

490.863 Shareholders' action.

1. *a.* Shareholders' action respecting a director's conflicting interest transaction is effective for purposes of [section 490.861, subsection 2](#), paragraph "b", if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after all of the following occur:

- (1) Notice to shareholders describing the action to be taken respecting the transaction.
- (2) Provision to the corporation of the information referred to in [subsection 2](#).
- (3) Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

b. In the case of shareholders' action at a meeting, the shareholders entitled to vote shall be determined as of the record date for notice of the meeting.

2. A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under [subsection 3](#), and the identity of the holders of those shares.

3. As used in [this section](#):

a. "Holder" means and "held by" refers to shares held by a record shareholder, a beneficial shareholder, or an unrestricted voting trust beneficial owner.

b. "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under [subsection 2](#) is notified, are held by any of the following:

- (1) A director who has a conflicting interest respecting the transaction.
- (2) A related person of the director, excluding a person described in [section 490.860, subsection 5](#), paragraph "f".

4. A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of compliance with [this section](#). Subject to the provisions of [subsection 5](#), shareholders' action that otherwise complies with [this section](#) is not affected by the presence of holders, or by the voting, of shares that are not qualified shares.

5. If a shareholders' vote does not comply with [subsection 1](#) solely because of a director's failure to comply with [subsection 2](#), and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

6. Where shareholders' action under [this section](#) does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation or bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

2013 Acts, ch 31, §43, 82; 2013 Acts, ch 140, §71; 2021 Acts, ch 165, §122, 230

Referred to in §490.831, 490.861, 490.870, 490.1340, 491.16A