forth in the articles of incorpora-
32 tion any of the corporate powers enumerated in this Act.

33 Unless the articles of incorporation provide that a change in the
34 number of directors shall be made only by amendment to the articles
35 of incorporation, a change in the number of directors made by amend-
36 ment to the bylaws shall be controlling. In all other cases, whenever
37 a provision of the articles of incorporation is inconsistent with a by-
38 law, the provision of the articles of incorporation shall be controlling.

1 SEC. 30. **Filing and recording of articles of incorporation.** The
2 articles of incorporation shall be delivered to the secretary of state
3 for filing and recording in his office, and the same shall be filed and
4 recorded in the office of the county recorder. The secretary of state

5 upon the filing of such articles shall issue a certificate of incorpora-
6 tion and send the same to the corporation or its representative.

1 **SEC. 31. Effect of issuance of certificate of incorporation.** Upon
2 the issuance of the certificate of incorporation, the corporate exist-
3 ence shall begin unless the certificate in conformity with a provision
4 in the articles provides that it shall begin on a stated day in the
5 future in which event the corporate existence shall without further
6 action by either the incorporators or the secretary of state begin on
7 the day so stated. Such certificate of incorporation shall be conclu-
8 sive evidence that all conditions precedent required to be performed
9 by the incorporators have been complied with and that the corpora-
10 tion has been incorporated under this Act except as against this state
11 in a proceeding to cancel or revoke the certificate of incorporation or
12 for involuntary dissolution of the corporation.

1 **SEC. 32. Procedure for filing and recording of documents.** If in
2 this Act, it is required that any document be:

3 1. Filed in the office of the secretary of state, the secretary of
4 state, when he finds that such document conforms to law and when
5 all fees and taxes due him have been paid as in this Act prescribed,
6 shall endorse on such document, the word "Filed", and the month,
7 day and year of the filing thereof and file the same in his office;

8 2. Recorded in the office of the secretary of state, the secretary of
9 state, upon filing thereof, shall record the same;

10 3. Filed and recorded in the office of the county recorder, the sec-
11 retary of state upon recording such document in his office shall for-
12 ward the same to the county recorder of the county wherein the
13 registered office of the corporation is located, and shall forward a
14 duplicate executed copy certified by him as a true copy of the filed
15 original to such other county recorder, if any, as is required by this
16 Act. Upon receipt thereof and upon receipt of recording fees due
17 him, such county recorder shall record and index such instrument
18 and endorse thereon the date of filing in such county and the book
19 and page in which recorded. The recorder of each county shall keep
20 in his office an alphabetically subdivided index book for articles of
21 incorporation and other instruments the recording of which in his
22 office is provided for by this Act, which book shall have as a mini-
23 mum, columns headed with "Name of Corporation", "Place of Regis-
24 tered Office", "Day, Month and Year of Filing" and the reference to
25 the book and page or other record where recorded and shall make
26 appropriate entries in said index for each such instrument recorded
27 by him.

28 Any instrument required to be filed and recorded in the office of the
29 secretary of state only, shall be returned by him to the corporation
30 or its representative. Any instrument required to be filed and re-
31 corded in the office of the county recorder shall be returned by him
32 to the corporation or its representative.

1 **SEC. 33. Organization meetings.** After the issuance of the cer-
2 tificate of incorporation an organization meeting of the board of
3 directors named in the articles of incorporation may be held, either
4 within or without this state, at the call of a majority of the incor-
5 porators, for the purpose of adopting bylaws, electing officers, if

6 necessary, and the transaction of such other business as may come
7 before the meeting. The incorporators calling the meeting shall give
8 at least three days' notice thereof by mail to each director so named,
9 which notice shall state the time and place of the meeting.
10 A first meeting of the members may be held at the call of the
11 directors, or a majority of them, upon at least three days' notice,
12 for such purposes as shall be stated in the notice of the meeting.

1 **SEC. 34. Right to amend articles of incorporation.** A corporation
2 may amend its articles of incorporation, from time to time, in any
3 and as many respects as may be desired, so long as its articles of
4 incorporation as amended contain only such provisions as are lawful
5 under this Act.

1 **SEC. 35. Procedure to amend articles of incorporation.** Amend-
2 ments to the articles of incorporation shall be made in the following
3 manner:

4 1. Where there are members entitled to vote thereon, the board of
5 directors shall adopt a resolution setting forth the proposed amend-
6 ment and directing that it be submitted to a vote at a meeting of
7 members entitled to vote thereon which may be either an annual or
8 a special meeting. Unless otherwise provided in the articles of incor-
9 poration, upon the written request of at least five per cent of the
10 members entitled to vote on amendments to articles of incorporation,
11 the board of directors shall adopt a resolution setting forth the
12 amendment proposed by such members and directing that it be sub-
13 mitted to the next meeting of the members entitled to vote thereon
14 held not less than ninety days after the date of the filing of the
15 request of the members with the secretary of the corporation. Writ-
16 ten notice setting forth the proposed amendment or a summary of
17 the changes to be effected thereby shall be given to each member
18 entitled to vote at such meeting within the time and in the manner
19 provided in this Act for the giving of notice of meetings of members.
20 The proposed amendment shall be adopted upon receiving at least
21 two-thirds of the votes which members present at such meeting or
22 represented by proxy are entitled to cast.

23 2. Where there are no members, or no members entitled to vote
24 thereon, an amendment shall be adopted at a meeting of the board
25 of directors upon receiving the vote of a majority of the directors in
26 office.

27 Any number of amendments may be submitted and voted upon at
28 any one meeting.

1 **SEC. 36. Articles of amendment.** The articles of amendment
2 shall be executed by the corporation by its president or a vice-presi-
3 dent and by its secretary or an assistant secretary, and acknowledged
4 by one of the officers signing such articles, and shall set forth:

5 1. The name of the corporation and the effective date of its incor-
6 poration; and its original name if different from the present name.

7 2. The amendment so adopted.

8 3. Where there are members entitled to vote thereon, (a) a state-
9 ment setting forth the date of the meeting of members at which the
10 amendment was adopted, that a quorum was present at such meet-
11 ing, and that such amendment received at least two-thirds of the

12 votes which members present at such meeting or represented by
13 proxy were entitled to cast, or (b) a statement that such amendment
14 was adopted by a consent in writing signed by all members entitled
15 to vote with respect thereto.

16 4. Where there are no members, or no members entitled to vote
17 thereon, a statement of such fact, the date of the meeting of the
18 board of directors at which the amendment was adopted, and a state-
19 ment of the fact that such amendment received the vote of a majority
20 of the directors in office.

1 **SEC. 37. Filing of articles of amendment.** The articles of amend-
2 ment shall be delivered to the secretary of state for filing and re-
3 cording in his office, and the same shall be filed and recorded in the
4 office of the county recorder. The secretary of state upon the filing
5 of the articles of amendment shall issue a certificate of amendment
6 and send the same to the corporation or its representative.

1 **SEC. 38. Effect of certificate of amendment.** Upon the issuance
2 of the certificate of amendment by the secretary of state, the amend-
3 ment shall become effective and the articles of incorporation shall be
4 deemed to be amended accordingly.

5 No amendment shall affect any existing cause of action in favor of
6 or against such corporation, or any pending action to which such
7 corporation shall be a party, or the existing rights of persons other
8 than members; and, in the event the corporate name shall be changed
9 by amendment, no suit brought by or against such corporation under
10 its former name shall abate for that reason.

1 **SEC. 39. Restated articles of incorporation.** A domestic corpora-
2 tion may at any time restate its articles of incorporation, which may
3 be amended by such restatement, so long as its articles of incorpora-
4 tion as so restated contain only such provisions as might be lawfully
5 contained in original articles of incorporation at the time of making
6 such restatement, by the adoption of restated articles of incorpora-
7 tion, including any amendments to its articles of incorporation to be
8 made thereby, in the following manner:

9 1. Where there are members having voting rights, the board of
10 directors shall adopt a resolution setting forth the proposed restated
11 articles of incorporation, which may include an amendment or amend-
12 ments to the corporation's articles of incorporation to be made there-
13 by and directing that such restated articles, including such amend-
14 ment or amendments be submitted to a vote at a meeting of members
15 having voting rights, which may be either an annual or a special
16 meeting.

17 2. Written or printed notice setting forth the proposed restated
18 articles or a summary of the provisions thereof shall be given to each
19 member entitled to vote at such meeting within the time and in the
20 manner provided in this Act for the giving of notice of meetings of
21 members. If the restated articles include an amendment or amend-
22 ments to the articles of incorporation to be made thereby, the notice
23 shall separately set forth such amendment or amendments or a sum-
24 mary of the changes to be effected thereby.

25 3. The proposed restated articles shall be adopted upon receiving
26 at least two-thirds of the votes which members present at such meet-

27 ing or represented by proxy are entitled to cast, unless such restated
28 articles include an amendment to the articles of incorporation to be
29 made thereby which, if contained in a proposed amendment to the
30 articles of incorporation to be made without restatement of the arti-
31 cles of incorporation, would entitle a class of members to vote as a
32 class thereon, in which event the proposed restated articles shall be
33 adopted upon receiving the affirmative vote of at least two-thirds of
34 the members of each class entitled to vote thereon as a class, and of
35 the total members entitled to vote thereon.

36 4. Where there are no members, or no members having voting
37 rights, proposed restated articles of incorporation, which may include
38 an amendment or amendments to the corporation's articles of incor-
39 poration to be made thereby shall be adopted at a meeting of the
40 board of directors upon receiving the vote of a majority of the direc-
41 tors in office.

42 Upon such approval, restated articles of incorporation shall be
43 executed by the corporation by its president or vice-president and by
44 its secretary or assistant secretary, and verified by one of the officers
45 signing the same, and shall set forth, as then stated in the corpora-
46 tion's articles of incorporation and, if the restated articles of incor-
47 poration include an amendment or amendments to the articles of
48 incorporation to be made thereby, as so amended:

49 a. The name of the corporation;

50 b. If its duration is for a limited period, the date of expiration;

51 c. The purpose or purposes for which the corporation is organized;

52 d. If the members are divided into classes, the designation of each
53 class and a statement of the preferences, voting rights, if any, limita-
54 tions and relative rights in respect of the members of each class;

55 e. Any other provisions, not inconsistent with law or the purposes
56 which the corporation is authorized to pursue, which are to be set
57 forth in articles of incorporation; except that it shall not be neces-
58 sary to set forth in the restated articles of incorporation any of the
59 corporate powers enumerated in this Act nor any statement with
60 respect to the chapter of the Code or Sessions Laws under which the
61 corporation was incorporated, its registered office, registered agent,
62 directors, or incorporators, or the date on which its corporate exist-
63 ence began.

64 The restated articles of incorporation shall also set forth a state-
65 ment that they correctly set forth the provisions of the articles of
66 incorporation as theretofore or thereby amended, that they have
67 been duly adopted as required by law and that they supersede the
68 original articles of incorporation and all amendments thereto.

