

490.860 Part definitions.

As used in this part, unless the context otherwise requires:

1. “Control”, including the term “controlled by”, means any of the following:
 - a. Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise.
 - b. Being subject to a majority of the risk of loss from the entity’s activities or entitled to receive a majority of the entity’s residual returns.
2. “Director’s conflicting interest transaction” means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation to which, or respecting which, any of the following applies:
 - a. To which, at the relevant time, the director is a party.
 - b. Respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director.
 - c. Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.
3. “Fair to the corporation” means, for purposes of [section 490.861, subsection 2, paragraph “c”](#), that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was all of the following:
 - a. Fair in terms of the director’s dealings with the corporation.
 - b. Comparable to what might have been obtainable in an arm’s length transaction, given the consideration paid or received by the corporation.
4. “Material financial interest” means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director’s judgment when participating in action on the authorization of the transaction.
5. “Related person” means any of the following:
 - a. The director’s spouse.
 - b. A child, stepchild, grandchild, parent, stepparent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece, or nephew, or spouse of any thereof, of the director or of the director’s spouse.
 - c. An individual living in the same home as the director.
 - d. An entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified in [this subsection](#).
 - e. A domestic or foreign person who is any of the following:
 - (1) A business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the director is a director.
 - (2) An unincorporated entity of which the director is a general partner or a member of the governing body.
 - (3) An individual, trust, or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary.
 - f. A person that is, or an entity that is controlled by, an employer of the director.
6. “Relevant time” means any of the following:
 - a. The time at which directors’ action respecting the transaction is taken in compliance with [section 490.862](#).
 - b. If the transaction is not brought before the board of directors of the corporation, or its committee, for action under [section 490.862](#), the time at which the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.
7. “Required disclosure” means disclosure of all of the following:
 - a. The existence and nature of the director’s conflicting interest.
 - b. All facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

[2013 Acts, ch 31, §40, 82](#); [2014 Acts, ch 1092, §106](#)

Subsection 6, paragraph b amended