

CHAPTER 45
CORPORATIONS — MISCELLANEOUS PROVISIONS
H.F. 172

AN ACT relating to corporations' powers and duties, document filings, meetings, mergers, voting procedures, and the functions of directors and officers.

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

Section 1. Section 490.501, subsection 2, paragraphs b and c, Code 2015, are amended to read as follows:

b. A domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 2. Section 504.111, Code 2015, is amended by adding the following new subsection:
NEW SUBSECTION. 12. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, all of the following provisions apply:

a. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

b. The facts may include any of the following:

(1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.

(3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

c. As used in this subsection, all of the following apply:

(1) "Filed document" means a document filed with the secretary of state under any provision of this chapter except subchapter XV or section 504.1613.

(2) "Plan" means a plan of entity conversion or merger.

Sec. 3. Section 504.302, Code 2015, is amended by adding the following new subsection:
NEW SUBSECTION. 16A. Serve as a trustee of a trust of which the corporation is a beneficiary.

Sec. 4. Section 504.501, subsection 2, paragraphs b and c, Code 2015, are amended to read as follows:

b. A domestic business corporation, domestic limited liability company, or domestic nonprofit corporation whose business office is identical to the registered office.

c. A foreign business corporation, foreign limited liability company, or foreign nonprofit corporation authorized to transact business in this state whose business office is identical to the registered office.

Sec. 5. Section 504.701, subsection 1, Code 2015, is amended to read as follows:

1. A Except in the case of a corporation with members that holds meetings only of delegates and not of the members, a corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws. The articles of incorporation or bylaws of a corporation with members that holds meetings only of delegates and not of members may provide for meetings of delegates to be held less frequently than annually but at least once every six years.

Sec. 6. Section 504.712, subsection 1, Code 2015, is amended to read as follows:

1. ~~The right of the members of a corporation, or any class or classes of members, to vote may be limited, enlarged, or denied to the extent specified~~ Except as provided in the articles of incorporation or, if the articles of incorporation so provide, by the bylaws. Unless so limited, enlarged, or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

Sec. 7. Section 504.805, subsection 1, Code 2015, is amended to read as follows:

1. ~~The articles or bylaws of a corporation must~~ may specify the terms of directors. ~~If the term is not specified in the articles or bylaws, the term of a director is one year. Except for designated or appointed directors, and except as otherwise provided in the articles or bylaws, the terms of directors shall not exceed five years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year.~~ Directors may be elected for successive terms.

Sec. 8. Section 504.825, Code 2015, is amended to read as follows:

504.825 Quorum and voting.

1. Except as otherwise provided in this chapter, or the articles or bylaws of a corporation, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins.

2. The articles or bylaws shall not authorize a quorum of fewer than one-third of the number of directors in office.

~~2. 3. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless a greater vote is required by this chapter, the articles of incorporation, or bylaws require the vote of a greater number of directors.~~

4. A director who is present at a meeting of the board of directors when corporate action is taken is considered to have assented to the action taken unless any of the following applies:

a. The director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting.

b. The director dissents or abstains from the action and any of the following applies:

(1) The dissent or abstention is entered in the minutes of the meeting.

(2) The director delivers notice in the form of a record of the director's dissent or abstention to the presiding officer of the meeting before the meeting's adjournment or to the corporation promptly after adjournment of the meeting.

5. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Sec. 9. Section 504.831, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In discharging board or committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information which the director knows is not already known by them but is known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

Sec. 10. Section 504.834, Code 2015, is amended to read as follows:

504.834 Loans to or guarantees for directors and officers.

1. A corporation shall not lend money to or guarantee the obligation of a director or officer of the corporation.

2. This section does not apply to the situation where the director or officer is a full-time employee of the corporation and involves any of the following:

a. An advance to pay reimbursable expenses reasonably expected to be incurred by a director or officer.

b. An advance to pay premiums on a policy of life insurance if the advance is secured by the policy's death benefit proceeds or cash surrender value, or both.

c. Advances pursuant to part 5.

d. Loans or advances pursuant to employee benefit plans.

e. A loan secured by the principal residence of an officer.

f. A loan to pay relocation expenses of an officer.

3. The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

Sec. 11. Section 504.854, subsection 3, paragraph a, subparagraph (2), Code 2015, is amended to read as follows:

(2) If there are fewer than two disinterested directors, by the vote necessary for action by the board in accordance with section 504.825, subsection 2 3, in which authorization directors who do not qualify as disinterested directors may participate.

Sec. 12. Section 504.1104, Code 2015, is amended to read as follows:

504.1104 Articles of merger.

1. After a plan of merger is has been adopted and approved by the board of directors, and if as required by section 504.1103, by the members and any other persons, the surviving or acquiring corporation shall deliver to the secretary of state this chapter, articles of merger setting shall be signed on behalf of each party to the merger by an officer or other duly authorized representative. The articles shall set forth all of the following, as applicable:

1. a. The plan of names of the parties to the merger.

2. b. If approval of members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of the merger, the amendments to the articles of incorporation of the survivor or the articles of incorporation of the new corporation.

3. c. If the plan of merger required approval by the members was required, both of the following: of a domestic nonprofit corporation that was a party to the merger, a statement that the plan was duly approved by the members and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation or bylaws.

a. The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class indisputably voting on the plan.

b. Either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of undisputed votes cast for the plan by each class and a statement that the number of votes cast for the plan by each class was sufficient for approval by that class.

d. If the plan of merger did not require approval by the members of the domestic nonprofit corporation that was a party to the merger, a statement to that effect.

4. e. If approval of the plan by some person or persons other than the members of the board is required pursuant to section 504.1103, subsection 1, paragraph "c", a statement that the approval was obtained.

f. As to each foreign nonprofit corporation or eligible entity that was a party to the merger, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

2. Terms of the articles of merger may be dependent on facts objectively ascertainable outside the articles in accordance with section 504.111, subsection 12.

3. Articles of merger must be delivered to the secretary of state for filing by the survivor of the merger and shall take effect at the effective time provided in section 504.114. Articles of merger filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.