69 The restated articles of incorporation shall be delivered to the sec-
70 retary of state for filing and recording in his office and the same shall
71 be filed and recorded in the office of the county recorder.

72 The secretary of state upon filing the restated articles of incorpo-
73 ration shall issue a restated certificate of incorporation and send the
74 same to the corporation or its representative.

75 Upon the issuance of the restated certificate of incorporation by
76 the secretary of state, the restated articles of incorporation, includ-
77 ing any amendment or amendments to the articles of incorporation

78 made thereby, shall become effective and shall supersede the original
79 articles of incorporation and all amendments thereto.

1 **SEC. 40. Procedure for merger.** Any two or more domestic cor-
2 porations may merge into one of such corporations, pursuant to a
3 plan of merger approved in the manner prescribed by this Act.

4 Each corporation shall adopt a plan of merger setting forth:

5 1. The names of the corporations proposing to merge, and the
6 name of the corporation into which they propose to merge, which is
7 hereinafter designated as the surviving corporation.

8 2. The terms and conditions of the proposed merger.

9 3. A statement of any changes in the articles of incorporation of
10 the surviving corporation to be effected by such merger.

11 4. Such other provisions with respect to the proposed merger as
12 are deemed necessary or desirable.

1 **SEC. 41. Procedure for consolidation.** Any two or more domestic
2 corporations may consolidate into a new corporation pursuant to a
3 plan of consolidation approved in the manner prescribed by this Act.

4 Each such corporation shall adopt a plan of consolidation setting
5 forth:

6 1. The names of the corporations proposing to consolidate, and the
7 name of the new corporation into which they propose to consolidate,
8 which is hereinafter designated as the new corporation.

9 2. The terms and conditions of the proposed consolidation.

10 3. With respect to the new corporation, all of the statements re-
11 quired to be set forth in articles of incorporation for corporations
12 organized under this Act.

13 4. Such other provisions with respect to the proposed consolidation
14 as are deemed necessary or desirable.

1 **SEC. 42. Approval of merger or consolidation.** A plan of merger
2 or consolidation shall be adopted by each domestic corporation in the
3 following manner:

4 1. Where the members of any merging or consolidating corpora-
5 tion are entitled to vote thereon, the board of directors of such cor-
6 poration shall adopt a resolution approving the proposed plan and
7 directing that it be submitted to a vote at a meeting of members
8 entitled to vote thereon, which may be either an annual or a special
9 meeting. Written notice setting forth the proposed plan or a sum-
10 mary thereof shall be given to each member entitled to vote thereon
11 at such meeting within the time and in the manner provided in this
12 Act for the giving of notice of meetings of members. The proposed
13 plan shall be adopted upon receiving at least two-thirds of the votes
14 which members present at each such meeting or represented by
15 proxy are entitled to cast.

16 2. Where any merging or consolidating corporation has no mem-
17 bers, or no members entitled to vote thereon, a plan of merger or
18 consolidation shall be adopted at a meeting of the board of directors
19 of such corporation upon receiving the vote of a majority of the
20 directors in office.

21 After such approval, and at any time prior to the filing of the
22 articles of merger or consolidation, the merger or consolidation may

23 be abandoned pursuant to provisions thereof, if any, set forth in the
24 plan of merger or consolidation.

1 SEC. 43. **Articles of merger or consolidation.** Upon such ap-
2 proval, articles of merger or articles of consolidation shall be exe-
3 cuted by each corporation by its president or a vice-president and by
4 its secretary or an assistant secretary, and acknowledged by one of
5 the officers of each corporation signing such articles, and shall set
6 forth:

7 1. The plan of merger or the plan of consolidation.

8 2. Where the members of any merging or consolidating corpora-
9 tion are entitled to vote thereon, then as to each such corporation
10 (a) a statement setting forth the date of the meeting of members
11 at which the plan was adopted, that a quorum was present at such
12 meeting, and that such plan received at least two-thirds of the votes
13 which members present at such meeting or represented by proxy
14 were entitled to cast, or (b) a statement that such amendment was
15 adopted by a consent in writing signed by all members entitled to
16 vote with respect thereto.

17 3. Where any merging or consolidating corporation has no mem-
18 bers, or no members entitled to vote thereon, then as to each such
19 corporation a statement of such fact, the date of the meeting of the
20 board of directors at which the plan was adopted and a statement of
21 the fact that such plan received the vote of a majority of the directors
22 in office.

23 The articles of merger or articles of consolidation shall be deliv-
24 ered to the secretary of state for filing and recording in his office,
25 and the same shall be filed and recorded in the office of the recorder
26 of each county in which the registered office of each domestic merg-
27 ing or consolidating corporation was located prior to the merger or
28 consolidation and, if the new corporation into which the corporations
29 have consolidated is a domestic corporation, in the office of the re-
30 corder of the county in which the registered office of the new cor-
31 poration is located.

32 The secretary of state upon the filing of the articles of merger or
33 articles of consolidation shall issue a certificate of merger or a cer-
34 tificate of consolidation and send the same to the surviving or new
35 corporation as the case may be, or to its representative.

1 SEC. 44. **Effect of merger or consolidation.** Upon the issuance of
2 the certificate of merger or the certificate of consolidation by the
3 secretary of state, the merger or consolidation shall be effected.

4 When such merger or consolidation has been effected:

5 1. The several corporations parties to the plan of merger or con-
6 solidation shall be a single corporation, which, in the case of a
7 merger, shall be that corporation designated in the plan of merger
8 as the surviving corporation, and, in the case of consolidation, shall
9 be the new corporation provided for in the plan of consolidation.

10 2. The separate existence of all corporations parties to the plan of
11 merger or consolidation, except the surviving or new corporation,
12 shall cease.

13 3. Such surviving or new corporation, if to exist under the laws of
14 this state, shall have all the rights, privileges, immunities and pow-

15 ers and shall be subject to all the duties and liabilities of a corpora-
16 tion organized under this Act.

17 4. Such surviving or new corporation shall thereupon and there-
18 after possess all the rights, privileges, immunities, and franchises, as
19 well of a public as of a private nature, of each of the merging or con-
20 solidating corporations; and all property, real, personal and mixed,
21 and all debts due on whatever account, and all other choses in action,
22 and all and every other interest, of or belonging to or due to each of
23 the corporations so merged or consolidated, shall be taken and deemed
24 to be transferred to and vested in such single corporation without
25 further act or deed; and the title to any real estate, or any interest
26 therein, vested in any of such corporations shall not revert or be in
27 any way impaired by reason of such merger or consolidation.

28 5. Such surviving or new corporation shall thenceforth be respon-
29 sible and liable for all the liabilities and obligations of each of the
30 corporations so merged or consolidated; and any claim existing or
31 action or proceeding pending by or against any of such corporations
32 may be prosecuted as if such merger or consolidation had not taken
33 place, or such surviving or new corporation may be substituted in its
34 place. Neither the rights of creditors nor any liens upon the prop-
35 erty of any such corporation shall be impaired by such merger or
36 consolidation.

37 6. In the case of a merger, the articles of incorporation of the
38 surviving corporation shall be deemed to be amended to the extent,
39 if any, that changes in its articles of incorporation are stated in the
40 plan of merger; and, in the case of a consolidation, the statements
41 set forth in the articles of consolidation and which are required or
42 permitted to be set forth in the articles of incorporation of corpora-
43 tions organized under this Act shall be deemed to be the original
44 articles of incorporation of the new corporation.

1 SEC. 45. **Merger or consolidation of domestic and foreign corpora-**
2 **tions.** One or more foreign corporations and one or more domestic
3 corporations may be merged or consolidated in the following manner,
4 if such merger or consolidation is permitted by the laws of the state
5 under which each such foreign corporation is organized:

6 1. Each domestic corporation shall comply with the provisions of
7 this Act with respect to the merger or consolidation, as the case may
8 be, of domestic corporations and each foreign corporation shall com-
9 ply with the applicable provisions of the laws of the state under
10 which it is organized.

11 2. If the surviving or new corporation, as the case may be, is to
12 be governed by the laws of any state other than this state, it shall
13 comply with the provisions of this Act with respect to qualification
14 of foreign corporations if it is to conduct affairs in this state, and in
15 every case it shall file with the secretary of state of this state:

16 a. an agreement that it may be served with process in this state in
17 any proceeding for the enforcement of any obligation of any domestic
18 corporation which is a party to such merger or consolidation; and

19 b. an irrevocable appointment of the secretary of state of this
20 state as its agent to accept service of process in any such proceeding.

21 The effect of such merger or consolidation shall be the same as in
22 the case of the merger or consolidation of domestic corporations, if

23 the surviving or new corporation is to be governed by the laws of
24 this state. If the surviving or new corporation is to be governed by
25 the laws of any state other than this state, the effect of such merger
26 or consolidation shall be the same as in the case of the merger or
27 consolidation of domestic corporations except in so far as the laws
28 of the other state provide otherwise.

29 At any time prior to the filing of the articles of merger or con-
30 solidation, the merger or consolidation may be abandoned pursuant
31 to provisions therefor, if any, set forth in the plan of merger or
32 consolidation.

1 SEC. 46. **Sale, lease, exchange, or mortgage of assets.** A sale,
2 lease, exchange or other disposition of all, or substantially all, the
3 property and assets of a corporation may be made upon such terms
4 and conditions and for such consideration, which may consist in
5 whole or in part of money or property, real or personal, including
6 shares of any corporation for profit, domestic or foreign, as may be
7 authorized in the following manner:

8 1. Where there are members entitled to vote thereon, the board of
9 directors shall adopt a resolution recommending such sale, lease,
10 exchange or other disposition and directing that it be submitted to
11 a vote at a meeting of members entitled to vote thereon, which may
12 be either an annual or a special meeting. Written notice stating that
13 the purpose, or one of the purposes, of such meeting is to consider
14 the sale, lease, exchange or other disposition of all, or substantially
15 all, the property and assets of the corporation shall be given to each
16 member entitled to vote at such meeting, within the time and in the
17 manner provided by this Act for the giving of notice of meetings of
18 members. At such meeting the members may authorize such sale,
19 lease, exchange or other disposition and may fix, or may authorize
20 the board of directors to fix, any or all of the terms and conditions
21 thereof and the consideration to be received by the corporation there-
22 for. Such authorization shall require at least two-thirds of the votes
23 which members present at such meeting or represented by proxy are
24 entitled to cast. After such authorization by a vote of members, the
25 board of directors, nevertheless, in its discretion, may abandon such
26 sale, lease, exchange or other disposition of assets, subject to the
27 rights of third parties under any contracts relating thereto, without
28 further action or approval by members.

29 2. Where there are no members, or no members entitled to vote
30 thereon, a sale, lease, exchange or other disposition of all, or sub-
31 stantially all, the property and assets of a corporation shall be au-
32 thorized upon receiving the vote of a majority of the directors in
33 office.

