

FILED FEB 24 1988

SENATE FILE 2209
BY COMMITTEE ON JUDICIARY
(formerly SSB 2067)

Passed Senate, Date 2/18/88 (p. 670) Passed House, Date _____
Vote: Ayes 27 Nays 21 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale, lease, exchange, or other
2 disposition of corporate property and assets.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2209

S-5168

1 Amend Senate File 2209 as follows:
2 1. Page 1, by inserting after line 31, the
3 following:
4 "Sec. ____ . NEW SECTION. 496A.76A LIABILITY FOR
5 DEBTS OF CORPORATION PURCHASED.
6 A person who buys, leases, receives in an exchange,
7 or otherwise obtains all or substantially all of the
8 assets of a corporation, is liable for the debts and
9 liabilities of the corporation if any of the following
10 circumstances exist:
11 1. There is an agreement to assume the debts or
12 liabilities.
13 2. There is a consolidation of the two
14 corporations.
15 3. The person is a mere continuation of the
16 selling corporation.
17 4. The transaction was fraudulent."
18 2. By renumbering as necessary.

S-5168

Filed February 29, 1988

BY TOM MANN, Jr.

Adopted 2/18 (p. 679)

1 Section 1. Section 496A.75, Code 1987, is amended to read
2 as follows:

3 496A.75 SALE OR OTHER DISPOSITION OF ASSETS IN REGULAR
4 COURSE OF BUSINESS AND MORTGAGE OR PLEDGE OF ASSETS.

5 The Unless otherwise provided in the articles of
6 incorporation, the sale, lease, exchange, or other disposition
7 of all, or substantially all, of the property and assets of a
8 corporation, when made in the usual and regular course of the
9 business of the corporation, or when made to another
10 corporation all the shares of which are owned by the disposing
11 corporation, and the mortgage or pledge of any or all of the
12 property and assets of the corporation may be made upon ~~such~~
13 terms and conditions and for ~~such~~ considerations, which may
14 consist in whole or in part of money or property, real or
15 personal, including shares of any other corporation, domestic
16 or foreign, as ~~shall-be~~ authorized by its board of directors;
17 and in such case no authorization or consent of the
18 shareholders ~~shall-be~~ is required.

19 Sec. 2. Section 496A.76, unnumbered paragraph 1, Code
20 1987, is amended to read as follows:

21 A sale, lease, exchange, or other disposition of all, or
22 substantially all, of the property and assets, with or without
23 the good will, of a corporation, if not made in the usual and
24 regular course of its business, or, unless otherwise provided
25 in the articles of incorporation if not made to another
26 corporation all the shares of which are owned by the disposing
27 corporation, may be made upon ~~such~~ terms and conditions and
28 for ~~such~~ consideration, which may consist in whole or in part
29 of money or property, real or personal, including shares of
30 any other corporation, domestic or foreign, as ~~may-be~~
31 authorized in the following manner:

32 Sec. 3. Section 496A.77, subsection 2, unnumbered
33 paragraph 1, Code 1987, is amended to read as follows:

34 Any A sale or exchange of all or substantially all of the
35 property and assets of the corporation, otherwise than in the

1 usual and regular course of its business or, unless otherwise
2 provided in the articles of incorporation, a sale or exchange
3 of all or substantially all of the property and assets of the
4 corporation otherwise than to another corporation all the
5 shares of which are owned by the disposing corporation.

6 EXPLANATION

7 This bill provides that a corporation may sell, lease,
8 exchange, or otherwise dispose of all, or substantially all,
9 of its property and assets to another corporation wholly owned
10 by the disposing corporation, without a vote of the
11 shareholders.

12 SIMILAR TO SSB 2067 (LSB 7610SC)

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*Amended by 3/11
Amended for 3/9/88 by House 5/25 (4-11-88)*

SENATE FILE 2209
BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 8, 1988)
~~_____~~ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale, lease, exchange, or other
2 disposition of corporate property and assets.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 496A.75, Code 1987, is amended to read
2 as follows:

3 496A.75 SALE OR OTHER DISPOSITION OF ASSETS IN REGULAR
4 COURSE OF BUSINESS AND MORTGAGE OR PLEDGE OF ASSETS.

5 ~~The~~ Unless otherwise provided in the articles of
6 incorporation, the sale, lease, exchange, or other disposition
7 of all, or substantially all, of the property and assets of a
8 corporation, when made in the usual and regular course of the
9 business of the corporation, or when made to another
10 corporation all the shares of which are owned by the disposing
11 corporation, and the mortgage or pledge of any or all of the
12 property and assets of the corporation may be made upon such
13 terms and conditions and for such considerations, which may
14 consist in whole or in part of money or property, real or
15 personal, including shares of any other corporation, domestic
16 or foreign, as ~~shall be~~ authorized by its board of directors;
17 and in such case no authorization or consent of the
18 shareholders ~~shall be~~ is required.

