

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. A corporation will conclusively be deemed to have retained a significant continuing business activity if it retains a business activity that represented, for the corporation and its subsidiaries on a consolidated basis, at least twenty-five percent of total assets at the end of the most recently completed fiscal year, and either twenty-five percent of either income from continuing operations before taxes or twenty-five percent of revenues from continuing operations, in each case for the most recently completed fiscal year; 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. To obtain the approval of the shareholders under [subsection 1](#), all of the following shall apply:

a. The board of directors shall first adopt a resolution authorizing the disposition. The disposition shall then be approved by the shareholders. In submitting the disposition to the shareholders for approval, the board of directors shall recommend that the shareholders approve the 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 inform the shareholders of the basis for its so proceeding.

3. The board of directors may set conditions for the approval by the shareholders of a disposition or the effectiveness of the disposition.

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, regardless of whether entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the disposition and must 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 quorum, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum exists consisting of a majority of the votes entitled to be cast on the disposition.

6. After a disposition has been approved by the shareholders under [this subchapter](#), 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 to be 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; 2021 Acts, ch 165, §157, 230](#)

Referred to in [§490.1302](#)