34 3. Unless otherwise provided in the articles of incorporation a
35 mortgage or pledge of any or all property and assets of the corpora-
36 tion may be made upon such terms and conditions and for such con-
37 sideration, which may consist in whole or in part of money or prop-
38 erty, real or personal, including shares of any other corporation,
39 domestic or foreign, as shall be authorized by its board of directors;
40 and in such case no authorization or consent of the members shall be
41 required.

1 **SEC. 47. Voluntary dissolution.** A corporation may dissolve and
2 wind up its affairs in the following manner:

3 1. Where there are members entitled to vote thereon, the board of
4 directors shall adopt a resolution recommending that the corporation
5 be dissolved, and directing that the question of such dissolution be
6 submitted to a vote at a meeting of members entitled to vote thereon,
7 which may be either an annual or a special meeting. Written notice
8 stating that the purpose, or one of the purposes, of such meeting is
9 to consider the advisability of dissolving the corporation, shall be
10 given to each member entitled to vote at such meeting, within the
11 time and in the manner provided in this Act for the giving of notice
12 of meetings of members. A resolution to dissolve the corporation
13 shall be adopted upon receiving at least two-thirds of the votes which
14 members present at such meeting or represented by proxy are en-
15 titled to cast.

16 2. Where there are no members, or no members entitled to vote
17 thereon, the dissolution of the corporation shall be authorized at a
18 meeting of the board of directors upon the adoption of a resolution
19 to dissolve by the vote of a majority of the directors in office.

20 Upon the adoption of such resolution by the members, or by the
21 board of directors where there are no members or no members en-
22 titled to vote thereon, the corporation shall cease to conduct its affairs
23 except insofar as may be necessary for the winding up thereof, shall
24 immediately cause a notice of the proposed dissolution to be mailed
25 to each known creditor of the corporation, and shall proceed to col-
26 lect its assets and apply and distribute them as provided in this Act.

1 **SEC. 48. Distribution of assets.** The assets of a corporation in
2 the process of dissolution shall be applied and distributed as follows:

3 1. All liabilities and obligations of the corporation shall be paid
4 and discharged, or adequate provision shall be made therefor;

5 2. Assets held by the corporation upon condition requiring return,
6 transfer or conveyance, which condition occurs by reason of the dis-
7 solution, shall be returned, transferred or conveyed in accordance
8 with such requirements;

9 3. Assets received and held by the corporation subject to limita-
10 tions permitting their use only for charitable, religious, eleemosy-
11 nary, benevolent, educational or similar purposes, but not held upon
12 a condition requiring return, transfer or conveyance by reason of the
13 dissolution, shall be transferred or conveyed to one or more domestic
14 or foreign corporations, societies or organizations engaged in activ-
15 ities substantially similar to those of the dissolving corporation, pur-
16 suant to a plan of distribution adopted as provided in this Act;

17 4. Other assets, if any, shall be distributed in accordance with the
18 provisions of the articles of incorporation or the bylaws to the extent
19 that the articles of incorporation or bylaws determine the distributive
20 rights of members, or any class or classes of members, or provide for
21 distribution to others;

22 5. Any remaining assets may be distributed to such persons, soci-
23 eties, organizations or domestic or foreign corporations, whether for
24 profit or nonprofit, as may be specified in a plan of distribution
25 adopted as provided in this Act.

1 **SEC. 49. Plan of distribution.** A plan providing for the distribu-
2 tion of assets, not inconsistent with the provisions of this Act, may
3 be adopted by a corporation in the process of dissolution and shall be
4 adopted by a corporation for the purpose of authorizing any transfer
5 or conveyance of assets for which this Act requires a plan of distri-
6 bution, in the following manner:

7 1. Where there are members entitled to vote thereon, the board of
8 directors shall adopt a resolution recommending a plan of distribu-
9 tion and directing the submission thereof to a vote at a meeting of
10 members entitled to vote thereon, which may be either an annual or
11 a special meeting. Written notice setting forth the proposed plan of
12 distribution or a summary thereof shall be given to each member
13 entitled to vote at such meeting, within the time and in the manner
14 provided in this Act for the giving of notice of meetings of members.
15 Such plan of distribution shall be adopted upon receiving at least
16 two-thirds of the votes which members present at such meeting or
17 represented by proxy are entitled to cast.

18 2. Where there are no members, or no members entitled to vote
19 thereon, a plan of distribution shall be adopted at a meeting of the
20 board of directors upon receiving a vote of a majority of the direc-
21 tors in office.

1 **SEC. 50. Revocation of voluntary dissolution proceedings.** A cor-
2 poration may, at any time prior to the issuance of a certificate of
3 dissolution by the secretary of state, revoke the action theretofore
4 taken to dissolve the corporation, in the following manner:

5 1. Where there are members entitled to vote thereon, the board of
6 directors shall adopt a resolution recommending that the voluntary
7 dissolution proceedings be revoked, and directing that the question
8 of such revocation be submitted to a vote at a meeting of members
9 entitled to vote thereon, which may be either an annual or a special
10 meeting. Written notice stating that the purpose, or one of the pur-
11 poses, of such meeting is to consider the advisability of revoking the
12 voluntary dissolution proceedings, shall be given to each member
13 entitled to vote at such meeting, within the time and in the manner
14 provided in this Act for the giving of notice of meetings of members.
15 A resolution to revoke the voluntary dissolution proceedings shall be
16 adopted upon receiving at least two-thirds of the votes which mem-
17 bers present at such meeting or represented by proxy are entitled to
18 cast.

19 2. Where there are no members, or no members entitled to vote
20 thereon, a resolution to revoke the voluntary dissolution proceedings
21 shall be adopted at a meeting of the board of directors upon receiving
22 the vote of a majority of the directors in office.

23 Upon the adoption of such resolution by the members, or by the
24 board of directors where there are no members or no members en-
25 titled to vote thereon, the corporation may thereupon again conduct
26 its affairs.

1 **SEC. 51. Articles of dissolution.** If voluntary dissolution pro-
2 ceedings have not been revoked, then when all debts, liabilities and
3 obligations of the corporation shall have been paid and discharged,
4 or adequate provision shall have been made therefor, and all of the

5 remaining property and assets of the corporation shall have been
 6 transferred, conveyed or distributed in accordance with the provi-
 7 sions of this Act, articles of dissolution shall be executed by the cor-
 8 poration by its president or a vice-president, and by its secretary or
 9 an assistant secretary, and verified by one of the officers signing such
 10 statement, which statement shall set forth:

11 1. The name of the corporation.

12 2. Where there are members entitled to vote thereon, (a) a state-
 13 ment setting forth the date of the meeting of members at which the
 14 resolution to dissolve was adopted, that a quorum was present at
 15 such meeting, and that such resolution received at least two-thirds
 16 of the votes which members present at such meeting or represented
 17 by proxy were entitled to cast, or (b) a statement that such reso-
 18 lution was adopted by a consent in writing signed by all members
 19 entitled to vote with respect thereto.

20 3. Where there are no members, or no members entitled to vote
 21 thereon, a statement of such fact, the date of the meeting of the
 22 board of directors at which the resolution to dissolve was adopted
 23 and a statement of the fact that such resolution received the vote of a
 24 majority of the directors in office.

25 4. That all debts, obligations, and liabilities of the corporation
 26 have been paid and discharged or that adequate provision has been
 27 made therefor.

28 5. A copy of the plan of distribution, if any, as adopted by the
 29 corporation, or a statement that no plan was so adopted.

30 6. That all the remaining property and assets of the corporation
 31 have been transferred, conveyed or distributed in accordance with
 32 the provisions of this Act.

33 7. That there are no suits pending against the corporation in any
 34 court, or that adequate provision has been made for the satisfaction
 35 of any judgment, order or decree which may be entered against it
 36 in any pending suit.

1 **SEC. 52. Filing of articles of dissolution.** Such articles of disso-
 2 lution shall be delivered to the secretary of state for filing and re-
 3 cording in his office, and the same shall be filed and recorded in the
 4 office of the county recorder.

5 The secretary of state upon filing the articles of dissolution shall
 6 issue a certificate of dissolution, and send the same to the representa-
 7 tive of the dissolved corporation. Upon the issuance of such certifi-
 8 cate of dissolution the existence of the corporation shall cease, except
 9 for the purpose of suits, other proceedings and appropriate corporate
 10 action by members, directors and officers as provided in this Act.

1 **SEC. 53. Involuntary dissolution.** A corporation may be dis-
 2 solved involuntarily by a decree of the district court in an action filed
 3 by the attorney general when it is established that:

4 1. The corporation has failed to file its annual report within the
 5 time required by this Act; or

6 2. The corporation procured its articles of incorporation through
 7 fraud; or

8 3. The corporation has continued to exceed or abuse the authority
 9 conferred upon it by law; or

10 4. The corporation has failed for ninety days to appoint and main-
11 tain a registered agent in this state; or

12 5. The corporation has failed for ninety days after change of its
13 registered agent to file in the office of the secretary of state a state-
14 ment of such change.

1 SEC. 54. **Notification to attorney general.** The secretary of state,
2 on or before the first day of July of each year, shall certify to the
3 attorney general the names of all corporations which have failed to
4 file their annual reports in accordance with the provisions of this Act.
5 He shall also certify, from time to time, the names of all corporations
6 which have given other cause for dissolution as provided in this Act,
7 together with the facts pertinent thereto. Whenever the secretary of
8 state shall certify the name of a corporation to the attorney general
9 as having given any cause for dissolution, the secretary of state shall
10 concurrently mail to the corporation at its registered office a notice
11 that such certification has been made. Upon the receipt of such cer-
12 tification, the attorney general shall file an action in the name of the
13 state against such corporation for its dissolution. Every such certifi-
14 cate from the secretary of state to the attorney general pertaining to
15 the failure of a corporation to file an annual report shall be taken and
16 received in all courts as prima-facie evidence of the facts therein
17 stated. If, before action is filed, the corporation shall file its annual
18 report, or shall appoint or maintain a registered agent as provided in
19 this Act, or shall file with the secretary of state the required state-
20 ment of change of registered agent, such fact shall be forthwith cer-
21 tified by the secretary of state to the attorney general and he shall
22 not file an action against such corporation for such cause. If, after
23 action is filed, the corporation shall file its annual report, or shall
24 appoint or maintain a registered agent as provided in this Act, or
25 shall file with the secretary of state the required statement of change
26 of registered agent, and shall pay the costs of such action, the action
27 for such cause shall abate.

