

#### **504.854 Advance for expenses.**

1. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because the person is a director if the person delivers all of the following to the corporation:

*a.* A written affirmation of the director's good faith belief that the director has met the relevant standard of conduct described in section 504.852 or that the proceeding involved conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 504.202, subsection 2, paragraph "d".

*b.* The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification under section 504.853 and it is ultimately determined under section 504.855 or 504.856 that the director has not met the relevant standard of conduct described in section 504.852.

2. The undertaking required by subsection 1, paragraph "b", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made according to one of the following:

*a.* By the board of directors as follows:

(1) If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such vote.

(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, in which authorization directors who do not qualify as disinterested directors may participate.

*b.* By the members, but the director, who at the time does not qualify as a disinterested director, shall not vote as a member or on behalf of a member.

2004 Acts, ch 1049, §104, 192; 2004 Acts, ch 1175, §385