19 Sec. 2. Section 496A.76, unnumbered paragraph 1, Code
20 1987, is amended to read as follows:

21 A sale, lease, exchange, or other disposition of all, or
22 substantially all, of the property and assets, with or without
23 the good will, of a corporation, if not made in the usual and
24 regular course of its business, or, unless otherwise provided
25 in the articles of incorporation if not made to another
26 corporation all the shares of which are owned by the disposing
27 corporation, may be made upon such terms and conditions and
28 for such consideration, which may consist in whole or in part
29 of money or property, real or personal, including shares of
30 any other corporation, domestic or foreign, as may be
31 authorized in the following manner:

32 Sec. 3. NEW SECTION. 496A.76A LIABILITY FOR DEBTS OF
33 CORPORATION PURCHASED.

34 A person who buys, leases, receives in an exchange, or
35 otherwise obtains all or substantially all of the assets of a

1 corporation, is liable for the debts and liabilities of the
2 corporation if any of the following circumstances exist:

- 3 1. There is an agreement to assume the debts or
4 liabilities.
- 5 2. There is a consolidation of the two corporations.
- 6 3. The person is a mere continuation of the selling
7 corporation.
- 8 4. The transaction was fraudulent.

9 Sec. 4. Section 496A.77, subsection 2, unnumbered
10 paragraph 1, Code 1987, is amended to read as follows:

11 Any A sale or exchange of all or substantially all of the
12 property and assets of the corporation, otherwise than in the
13 usual and regular course of its business or, unless otherwise
14 provided in the articles of incorporation, a sale or exchange
15 of all or substantially all of the property and assets of the
16 corporation otherwise than to another corporation all the
17 shares of which are owned by the disposing corporation.

18 SIMILAR TO SSB 2087 (LSB 7610SC)

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SENATE FILE 2209

H-5997

- 1 Amend Senate File 2209 as amended, passed, and
 2 reprinted by the Senate as follows:
 3 1. Page 1, line 9, by striking the words "or when
 4 made" and inserting the following: "the transfer of
 5 any or all of the property and assets of the
 6 corporation".
 7 2. Page 1, line 10, by striking the word
 8 "disposing".
 9 3. Page 1, by striking lines 24 through 26 and
 10 inserting the following: "regular course of its
 11 business,".
 12 4. Page 1, line 27, by striking the word
 13 "corporation".
 14 5. By striking page 1, line 32 through page 2,
 15 line 8.
 16 6. Page 2, lines 9 and 10, by striking the words
 17 unnumbered paragraph 1,".
 18 7. Page 2, line 11, by inserting before the word
 19 "Any" the following: "2."
 20 8. Page 2, by striking lines 13 through 17 and
 21 inserting the following: "usual and regular course of
 22 its business;~~7-if-the-shareholder-is-entitled-to-vote~~
 23 ~~on-the-sale-or-exchange;-or~~
 24 Sec. ____ . Section 496A.77, Code 1987, is amended
 25 by adding the following new subsection:
 26 NEW SUBSECTION. 3. A corporate action taken
 27 pursuant to a shareholder vote to the extent the
 28 articles of incorporation provide that voting or
 29 nonvoting shareholders are entitled to dissent and
 30 obtain payment for their shares."
 31 9. By renumbering as necessary.

By COMMITTEE ON JUDICIARY AND LAW
 ENFORCEMENT
 JAY of Appanoose, Chairperson

H-5997 FILED MARCH 28, 1988

SENATE FILE 2209

H-6034

- 1 Amend Senate File 2209, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 2, by inserting after line 17, the
 4 following:
 5 "Sec. ____ . NEW SECTION. 504.17 PROCEDURE FOR
 6 MERGER, CONSOLIDATION, SALE, LEASE EXCHANGE, MORTGAGE
 7 OF ASSETS, OR DISSOLUTION.
 8 To the extent not inconsistent with this chapter,
 9 the provisions of sections 504A.40 through 504A.52 are
 10 applicable to corporations organized under this
 11 chapter."

By JAY of Appanoose

H-6034 FILED MARCH 29, 1988

LSB

SSB 2067

SSB 2067
JUDICIARY

JUDICIARY: Varn, Chair: Mann and Drake

Varn, Chair

Now

SENATE FILE 2209

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

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3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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