1 SEC. 55. **Venue and process.** Every action for the involuntary
2 dissolution of a corporation shall be commenced by the attorney gen-
3 eral in the district court of the county in which the registered office
4 of the corporation is situated. Original notice shall be served as in
5 other civil actions. If process is returned not found, the attorney
6 general shall cause publication to be made as in other civil cases in
7 some newspaper published in the county where the registered office
8 of the corporation is situated, containing a notice of the pendency of
9 such action, the title of the court, the title of the action, and the date
10 on or after which default may be entered. The attorney general may
11 include in one notice and in one petition the names of any number of
12 corporations against which actions are then pending in the same
13 county. The attorney general shall cause a copy of such notice to be
14 mailed to the corporation at its registered office within ten days after
15 the first publication thereof. The certificate of the attorney general
16 of the mailing of such notice shall be prima-facie evidence thereof.
17 Such notice shall be published at least once each week for two suc-
18 cessive weeks, and the first publication thereof may begin at any
19 time after the original notice has been returned. Unless a corpora-

20 tion shall have been served with original notice, no default shall be
 21 taken against it earlier than thirty days after the last publication of
 22 such notice.

1 **SEC. 56. Jurisdiction of court to liquidate assets and affairs of**
 2 **corporation.** Courts of equity shall have full power to liquidate the
 3 assets and affairs of a corporation:

4 1. In a suit by a member or director when it is established:
 5 a. That the directors are deadlocked in the management of the cor-
 6 porate affairs and that irreparable injury to the corporation is being
 7 suffered or is threatened by reason thereof, and either that the mem-
 8 bers are unable to break the deadlock or there are no members hav-
 9 ing voting rights; or

10 b. That the acts of the directors or those in control of the corpora-
 11 tion are illegal, oppressive or fraudulent; or

12 c. That the members entitled to vote in the election of directors
 13 are deadlocked in voting power and have failed for at least two years
 14 to elect successors to directors whose terms have expired or would
 15 have expired upon the election of their successors; or

16 d. That the corporate assets are being misapplied or wasted; or

17 e. That the corporation is unable to carry out its purposes.

18 2. In an action by a creditor:

19 a. When the claim of the creditor has been reduced to judgment
 20 and an execution thereon has been returned unsatisfied and it is
 21 established that the corporation is insolvent; or

22 b. When the corporation has admitted in writing that the claim
 23 of the creditor is due and owing and it is established that the cor-
 24 poration is insolvent.

25 3. Upon application by a corporation to have its dissolution con-
 26 tinued under the supervision of the court.

27 4. When an action has been filed by the attorney general to dis-
 28 solve a corporation and it is established that liquidation of its affairs
 29 should precede the entry of a decree of dissolution.

30 Proceedings under this section shall be brought in the county in
 31 which the registered office or the principal office of the corporation
 32 is situated.

33 It shall not be necessary to make directors or members parties to
 34 any such suit or proceedings unless relief is sought against them
 35 personally.

1 **SEC. 57. Procedure in liquidation of corporation by court.** In
 2 proceedings to liquidate the assets and affairs of a corporation the
 3 court shall have the power to issue injunctions, to appoint a receiver
 4 or receivers pendente lite, with such powers and duties as the court,
 5 from time to time, may direct, and to take such other proceedings as
 6 may be requisite to preserve the corporate assets wherever situated,
 7 and carry on the affairs of the corporation until a full hearing can
 8 be had.

9 After a hearing had upon such notice as the court may direct to be
 10 given to all parties to the proceedings and to any other parties in
 11 interest designated by the court, the court may appoint a liquidating
 12 receiver or receivers with authority to collect the assets of the cor-
 13 poration. Such liquidating receiver or receivers shall have authority,

14 subject to the order of the court to sell, convey and dispose of all or
15 any part of the assets of the corporation wherever situated, either at
16 public or private sale. The order appointing such liquidating receiver
17 or receivers shall state their powers and duties. Such powers and
18 duties may be increased or diminished at any time during the pro-
19 ceedings.

20 The assets of the corporation or the proceeds resulting from a sale,
21 conveyance, or other disposition thereof shall be applied and distrib-
22 uted as follows:

23 1. All costs and expenses of the court proceedings and all liabili-
24 ties and obligations of the corporation shall be paid, satisfied and
25 discharged, or adequate provision shall be made therefor;

26 2. Assets held by the corporation upon condition requiring return,
27 transfer or conveyance, which condition occurs by reason of the dis-
28 solution or liquidation, shall be returned, transferred or conveyed in
29 accordance with such requirements;

30 3. Assets received and held by the corporation subject to limita-
31 tions permitting their use only for charitable, religious, eleemosy-
32 nary, benevolent, educational or similar purposes, but not held upon a
33 condition requiring return, transfer or conveyance by reason of the
34 dissolution or liquidation, shall be transferred or conveyed to one or
35 more domestic or foreign corporations, societies or organizations
36 engaged in activities substantially similar to those of the dissolving
37 or liquidating corporation as the court may direct;

38 4. Other assets, if any, shall be distributed in accordance with the
39 provisions of the articles of incorporation or the bylaws to the extent
40 that the articles of incorporation or bylaws determine the distribu-
41 tive rights of members, or any class or classes of members, or pro-
42 vide for distribution to others;

43 5. Any remaining assets may be distributed to such persons, soci-
44 eties, organizations or domestic or foreign corporations, whether for
45 profit or not for profit, specified in the plan of distribution adopted
46 as provided in this Act, or where no plan of distribution has been
47 adopted, as the court may direct.

48 The court shall have power to allow, from time to time, as expenses
49 of the liquidation compensation to the receiver or receivers and to
50 attorneys in the proceeding, and to direct the payment thereof out of
51 the assets of the corporation or the proceeds of any sale or disposition
52 of such assets.

53 A receiver of a corporation appointed under the provisions of this
54 section shall have authority to sue and defend in all courts in his own
55 name as receiver of such corporation. The court appointing such
56 receiver shall have exclusive jurisdiction of the corporation and its
57 property, wherever situated.

1 **SEC. 58. Qualification of receivers.** A receiver shall in all cases
2 be a citizen of the United States or a corporation for profit author-
3 ized to act as receiver, which corporation may be a domestic corpora-
4 tion or a foreign corporation authorized to transact business in this
5 state, and shall in all cases give such bond as the court may direct
6 with such sureties as the court may require.

1 **SEC. 59. Filing of claims in liquidation proceedings.** In proceed-
2 ings to liquidate the assets and affairs of a corporation the court may
3 require all creditors of the corporation to file with the clerk of the
4 court or with the receiver, in such form as the court may prescribe,
5 proofs under oath of their respective claims. If the court requires
6 the filing of claims it shall fix a date, which shall be not less than
7 four months from the date of the order, as the last day for the filing
8 of claims, and shall prescribe the notice that shall be given to cred-
9 itors and claimants of the date so fixed. Prior to the date so fixed,
10 the court may extend the time for the filing of claims. Creditors and
11 claimants failing to file proofs of claim on or before the date so fixed
12 may be barred, by order of court, from participating in the distribu-
13 tion of the assets of the corporation.

1 **SEC. 60. Discontinuance of liquidation proceedings.** The liquida-
2 tion of the assets and affairs of a corporation may be discontinued at
3 any time during the liquidation proceedings when it is established
4 that cause for liquidation no longer exists. In such event the court
5 shall dismiss the proceedings and direct the receiver to redeliver to
6 the corporation all its remaining property and assets.

1 **SEC. 61. Decree of dissolution.** In proceedings to liquidate the
2 assets and affairs of a corporation, when the costs and expenses of
3 such proceedings and all debts, obligations, and liabilities of the cor-
4 poration shall have been paid and discharged and all of its remain-
5 ing property and assets distributed in accordance with the provisions
6 of this Act, or in case its property and assets are not sufficient to
7 satisfy and discharge such costs, expenses, debts, and obligations,
8 and all the property and assets have been applied so far as they will
9 go to their payment, the court shall enter a decree dissolving the
10 corporation, whereupon the existence of the corporation shall cease.

1 **SEC. 62. Filing of decree of dissolution.** In case the court shall
2 enter a decree dissolving a corporation, it shall be the duty of the
3 clerk of such court to cause certified copies of the decree to be filed
4 with and recorded by the secretary of state and the county recorder
5 of the county in which is located the corporation's registered office.
6 No fee shall be charged by the secretary of state or said county re-
7 corder for the filing or recording thereof.

1 **SEC. 63. Deposit with state treasurer.**
2 1. Upon the voluntary or involuntary dissolution of a corporation
3 the portion of the assets distributable to any person who is known,
4 or who is under disability and there is no person legally competent
5 to receive such distributive portion, or who cannot be found after the
6 exercise of reasonable diligence by the person or persons responsible
7 for the distribution in liquidation of the corporation's assets, shall be
8 reduced to cash and deposited with the state treasurer, together with
9 a statement giving the name of the person, if known, entitled to such
10 fund, his last known address, the amount of his distributive portion,
11 and such other information about such person as the state treasurer
12 may reasonably require, whereupon the person or persons responsible
13 for the distribution in liquidation of the corporation's assets shall be
14 released and discharged from any further liability with respect to

15 the funds so deposited. The state treasurer shall issue his receipt for
16 such fund and shall deposit same in a special account to be main-
17 tained by him.

18 2. On receipt of satisfactory written and verified proof of owner-
19 ship of or right to such fund within twenty years from the date such
20 fund was so deposited, the state treasurer shall certify such fact to
21 the state comptroller, who shall issue proper warrant therefor drawn
22 on the state treasurer in favor of the person or persons then entitled
23 thereto. If no claimant has made satisfactory proof of right to such
24 fund within twenty years from the time of such deposit, the state
25 treasurer shall then cause to be published in one issue of a newspaper
26 of general circulation in the county of the last registered office of the
27 corporation, as shown by the records of the secretary of state, a
28 notice of the proposed escheat of such fund, giving the name of the
29 person apparently entitled thereto, his last known address, if any,
30 the amount of the fund so deposited, and the name of the dissolved
31 corporation from whose assets such fund was derived. If no claimant
32 makes satisfactory proof of right to such fund within two months
33 from the time of such publication, the fund so unclaimed shall there-
34 upon automatically escheat to and become the property of the gen-
35 eral fund of the state.

1 **SEC. 64. Survival of rights and remedies after dissolution or ex-**
2 **piration.** The dissolution of a corporation or the expiration of its
3 period of duration, shall not take away or impair any remedy avail-
4 able to or against such corporation, its directors, officers, or members,
5 for any right or claim existing, or any liability incurred, prior to such
6 dissolution or expiration, if action or other proceeding thereon is
7 commenced within two years after the date of such dissolution or
8 expiration. Any such action or proceeding by or against the corpora-
9 tion may be prosecuted or defended by the corporation in its corpo-
10 rate name. The members, directors and officers shall have power to
11 take such corporate or other action as shall be appropriate to protect
12 such remedy, right or claim. If the period of duration of a corpora-
13 tion has expired, it may amend its articles of incorporation at any
14 time within five years after the date of such expiration so as to
15 extend its period of duration.

