

490.1434 Election to purchase in lieu of dissolution.

1. In a proceeding under [section 490.1430, subsection 1](#), paragraph “b”, to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to [this section](#) shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

2. An election to purchase pursuant to [this section](#) may be filed with the court at any time within ninety days after the filing of the petition under [section 490.1430, subsection 1](#), paragraph “b”, or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join in the election to purchase shares in accordance with [this section](#). Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effectiveness of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under [section 490.1430, subsection 1](#), paragraph “b”, shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder’s shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

3. If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner’s shares, the court shall enter an order directing the purchase of the petitioner’s shares upon the terms and conditions agreed to by the parties.

4. If the parties are unable to reach an agreement as provided for in [subsection 3](#), the court, upon application of any party, shall stay the proceedings under [section 490.1430, subsection 1](#), paragraph “b”, and determine the fair value of the petitioner’s shares as of the day before the date on which the petition under [section 490.1430, subsection 1](#), paragraph “b”, was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating the petitioner’s shares among holders of different classes or series of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes or series insofar as practicable and may direct that holders of a specific class or classes or series shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under [section 490.1430, subsection 1](#), paragraph “b”, subparagraph (2) or (4), it may award expenses to the petitioning shareholder.

6. Upon entry of an order under [subsection 3 or 5](#), the court shall dismiss the petition to dissolve the corporation under [section 490.1430, subsection 1](#), paragraph “b”, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court which shall be enforceable in the same manner as any other judgment.

7. The purchase ordered pursuant to [subsection 5](#) shall be made within ten days after the date the order becomes final.

8. Any payment by the corporation pursuant to an order under [subsection 3 or 5](#), other than an award of expenses pursuant to [subsection 5](#), is subject to the provisions of [section 490.640](#).

[2002 Acts, ch 1154, §98, 125](#); [2013 Acts, ch 31, §71, 82](#); [2021 Acts, ch 165, §185, 230](#)

Referred to in [§490.1431](#), [490.1432](#)