

490.1202 Shareholder approval of certain dispositions.

1. A sale, lease, exchange, or other disposition of assets, other than a disposition described in [section 490.1201](#), requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least twenty-five percent of total assets at the end of the most recently completed fiscal year, and twenty-five percent of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing business activity; but no presumption that the disposition will leave the corporation without a significant continuing business activity shall arise from the fact that the corporation's continuing business activity does not equal or exceed any of these percentages.

2. *a.* A disposition that requires approval of the shareholders under [subsection 1](#) shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation.

(2) [Section 490.826](#) applies.

b. If paragraph "a", subparagraph (1) or (2), applies, the board shall transmit to the shareholders the basis for so proceeding.

3. The board of directors may condition its submission of a disposition to the shareholders under [subsection 2](#) on any basis.

4. If a disposition is required to be approved by the shareholders under [subsection 1](#), and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions of the disposition and the consideration to be received by the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to [subsection 3](#) require a greater vote or a greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the disposition exists.

6. After a disposition has been approved by the shareholders under [subsection 2](#), and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

7. A disposition of assets in the course of dissolution under [subchapter XIV](#) is not governed by [this section](#).

8. The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of [this section](#).

[89 Acts, ch 288, §130; 2002 Acts, ch 1154, §77, 125; 2013 Acts, ch 31, §49, 82; 2019 Acts, ch 24, §104](#)

Referred to in [§490.1302](#)

Code editor directive applied