16 A corporation which has been dissolved or the period of duration
17 of which has expired by limitation or otherwise, may nevertheless
18 continue to act for the purpose of conveying title to its property, real
19 and personal, and otherwise winding up its affairs.

1 **SEC. 65. Admission of foreign corporation.** No foreign corpora-
2 tion shall have the right to conduct affairs in this state until it shall
3 have procured a certificate of authority so to do from the secretary
4 of state. No foreign corporation shall be entitled to procure a cer-
5 tificate of authority under this Act to conduct in this state any affairs
6 which a corporation organized under this Act is prohibited from con-
7 ducting. A foreign corporation shall not be denied a certificate of
8 authority by reason of the fact that the laws of the state or country
9 under which such corporation is organized governing its organization
10 and internal affairs differ from the laws of this state, and nothing in

11 this Act contained shall be construed to authorize this state to regu-
12 late the organization or the internal affairs of such corporation.

13 Without excluding other activities which may not constitute con-
14 ducting affairs in this state, a foreign corporation shall not be con-
15 sidered to be conducting affairs in this state, for the purposes of this
16 Act, by reason of carrying on in this state any one or more of the
17 following activities:

18 1. Maintaining or defending any action or suit or any administra-
19 tive or arbitration proceeding, or effecting the settlement thereof or
20 the settlement of claims or disputes.

21 2. Holding meetings of its directors or members or carrying on
22 other activities concerning its internal affairs.

23 3. Maintaining bank accounts.

24 4. Creating evidences of debt, mortgages or liens on real or per-
25 sonal property.

26 5. Securing or collecting debts due to it or enforcing any rights in
27 property securing the same.

28 6. Soliciting funds.

29 7. Conducting its affairs in interstate commerce.

30 8. Granting funds.

31 9. Distributing information to its members.

32 10. Conducting an isolated transaction completed within a period
33 of thirty days and not in the course of a number of repeated transac-
34 tions of like nature.

1 **SEC. 66. Powers of foreign corporation.** A foreign corporation
2 which shall have received a certificate of authority under this Act,
3 shall, until a certificate of revocation or of withdrawal shall have
4 been issued as provided in this Act, enjoy the same, but no greater,
5 rights and privileges as a domestic corporation organized for the pur-
6 poses set forth in the application pursuant to which such certificate
7 of authorization is issued; and, except as in this Act otherwise pro-
8 vided, shall be subject to the same duties, restrictions, penalties and
9 liabilities now or hereafter imposed upon a domestic corporation of
10 like character.

1 **SEC. 67. Corporate name of foreign corporation.** No certificate
2 of authority shall be issued to a foreign corporation unless the cor-
3 porate name of such corporation:

4 1. Shall not contain any word or phrase which indicates or implies
5 that it is organized for any purpose other than one or more of the
6 purposes contained in its articles of incorporation.

7 2. Shall not be the same as, or deceptively similar to, the name of
8 any corporation, whether for profit or not for profit, existing under
9 the laws of this state, or any foreign corporation, whether for profit
10 or not for profit, authorized to transact business or conduct affairs in
11 this state, or a corporate name reserved or registered as permitted
12 by the laws of this state.

13 3. Shall be transliterated into letters of the English alphabet, if it
14 is not in English.

1 **SEC. 68. Change of name by foreign corporation.** Whenever a
2 foreign corporation which is authorized to conduct affairs in this state
3 shall change its name to one under which a certificate of authority

4 would not be granted to it on application therefor, the certificate of
5 authority of such corporation shall be suspended and it shall not
6 thereafter conduct any affairs in this state until it has changed its
7 name to a name which is available to it under the laws of this state.

1 **SEC. 69. Application for certificate of authority.** A foreign cor-
2 poration, in order to procure a certificate of authority to conduct
3 affairs in this state, shall make application therefor to the secretary
4 of state, which application shall set forth:

5 1. The name of the corporation and the state or country under the
6 laws of which it is incorporated.

7 2. The date of incorporation and the period of duration of the cor-
8 poration.

9 3. The address of the principal office of the corporation in the state
10 or country under the laws of which it is incorporated.

11 4. The address of the proposed registered office of the corporation
12 in this state, and the name of its proposed registered agent or agents
13 in this state at such address.

14 5. The purpose or purposes of the corporation which it proposes to
15 pursue in conducting its affairs in this state.

16 6. The names and respective addresses of the directors and officers
17 of the corporation.

18 7. Such additional information as may be necessary or appropriate
19 in order to enable the secretary of state to determine whether such
20 corporation is entitled to a certificate of authority to conduct affairs
21 in this state.

22 Such application shall be made on forms prescribed and furnished
23 by the secretary of state and shall be executed in duplicate by the
24 corporation by its president or a vice-president and by its secretary
25 or an assistant secretary, and verified by one of the officers signing
26 such application.

1 **SEC. 70. Filing of application for certificate of authority.** Dupli-
2 cate originals of the application of the corporation for a certificate of
3 authority, together with a copy of its articles of incorporation and all
4 amendments thereto, duly certified by the proper officer of the state
5 or country under the laws of which it is incorporated, shall be deliv-
6 ered to the secretary of state for filing in his office.

7 Upon the filing of the application the secretary of state shall issue
8 a certificate of authority to conduct affairs in this state to which he
9 shall affix the other duplicate original application, and send the same
10 to the corporation or its representative.

1 **SEC. 71. Effect of certificate of authority.** Upon the issuance of
2 a certificate of authority by the secretary of state, the corporation
3 shall be authorized to conduct affairs in this state for those purposes
4 set forth in its application, subject, however, to the right of this
5 state to suspend or to revoke such authority as provided in this Act.

1 **SEC. 72. Registered office and registered agent of foreign corpo-**
2 **ration.** Each foreign corporation authorized to conduct affairs in
3 this state shall have and continuously maintain in this state:

4 1. A registered office which may be, but need not be, the same as
5 its principal office.

6 2. A registered agent or agents which may be either an individual
 7 resident in this state whose business office is identical with such
 8 registered office, or a domestic corporation, whether for profit or not
 9 for profit, or a foreign corporation, whether for profit or not for
 10 profit, authorized to transact business or conduct affairs in this state,
 11 having an office identical with such registered office.

1 **SEC. 73. Change of registered office or registered agent of foreign**
 2 **corporation.** A foreign corporation authorized to conduct affairs in
 3 this state may change its registered office or change its registered
 4 agent or agents, or both office and agent or agents, upon filing in the
 5 office of the secretary of state a statement setting forth:

- 6 1. The name of the corporation.
- 7 2. The address of its then registered office.
- 8 3. If the address of its registered office be changed, the address to
 9 which the registered office is to be changed.
- 10 4. The name of its then registered agent or agents.
- 11 5. If its registered agent or agents be changed, the name of its
 12 successor registered agent or agents.
- 13 6. That the address of its registered office and the address of the
 14 business office of its registered agent or agents, as changed, will be
 15 identical.
- 16 7. That such change was authorized by resolution duly adopted by
 17 its board of directors.

18 Such statement shall be executed by the corporation by its presi-
 19 dent or a vice-president, and verified by him, and delivered to the
 20 secretary of state. If the secretary of state finds that such statement
 21 conforms to the provisions of this Act, he shall file such statement in
 22 his office, and upon such filing the change of address of the registered
 23 office, or the appointment of a new registered agent or agents, or
 24 both, as the case may be, shall become effective.

25 If a registered agent or agents change his, their or its business
 26 address to another place within the same county, he, they or it may
 27 change such address and the address of the registered office of any
 28 corporations of which he, they or it is registered agent by filing a
 29 statement as required above for each corporation, or a single state-
 30 ment for all corporations named therein, except that it need be signed
 31 only by the registered agent or agents and need not be responsive to
 32 subsections five (5) and seven (7) above, and must recite that noti-
 33 fication of such change has been mailed to each such corporation.
 34 Such statement executed and filed by a registered agent shall become
 35 effective upon the filing thereof in the manner as required above for
 36 statements executed by the foreign corporation.

37 Any registered agent of a foreign corporation may resign as such
 38 agent upon filing a written notice thereof, executed in duplicate, with
 39 the secretary of state, who shall forthwith mail a copy thereof to the
 40 corporation at its principal office in the state or country under the
 41 laws of which it is incorporated. The appointment of such agent
 42 shall terminate upon the expiration of thirty days after receipt of
 43 such notice by the secretary of state.

1 **SEC. 74. Service of process on foreign corporation.** Each regis-
 2 tered agent so appointed by a foreign corporation authorized to con-

3 duct affairs in this state shall be an agent of such corporation upon
4 whom any process, notice or demand required or permitted by law to
5 be served upon the corporation may be served.

6 Whenever a foreign corporation authorized to conduct affairs in
7 this state shall fail to appoint or maintain a registered agent in this
8 state, or whenever any such registered agent cannot with reasonable
9 diligence be found at the registered office, or whenever the certificate
10 of authority of a foreign corporation shall be suspended or revoked,
11 then the secretary of state shall be an agent of such corporation upon
12 whom any such process, notice, or demand may be served. Service
13 on the secretary of state of any such process, notice or demand shall
14 be made by delivering to and leaving with him, or with any clerk
15 having charge of the corporation department of his office, duplicate
16 copies of such process, notice or demand. In the event any such process,
17 notice or demand is served on the secretary of state, he shall
18 immediately cause one of such copies thereof to be forwarded by
19 registered or certified mail, addressed to the corporation at its principal
20 office in the state or country under the laws of which it is incorporated.
21 Any service so had on the secretary of state shall be
22 returnable in not less than thirty days.

23 The secretary of state shall keep a record of all processes, notices
24 and demands served upon him under this section, and shall record
25 therein the time of such service and his action with reference thereto.

26 Nothing herein contained shall limit or affect the right to serve any
27 process, notice or demand, required or permitted by law to be served
28 upon a corporation in any other manner now or hereafter permitted
29 by law.

1 **SEC. 75. Amendment to articles of incorporation of foreign corporation.**
2 Whenever the articles of incorporation of a foreign corporation authorized to
3 conduct affairs in this state are amended, such foreign corporation shall,
4 within thirty days after such amendment becomes effective, file in the
5 office of the secretary of state a copy of such amendment duly certified
6 by the proper officer of the state or country under the laws of which it
7 is incorporated; but the filing thereof shall not of itself enlarge or alter
8 the purpose or purposes which such corporation is authorized to pursue in
9 conducting its affairs in this state, nor authorize such corporation to
10 conduct affairs in this state under any other name than the name set forth
11 in its certificate of authority.
12

1 **SEC. 76. Merger of foreign corporation authorized to conduct affairs in this state.**
2 Whenever a foreign corporation authorized to conduct affairs in this state
3 shall be a party to a statutory merger permitted by the laws of the state
4 or country under the laws of which it is incorporated, and such corporation
5 shall be the surviving corporation, it shall, within thirty days after such
6 merger becomes effective, file with the secretary of state a copy of the
7 articles of merger duly certified by the proper officer of the state or
8 country under the laws of which such statutory merger was effected; and
9 it shall not be necessary for such corporation to procure either a new or
10 amended certificate of authority to conduct affairs in this state unless
11 the name of such corporation be changed thereby or unless the cor-
12

13 poration desires to pursue in this state other or additional purposes
14 than those which it is then authorized to pursue in this state.

1 **SEC. 77. Amended certificate of authority.** A foreign corpora-
2 tion authorized to conduct affairs in this state shall procure an
3 amended certificate of authority in the event it changes its corporate
4 name, or desires to pursue in this state other or additional purposes
5 than those set forth in its prior application for a certificate of author-
6 ity, by making application therefor to the secretary of state.

7 The requirements in respect to the form and contents of such ap-
8 plication, the manner of its execution, the filing of duplicate originals
9 thereof with the secretary of state, the issuance of an amended cer-
10 tificate of authority and the effect thereof, shall be the same as in the
11 case of an original application for a certificate of authority.

1 **SEC. 78. Withdrawal of foreign corporation.** A foreign corpora-
2 tion authorized to conduct affairs in this state may withdraw from
3 this state upon procuring from the secretary of state a certificate of
4 withdrawal. In order to procure such certificate of withdrawal, such
5 foreign corporation shall deliver to the secretary of state an applica-
6 tion for withdrawal, which shall set forth:

7 1. The name of the corporation and the state or country under the
8 laws of which it is incorporated.

9 2. That the corporation is not conducting affairs in this state.

10 3. That the corporation surrenders its authority to conduct affairs
11 in this state.

12 4. That the corporation revokes the authority of its registered
13 agent or agents in this state to accept service of process and consents
14 that service of process in any action, suit or proceeding based
15 upon any cause of action arising in this state during the time the
16 corporation was authorized to conduct affairs in this state may there-
17 after be made on such corporation by service thereof on the secretary
18 of state.

19 5. A post office address to which the secretary of state may mail a
20 copy of any process against the corporation that may be served on
21 him.

22 6. Such additional information as may be necessary or appropriate
23 in order to enable the secretary of state to determine and assess any
24 unpaid fees payable by such foreign corporation as in this Act pre-
25 scribed.

26 The application for withdrawal shall be made on forms prescribed
27 and furnished by the secretary of state and shall be executed by the
28 corporation by its president or a vice-president and by its secretary
29 or an assistant secretary, and verified by one of the officers signing
30 the application, or, if the corporation is in the hands of a receiver or
31 trustee, shall be executed on behalf of the corporation by such re-
32 ceiver or trustee and verified by him.

1 **SEC. 79. Filing of application for withdrawal.** Duplicate origi-
2 nals of such application for withdrawal shall be delivered to the sec-
3 retary of state. If the secretary of state finds that such application
4 conforms to the provisions of this Act, he shall, when all fees due
5 him have been paid as in this Act prescribed:

6 1. Endorse on each of such duplicate originals the word "Filed",
7 and the month, day and year of the filing thereof.

8 2. File one of such duplicate originals in his office.

9 3. Issue a certificate of withdrawal to which he shall affix the other
10 duplicate original.

11 The certificate of withdrawal, together with the duplicate original
12 of the application for withdrawal affixed thereto by the secretary of
13 state, shall be returned to the corporation or its representative. Upon
14 the issuance of such certificate of withdrawal, the authority of the
15 corporation to conduct affairs in this state shall cease.

1 SEC. 80. **Revocation of certificate of authority.** The certificate of
2 authority of a foreign corporation to conduct affairs in this state may
3 be revoked by the secretary of state upon the conditions prescribed
4 in this section when:

5 1. The corporation has failed to file its annual report within the
6 time required by this Act, or has failed to pay any fees or penalties
7 prescribed by this Act when the same have become due and payable;
8 or

9 2. The corporation has failed to appoint and maintain a registered
10 agent in this state as required by this Act; or

11 3. The corporation has failed, after change of its registered office
12 or registered agent, to file in the office of the secretary of state a
13 statement of such change as required by this Act; or

14 4. The corporation has failed to file in the office of the secretary of
15 state any amendment to its articles of incorporation or any articles of
16 merger within the time prescribed by this Act; or

17 5. A misrepresentation has been made of any material matter in
18 any application, report, affidavit, or other document submitted by
19 such corporation pursuant to this Act.

20 No certificate of authority of a foreign corporation shall be revoked
21 by the secretary of state unless (a) he shall have given the corpora-
22 tion not less than sixty days' notice thereof by mail addressed to its
23 registered office in this state, and (b) the corporation shall fail prior
24 to revocation to file such annual report, or pay such fees or penalties,
25 or file the required statement of change of registered agent or regis-
26 tered office or file such articles of amendment or articles of merger,
27 or correct such misrepresentation.

1 SEC. 81. **Issuance of certificate of revocation.** Upon revoking
2 any such certificate of authority, the secretary of state shall:

3 1. Issue a certificate of revocation in duplicate.

4 2. File one of such certificates in his office.

5 3. Mail to such corporation at its registered office in this state a
6 notice of such revocation accompanied by one of such certificates.

7 Upon the issuance of such certificate of revocation, the authority
8 of the corporation to conduct affairs in this state shall cease.

1 SEC. 82. **Conducting affairs without certificate of authority.** No
2 foreign corporation which is conducting affairs in this state without
3 a certificate of authority shall be permitted to maintain any action,
4 suit or proceeding in any court of this state until such corporation
5 shall have obtained a certificate of authority. Nor shall any action,
6 suit or proceeding be maintained in any court of this state by any

7 successor or assignee of such corporation on any right, claim or
8 demand arising out of the conduct of affairs by such corporation in
9 this state, until a certificate of authority shall have been obtained by
10 such corporation or by a corporation which has acquired all or sub-
11 stantially all of its assets.

12 The failure of a foreign corporation to obtain a certificate of au-
13 thority to conduct affairs in this state shall not impair the validity
14 of any contract or act of such corporation, and shall not prevent such
15 corporation from defending any action, suit or proceeding in any
16 court of this state.

17 A foreign corporation which conducts affairs in this state without
18 a certificate of authority shall be liable to this state, for the years or
19 parts thereof during which it conducted affairs in this state without
20 a certificate of authority, in an amount equal to all fees which would
21 have been imposed by this Act upon such corporation had it duly
22 applied for and received a certificate of authority to conduct affairs
23 in this state as required by this Act and thereafter filed all reports
24 required by this Act, plus all penalties imposed by this Act for fail-
25 ure to pay such fees. The attorney general shall bring proceedings to
26 recover all amounts due this state under the provisions of this sec-
27 tion. If any foreign corporation shall conduct affairs in this state
28 without a certificate of authority, it shall by conducting such affairs
29 be deemed thereby to have appointed the secretary of state its attor-
30 ney for service of process.

1 **SEC. 83. Annual report of domestic and foreign corporations.**
2 Each domestic corporation, and each foreign corporation authorized
3 to conduct affairs in this state, shall file, within the time prescribed
4 by this Act, an annual report setting forth:

5 1. The name of the corporation and the state or country under the
6 laws of which it is incorporated.

7 2. The address of the registered office of the corporation in this
8 state, and the name of its registered agent or agents in this state at
9 such address, and, in the case of a foreign corporation, the address
10 of its principal office in the state or country under the laws of which
11 it is incorporated.

12 3. A brief statement of the character of the affairs which the cor-
13 poration is actually conducting, or, in the case of a foreign corpora-
14 tion, which the corporation is actually conducting in this state.

15 4. The names and respective addresses of the directors and officers
16 of the corporation.

17 Such annual report shall be made on forms prescribed and fur-
18 nished by the secretary of state, and the information therein con-
19 tained shall be given as of the date of the execution of the report.
20 It shall be executed by the corporation by its president, a vice-presi-
21 dent, secretary, an assistant secretary, or treasurer, or, if the cor-
22 poration is in the hands of a receiver, trustee, or assignee for bene-
23 fit of creditors, it shall be executed on behalf of the corporation by
24 such receiver, trustee or assignee.

1 **SEC. 84. Filing of annual report of domestic and foreign corpora-**
2 **tions.** Such annual report of a domestic or foreign corporation shall
3 be delivered to the secretary of state for filing in his office between

4 the first day of January and the first day of March of each year,
 5 except that the first annual report of a domestic or foreign corpora-
 6 tion shall be filed between the first day of January and the first day
 7 of March of the year succeeding the calendar year in which its cer-
 8 tificate of incorporation or its certificate of authority, as the case may
 9 be, was issued by the secretary of state. Proof to the satisfaction of
 10 the secretary of state that prior to the first day of March such report
 11 was deposited in the United States mail in a sealed envelope, properly
 12 addressed, with postage prepaid, shall be deemed a compliance with
 13 this requirement. If the secretary of state finds that such report con-
 14 forms to the requirements of this Act, he shall file the same. If he
 15 finds that it does not so conform, he shall promptly return the same
 16 to the corporation for any necessary corrections, in which event the
 17 penalties hereinafter prescribed for failure to file such report within
 18 the time hereinabove provided shall not apply, if such report is cor-
 19 rected to conform to the requirements of this Act, and is resubmitted
 20 to the secretary of state within thirty days from the date on which it
 21 was mailed to the corporation by the secretary of state.

1 **SEC. 85. Fees for filing documents and issuing certificates.** The
 2 secretary of state shall charge and collect for:

- 3 1. Filing articles of incorporation and issuing a certificate of in-
 4 corporation, ten dollars.
- 5 2. Filing statement of election to accept the Act, one dollar.
- 6 3. Filing articles of amendment and issuing a certificate of amend-
 7 ment, five dollars.
- 8 4. Filing restated articles of incorporation, ten dollars.
- 9 5. Filing articles of merger or consolidation and issuing a certifi-
 10 cate of merger or consolidation, five dollars.
- 11 6. Filing an application to reserve a corporate name, five dollars.
- 12 7. Filing a notice of transfer or a reserved corporate name, five
 13 dollars.
- 14 8. Filing a statement of change of address of registered office or
 15 change of registered agent, or both, one dollar.
- 16 9. Filing articles of dissolution, one dollar.
- 17 10. Filing an application of a foreign corporation for a certificate
 18 of authority to conduct affairs in this state and issuing a certificate
 19 of authority, ten dollars.
- 20 11. Filing an application of a foreign corporation for an amended
 21 certificate of authority to conduct affairs in this state and issuing an
 22 amended certificate of authority, five dollars.
- 23 12. Filing a copy of an amendment to the articles of incorporation
 24 of a foreign corporation holding a certificate of authority to conduct
 25 affairs in this state, five dollars.
- 26 13. Filing a copy of articles of merger of a foreign corporation
 27 holding a certificate of authority to conduct affairs in this state, five
 28 dollars.
- 29 14. Filing an application for withdrawal of a foreign corporation
 30 and issuing a certificate of withdrawal, one dollar.
- 31 15. Filing any other statement or report, including an annual re-
 32 port, of a domestic or foreign corporation, one dollar.
- 33 16. Recording any instrument, document, or paper, fifty cents per
 34 page.

- 1 **SEC. 86. Miscellaneous charges.** The secretary of state shall
2 charge and collect:
3 1. For furnishing a certified copy of any document, instrument, or
4 paper relating to a corporation, fifty cents per page and two dollars
5 for the certificate and affixing the seal thereto; and for furnishing an
6 uncertified copy, fifty cents per page.
7 2. At the time of any service of process on him as resident agent
8 of a corporation, five dollars, which amount may be recovered as tax-
9 able costs by the party to the suit or action causing such service to
10 be made if such party prevails in the suit or action.
11 3. For a certificate of good standing, two dollars.

- 1 **SEC. 87. Penalties imposed upon corporation.** Each corporation,
2 domestic or foreign, that fails or refuses to file its annual report for
3 any year within the time prescribed by this Act shall be subject to a
4 penalty of five dollars to be assessed by the secretary of state.
5 Each corporation, domestic or foreign, that fails or refuses to an-
6 swer truthfully and fully within the time prescribed by this Act
7 reasonable and proper interrogatories propounded by the secretary
8 of state in accordance with the provisions of this Act, shall be deemed
9 to be guilty of a misdemeanor and upon conviction thereof may be
10 fined in an amount not exceeding five hundred dollars.

- 1 **SEC. 88. Penalties imposed upon officers and directors.** Each
2 director and officer of a corporation, domestic or foreign, who will-
3 fully fails or refuses within the time prescribed by this Act to answer
4 truthfully and fully reasonable and proper interrogatories propounded
5 to him by the secretary of state in accordance with the provisions of
6 this Act, or who signs any articles, statement, report, application or
7 other document filed with the secretary of state which is known to
8 such officer or director to be false in any material respect, shall be
9 deemed to be guilty of a misdemeanor, and upon conviction thereof
10 may be fined in any amount not exceeding five hundred dollars.

- 1 **SEC. 89. Interrogatories by secretary of state.** The secretary of
2 state may propound to any corporation, domestic or foreign, subject
3 to the provisions of this Act, and to any officer or director thereof,
4 such interrogatories as may be reasonably necessary and proper to
5 enable him to ascertain whether such corporation has complied with
6 all the provisions of this Act applicable to such corporation. Such
7 interrogatories shall be answered within thirty days after the mail-
8 ing thereof, or within such additional time as shall be fixed by the
9 secretary of state, and the answers thereto shall be full and complete
10 and shall be made in writing and under oath. If such interrogatories
11 be directed to an individual they shall be answered by him, and if
12 directed to a corporation they shall be answered by the president,
13 vice-president, treasurer, assistant treasurer, secretary or assistant
14 secretary thereof. The secretary of state need not file any document
15 to which such interrogatories relate until such interrogatories be
16 answered as herein provided, and not then if the answers thereto
17 disclose that such document is not in conformity with the provisions
18 of this Act. The secretary of state shall certify to the attorney gen-
19 eral, for such action as the attorney general may deem appropriate,

20 all interrogatories and answers thereto which disclose a violation of
21 any of the provisions of this Act.

1 **SEC. 90. Information disclosed by interrogatories.** Interrogato-
2 ries propounded by the secretary of state and the answers thereto
3 shall not be open to public inspection nor shall the secretary of state
4 disclose any facts or information obtained therefrom except insofar
5 as required in the performance of his official duties.

1 **SEC. 91. Powers of secretary of state.** The secretary of state
2 shall have the power and authority reasonably necessary to enable
3 him to administer this Act efficiently and to perform the duties there-
4 in imposed upon him.

1 **SEC. 92. Appeal from secretary of state.** If the secretary of
2 state shall fail to approve any articles of incorporation, amendment,
3 merger, consolidation or dissolution, or any other document required
4 by this Act to be approved by the secretary of state before the same
5 shall be filed in his office, he shall, within ten days after the delivery
6 thereof to him, give written notice of his disapproval to the person
7 or corporation, domestic or foreign, delivering the same, specifying
8 the reasons therefor. From such disapproval such person or corpo-
9 ration may appeal to the district court of the county in which the
10 registered office of such corporation is, or is proposed to be, situated
11 by filing with the clerk of such court a petition setting forth a copy
12 of the articles or other document sought to be filed and a copy of the
13 written disapproval thereof by the secretary of state; whereupon the
14 matter shall be tried de novo by the court, and the court shall either
15 sustain the action of the secretary of state or direct him to take such
16 action as the court may deem proper.

17 If the secretary of state shall revoke the certificate of authority to
18 conduct affairs in this state of any foreign corporation, pursuant to
19 the provisions of this Act, such foreign corporation may likewise
20 appeal to the district court of the county where the registered office
21 of such corporation in this state is situated, by filing with the clerk
22 of such court a petition setting forth a copy of its certificate of
23 authority to conduct affairs in this state and a copy of the notice of
24 revocation given by the secretary of state; whereupon the matter
25 shall be tried de novo by the court, and the court shall either sustain
26 the action of the secretary of state or direct him to take such action
27 as the court may deem proper.

28 Appeals from all final orders and judgments entered by the district
29 court under this section in review of any ruling or decision of the
30 secretary of state may be taken as in other civil actions.

1 **SEC. 93. Certificates and certified copies to be received in evi-**
2 **dence.** All certificates issued by the secretary of state in accord-
3 ance with the provisions of this Act, and copies of all documents filed
4 or recorded in his office in accordance with the provisions of this Act
5 when certified by him, shall be taken and received in all courts, public
6 offices, and official bodies as prima-facie evidence of the facts therein
7 stated. A certificate by the secretary of state under the seal of his
8 office, as to the existence or nonexistence of the facts relating to cor-
9 porations which would not appear from a certified copy of any of the

10 foregoing documents or certificates shall be taken and received in all
11 courts, public offices, and official bodies as prima-facie evidence of the
12 existence or nonexistence of the facts therein stated.

1 **SEC. 94. Forms to be furnished by secretary of state.** All re-
2 ports required by this Act to be filed in the office of the secretary of
3 state shall be made on forms which shall be prescribed and furnished
4 by the secretary of state. Forms for other documents to be filed in
5 the office of the secretary of state may be furnished by the secretary
6 of state on request therefor, but the use thereof, unless otherwise
7 specifically prescribed in this Act, shall not be mandatory.

1 **SEC. 95. Voting requirements.** Whenever, with respect to any
2 action to be taken by the members or directors of a corporation, the
3 articles of incorporation or bylaws require voting by classes of mem-
4 bers or the vote or concurrence of a greater or lesser proportion of
5 the directors or members or any class of members, as the case may
6 be, than required by this Act with respect to such action, the provi-
7 sions of the articles of incorporation or bylaws, as the case may be,
8 shall control.

1 **SEC. 96. Waiver of notice.** Whenever any notice is required to
2 be given to any member or director of a corporation under the pro-
3 visions of this Act or under the provisions of the articles of incor-
4 poration or bylaws of the corporation, a waiver thereof in writing
5 signed by the person or persons entitled to such notice, whether
6 before or after the time stated therein, shall be equivalent to the
7 giving of such notice.

1 **SEC. 97. Informal action by members or directors.** Any action
2 required by this Act to be taken at a meeting of the members or
3 directors of a corporation, or any action which may be taken at a
4 meeting of the members or directors or of a committee of directors,
5 may be taken without a meeting if a consent in writing setting forth
6 the action so taken, shall be signed by all of the members entitled to
7 vote with respect to the subject matter thereof or all of the directors
8 or all of the members of the committee of directors, as the case may
9 be. Such consent shall have the same force and effect as a unanimous
10 vote and may be stated as such in any articles or document filed with
11 the secretary of state under this Act. The provisions of this section
12 shall be applicable whether or not this Act requires that an action be
13 taken by resolution.

1 **SEC. 98. Unauthorized assumption of corporate powers.** All per-
2 sons who assume to act as a corporation without authority so to do
3 shall be jointly and severally liable for all debts and liabilities in-
4 curred or arising as a result thereof.

1 **SEC. 99. Reservation of power.** The general assembly shall at
2 all times have power to prescribe such regulations, provisions and
3 limitations as it may deem advisable, which regulations, provisions
4 and limitations shall be binding upon any and all corporations sub-
5 ject to the provisions of this Act, and the general assembly shall have
6 power to amend, repeal or modify this Act at pleasure.

1 **SEC. 100. Application to existing corporations.**

2 1. Except for this subsection, this Act shall not apply to or affect
3 corporations subject to the provisions of chapters one hundred sev-
4 enty-four (174), one hundred seventy-six (176), four hundred eighty-
5 two (482), four hundred ninety-one (491), four hundred ninety-four
6 (494), four hundred ninety-five (495), four hundred ninety-six A
7 (496A), four hundred ninety-seven (497), four hundred ninety-eight
8 (498), four hundred ninety-nine (499), four hundred ninety-nine A
9 (499A), five hundred (500), five hundred three (503), five hundred
10 six (506), five hundred eight (508), five hundred ten (510), five hun-
11 dred twelve (512), five hundred fourteen (514), five hundred fifteen
12 (515), five hundred eighteen (518), five hundred nineteen (519), five
13 hundred twenty-six (526), five hundred twenty-seven (527), five hun-
14 dred twenty-eight (528), five hundred twenty-eight B (528B), five
15 hundred thirty-one (531), five hundred thirty-two (532), five hun-
16 dred thirty-three (533), or five hundred thirty-four (534) of the
17 Code. Such corporations shall continue to be governed by all laws of
18 this state heretofore applicable thereto and as the same may here-
19 after be amended. This Act shall not be construed as in derogation
20 of or as a limitation on the powers to which such corporations may
21 be entitled.

22 2. This Act shall not apply to any domestic corporation heretofore
23 organized or existing under the provisions of chapter five hundred
24 four (504) of the Code nor, for a period of two years from and after
25 the effective date of this Act, to any foreign corporation holding a
26 permit under the provisions of said chapter on the date this Act
27 becomes effective, unless such domestic or foreign corporation shall
28 voluntarily elect to adopt the provisions of this Act and shall comply
29 with the procedure prescribed by the provisions of subsection three
30 (3) of this section.

31 3. Any domestic corporation organized or existing under the provi-
32 sions of chapter five hundred four (504) of the Code may volun-
33 tarily elect to adopt the provisions of this Act and thereby become
34 subject to its provisions and, during the period of two years from
35 and after the effective date of this Act, any foreign corporation hold-
36 ing a permit under the provisions of said chapter on said date may
37 voluntarily elect to adopt the provisions of this Act and thereby
38 become subject to the provisions of this Act. The procedure for
39 electing to adopt the provisions of this Act shall be as follows:

40 a. As to domestic corporations, a resolution reciting that the cor-
41 poration voluntarily adopts this Act and designating the address of
42 its initial registered office and the name of its registered agent or
43 agents at such address and, if the name of the corporation does not
44 comply with this Act, amending the articles of incorporation of the
45 corporation to change the name of the corporation to one complying
46 with the requirements of this Act, shall be adopted by the procedure
47 prescribed by this Act for the amendment of articles of incorpora-
48 tion. If such corporation has theretofore issued shares of stock, said
49 resolution shall contain a statement of such fact including the num-
50 ber of shares theretofore authorized, the number issued and out-
51 standing, and a statement that all issued and outstanding shares of
52 stock have been delivered to the corporation to be cancelled upon the

53 adoption of this Act by the corporation becoming effective and that
54 from and after the effective date of said adoption the authority of
55 the corporation to issue shares of stock shall be thereby terminated.
56 As to foreign corporations, a resolution shall be adopted by the board
57 of directors, reciting that the corporation voluntarily adopts this Act,
58 and designating the address of its registered office in this state and
59 the name of its registered agent or agents, at such address and, if
60 the name of the corporation does not comply with this Act, setting
61 forth the name of the corporation with the changes which it elects to
62 make therein conforming to the requirements of this Act for use in
63 this state.

64 *b.* Upon adoption of the required resolution or resolutions, an in-
65 strument shall be executed by the corporation by its president or
66 vice-president and by its secretary or an assistant secretary and ver-
67 ified by one of the officers signing the instrument, which shall set
68 forth:

69 (1) The name of the corporation;

70 (2) Each such resolution adopted by the corporation and the date
71 of adoption thereof.

72 *c.* As to domestic corporations such instrument shall be delivered
73 to the secretary of state for filing and recording in his office, and the
74 same shall be filed and recorded in the office of the county recorder.

75 If the county of the initial registered office as stated in such instru-
76 ment is one which is other than the county wherein the principal
77 office or place of business of such corporation, as theretofore desig-
78 nated in its articles of incorporation, was located, the secretary of
79 state shall forward also to the county recorder of the county in
80 which the said principal office or place of business of said corporation
81 was located a copy of such instrument and, he shall forward to the
82 recorder of the county in which the initial registered office of such
83 corporation is located, in addition to the original of such instrument,
84 a copy of the articles of incorporation of said corporation together
85 with all amendments thereto as then on file in his office.

86 *d.* As to foreign corporations, such instrument shall be delivered
87 to the secretary of state for filing in his office and the corporation
88 shall at the same time deliver also to the secretary of state for filing
89 in his office any annual report which is then due.

90 *e.* The secretary of state shall not file such instrument with re-
91 spect to a domestic corporation unless at the time thereof such cor-
92 poration is validly existing and in good standing in that office under
93 the provisions of chapter five hundred four (504) of the Code. If the
94 articles of incorporation of such corporation have not heretofore been
95 filed in the office of the secretary of state, but are on file in the office
96 of a county recorder, no such instrument of adoption shall be ac-
97 cepted by the secretary of state until the corporation shall have
98 caused its articles of incorporation and all amendments duly certified
99 by the proper county recorder to be recorded in the office of the sec-
100 retary of state. Upon the filing of such instrument the secretary of
101 state shall issue a certificate as to the filing of such instrument and
102 deliver such certificate to the corporation or its representative.

103 Upon the issuance of such certificate by the secretary of state:

104 (1) All of the provisions of this Act shall thereafter apply to the

105 corporation and thereupon every such foreign corporation shall be
106 entitled to all the rights and privileges applicable to foreign corpora-
107 tions procuring certificates of authority to conduct affairs in this
108 state under this Act, and shall be subject to all the limitations, re-
109 strictions, liabilities, and duties prescribed herein for foreign corpo-
110 rations procuring certificates of authority to conduct affairs in this
111 state under this Act.

112 (2) In the case of any corporation with issued shares of stock, the
113 holders of such issued shares who surrender them to the corporation
114 to be cancelled upon the adoption of this Act by the corporation be-
115 coming effective, shall be and become members of the corporation
116 with one vote for each share of stock so surrendered until such time
117 as the corporation by proper corporate action relative to the election,
118 qualification, terms and voting power of members shall otherwise
119 prescribe.

120 4. Any domestic corporation which elects to adopt the provisions
121 of this Act by complying with the provisions of subsection three (3)
122 of this section may, at the same time, amend or restate its articles of
123 incorporation by complying with the provisions of this Act with
124 respect to amending articles of incorporation or restating articles of
125 incorporation, as the case may be.

126 5. The provisions of this Act becoming applicable to any domestic
127 or foreign corporation shall not affect any right accrued or estab-
128 lished, or any liability or penalty incurred, under the provisions of
129 chapter five hundred four (504) of the Code prior to the filing by the
130 secretary of state in his office of the instrument manifesting the
131 election of such corporation to adopt the provisions of this Act as
132 provided in subsection three (3) of this section.

133 6. Except for the exceptions and limitations of subsection one (1)
134 of this section, this Act shall apply to: all domestic corporations
135 organized after the date on which this Act became effective; domes-
136 tic corporations organized or existing under chapter five hundred four
137 (504) of the Code which voluntarily elect to adopt the provisions of
138 this Act and comply with the provisions of subsection three (3) of
139 this section; all foreign corporations conducting or seeking to con-
140 duct affairs within this state and not holding, on the effective date
141 of this Act, a valid permit so to do; foreign corporations holding, on
142 the date the Act becomes effective, a valid permit under the provi-
143 sions of chapter five hundred four (504) of the Code which, during
144 the period of two years from and after the effective date of this Act,
145 voluntarily elect to adopt the provisions of this Act and comply with
146 the provisions of subsection three (3) of this section; and, upon the
147 expiration of the period of two years from and after the effective
148 date of this Act, all foreign corporations holding such a permit on
149 the effective date of this Act.

150 7. Upon the expiration of a period of two years from and after the
151 date on which this Act becomes effective, except for the exceptions
152 and limitations of subsection one (1) of this section, this Act shall
153 apply to every foreign corporation holding a valid permit to do busi-
154 ness within this state or seeking to conduct affairs within this state.
155 Every foreign corporation holding a valid permit to do business
156 within this state at the time this Act becomes effective, which has

157 not meanwhile adopted this Act by complying with the provisions of
158 subsection three (3) of this section, shall at the expiration of two
159 years from and after the effective date of this Act be deemed to have
160 elected to adopt this Act by not voluntarily withdrawing from the
161 state, and thereupon every such foreign corporation, subject to the
162 limitations set forth in its certificate of authority, shall be entitled to
163 all the rights and privileges applicable to foreign corporations pro-
164 curing certificates of authority to conduct affairs in this state under
165 this Act, and shall be subject to all the limitations, restrictions, lia-
166 bilities, and duties prescribed herein for foreign corporations procur-
167 ing certificates of authority to conduct affairs in this state under this
168 Act.

169 8. Within eight months after this Act becomes applicable to any
170 foreign corporation pursuant to the provisions of subsection seven
171 (7) of this section, the board of directors of such foreign corporation
172 shall adopt a resolution designating the address of its registered
173 office in this state and the name of its registered agent or agents at
174 such address and, if the name of such corporation does not comply
175 with this Act, setting forth the name of the corporation with the
176 changes which it elects to make therein conforming to the require-
177 ments of this Act for use in this state.

178 Upon adoption of the required resolution or resolutions, an instru-
179 ment or instruments shall be executed by the foreign corporation by
180 its president or a vice-president and by its secretary or assistant
181 secretary and verified by one of the officers signing such instrument,
182 which shall set forth the name of the corporation, each resolution
183 adopted as required by the provisions of this subsection, and the date
184 of the adoption thereof. Such instrument shall be delivered to the
185 secretary of state for filing in his office. Upon the filing of such in-
186 strument by a foreign corporation the secretary of state shall issue
187 a certificate as to the filing of such instrument and deliver such cer-
188 tificate to the corporation or its representative. The secretary of
189 state shall not file any annual report of any foreign corporation sub-
190 ject to the provisions of this subsection unless and until said corpora-
191 tion has fully complied with the provisions of this paragraph and, in
192 such event, such foreign corporation shall be subject to the penalties
193 prescribed in this Act for failure to file such report within the time
194 as provided therefor in this Act.

195 9. The first annual report required to be filed by a domestic or for-
196 eign corporation under the provisions of this Act shall be filed be-
197 tween January 1 and March 1 of the year next succeeding the calen-
198 dar year in which it becomes subject to the Act.

199 10. No corporation to which the provisions of this Act apply shall
200 be subject to the provisions of chapter five hundred four (504) of the
201 Code.

202 11. The provisions of sections ninety-six (96) and ninety-seven
203 (97) of this Act shall apply to any action required or permitted to be
204 taken under this section.

205 12. Except as otherwise provided in this section, existing corpora-
206 tions shall continue to be governed by the laws of this state hereto-
207 fore applicable thereto.

1 SEC. 101. **Personal liability.** Except as otherwise provided in
 2 this Act, the directors, officers, employees and members of the cor-
 3 poration shall not, as such, be liable on its debts or obligations.

1 SEC. 102. **Effect of invalidity of part of this Act.** If a court of
 2 competent jurisdiction shall adjudge to be invalid or unconstitutional
 3 any clause, sentence, paragraph, section or part of this Act, such
 4 judgment or decree shall not affect, impair, invalidate or nullify the
 5 remainder of this Act, but the effect thereof shall be confined to the
 6 clause, sentence, paragraph, section or part of this Act so adjudged
 7 to be invalid or unconstitutional.

Approved March 17, 1965.

CHAPTER 389

PROMOTION EXPENSE BY INSURANCE COMPANIES

S. F. 533

AN ACT relating to promotion expense which may be incurred in the organization of domestic insurance companies.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Subsection four (4) of section one (1), chapter two
 2 hundred ninety-nine (299), Acts of the Sixtieth General Assembly, is
 3 hereby amended by deleting from line two (2) the words "par value"
 4 and substituting in lieu thereof the words "sale price".

Approved June 3, 1965.

CHAPTER 390

COMPENSATION OF INSURANCE EXAMINERS

H. F. 179

AN ACT relating to the compensation of insurance examiners.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred seven point four (507.4), Code
 2 1962, as amended by chapter three hundred one (301), Acts of the
 3 Sixtieth General Assembly, is hereby amended by striking from lines
 4 twenty (20), twenty-one (21), twenty-two (22), twenty-three (23),
 5 and twenty-four (24) the words "one hundred eighty dollars per
 6 week in the examination of domestic companies and two hundred dol-
 7 lars per week in the examination of foreign companies" and substi-
 8 tuting in lieu thereof the words "two hundred dollars per week, sub-
 9 ject, however, to the provisions of section five hundred five point
 10 fourteen (505.14) of the Code".

Approved February 26, 1965.