

ILLINOIS BUSINESS CORPORATION ACT OF 1983

With amendments through July 1, 2006

Compliments of:

David K. Staub
Staub Anderson Green LLC
55 West Monroe Street
Suite 1925
Chicago, Illinois 60603

Telephone: 312-345-0545

Fax: 312-345-0544

www.IllinoisBusinessAttorney.com

DISCLAIMER

While a good faith effort has been taken to verify the accuracy of the information provided in this publication, we do not warrant the accuracy, adequacy or completeness of any material in this publication. We shall have no liability to any person or entity with respect to any inaccuracy, misleading information, loss or damage caused directly or indirectly by the use of information contained in this publication.

ILLINOIS BUSINESS CORPORATION ACT OF 1983

ARTICLE 1. GENERAL PROVISIONS

(805 ILCS 5/1.01)

Sec. 1.01. Short title.

This Act shall be known and may be cited as the "Business Corporation Act of 1983".

(Source: P.A. 83-1025.)

(805 ILCS 5/1.05)

Sec. 1.05. Powers of Secretary of State.

The Secretary of State shall have the power and authority reasonably necessary to administer this Act efficiently and to perform the duties therein imposed. The Secretary of State shall have the power to promulgate, amend or repeal rules and regulations deemed necessary to efficiently administer this Act. The rules and regulations adopted by the Secretary of State under this Act shall be effective in the manner provided for in "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended.

(Source: P.A. 84-1412.)

(805 ILCS 5/1.10)

Sec. 1.10. Forms, execution, acknowledgment and filing.

(a) All reports required by this Act to be filed in the office of the Secretary of State shall be made on forms which shall be prescribed and furnished by the Secretary of State. Forms for all other documents to be filed in the office of the Secretary of State shall be furnished by the Secretary of State on request therefor, but the use thereof, unless otherwise specifically prescribed in this Act, shall not be mandatory.

(b) Whenever any provision of this Act specifically requires any document to be executed by the corporation in accordance with this Section, unless otherwise specifically stated in this Act and subject to any additional provisions of this Act, such document shall be executed, in ink, as follows:

(1) The articles of incorporation, and any other document to be filed before the election of the initial board of directors if the initial directors were not named in the articles of incorporation, shall be signed by the incorporator or incorporators.

(2) All other documents shall be signed:

(i) By the president, a vice-president, the secretary, an assistant secretary, the treasurer, or other officer duly authorized by the board of directors of the corporation to execute the document; or

(ii) If it shall appear from the document that there are no such officers, then by a majority of the directors or by such directors as may be designated by the board; or

(iii) If it shall appear from the document that there are no such officers or directors, then by the holders of record, or such of them as may be designated by the holders of record of a majority of all outstanding shares; or

(iv) By the holders of all outstanding shares; or

- (v) If the corporate assets are in the possession of a receiver, trustee or other court appointed officer, then by the fiduciary or the majority of them if there are more than one.
- (c) The name of a person signing the document and the capacity in which he or she signs shall be stated beneath or opposite his or her signature.
- (d) Whenever any provision of this Act requires any document to be verified, such requirement is satisfied by either:
- (1) The formal acknowledgment by the person or one of the persons signing the instrument that it is his or her act and deed or the act and deed of the corporation, as the case may be, and that the facts stated therein are true. Such acknowledgment shall be made before a person who is authorized by the law of the place of execution to take acknowledgments of deeds and who, if he or she has a seal of office, shall affix it to the instrument.
 - (2) The signature, without more, of the person or persons signing the instrument, in which case such signature or signatures shall constitute the affirmation or acknowledgment of the signatory, under penalties of perjury, that the instrument is his or her act and deed or the act and deed of the corporation, as the case may be, and that the facts stated therein are true.
- (e) Whenever any provision of this Act requires any document to be filed with the Secretary of State or in accordance with this Section, such requirement means that:
- (1) The original signed document, and if in duplicate as provided by this Act, one true copy, which may be signed, carbon or photocopy, shall be delivered to the office of the Secretary of State.
 - (2) All fees, taxes and charges authorized by law to be collected by the Secretary of State in connection with the filing of the document shall be tendered to the Secretary of State.
 - (3) If the Secretary of State finds that the document conforms to law, he or she shall, when all fees, taxes and charges have been paid as in this Act prescribed:
 - (i) Endorse on the original and on the true copy, if any, the word "filed" and the month, day and year thereof;
 - (ii) File the original in his or her office;
 - (iii) (Blank); or
 - (iv) If the filing is in duplicate, he or she shall return one true copy, with a certificate, if any, affixed thereto, to the corporation or its representative who shall file such document for record in the office of the recorder of the county in which the registered office of the corporation is situated in this State within 15 days after the mailing thereof by the Secretary of State, unless such document cannot with reasonable diligence be filed within such time, in which case it shall be filed as soon thereafter as may be reasonably possible.
- (f) If another Section of this Act specifically prescribes a manner of filing or executing a specified document which differs from the corresponding provisions of this Section, then the provisions of such other Section shall govern.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/1.15)

Sec. 1.15. Statement of correction.

- (a) Whenever any instrument authorized to be filed with the Secretary of State under any provision of this Act has been so filed and, as of the date of the action therein referred to, contains any misstatement of fact, typographical error, error of transcription or any other error or defect or

was defectively or erroneously executed, such instrument may be corrected by filing, in accordance with Section 1.10 of this Act, a statement of correction.

(b) A statement of correction shall set forth:

(1) The name or names of the corporation or corporations and the State or country under the laws of which each is organized.

(2) The title of the instrument being corrected and the date it was filed by the Secretary of State.

(3) The inaccuracy, error or defect to be corrected and the portion of the instrument in corrected form.

(c) A statement of correction shall be executed in the same manner in which the instrument being corrected was required to be executed.

(d) The corrected instrument shall be effective as of the date the original instrument was filed.

(e) A statement of correction shall not:

(1) Effect any change or amendment of articles which would not in all respects have complied with the requirements of this Act at the time of filing the instrument being corrected.

(2) Take the place of any document, statement or report otherwise required to be filed by this Act.

(3) Affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having such right has not detrimentally relied on the original instrument.

(4) Alter the provisions of the articles of incorporation with respect to the corporation name or purpose, the class or classes and number of shares to be authorized, and the names and addresses of the incorporators or initial directors.

(5) Alter the provisions of the application for authority of a foreign corporation with respect to the corporation name.

(6) Alter the provisions of the application to adopt or change an assumed corporate name with respect to the assumed corporate name.

(7) Alter the wording of any resolution as filed in any document with the Secretary of State and which was in fact adopted by the board of directors or by the shareholders.

(8) Alter the provisions of the statement of election of an extended filing month with respect to the extended filing month.

(f) A statement of correction may correct the basis, as established by any document required to be filed by this Act, of license fees, taxes, penalty, interest, or other charge paid or payable under this Act.

(g) A statement of correction may provide the grounds for a petition for a refund or an adjustment of an assessment filed under Section 1.17 of this Act.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/1.17)

Sec. 1.17. Petition for refund or adjustment of license fee, franchise tax, penalty, or interest.

(a) Any domestic corporation or foreign corporation having authority to transact business in this State may petition the Secretary of State for a refund or adjustment of license fee, franchise

tax, penalty, or interest claimed to have been erroneously paid or claimed to be payable, subject however to the following limitations:

(1) No refund shall be made unless a petition for such shall have been filed in accordance with Section 1.10 of this Act within three years after the amount to be refunded was paid;

(2) No adjustment of any license fee, franchise tax, penalty, or interest shall be made unless a petition for such shall have been made within three years after the amount to be adjusted should have been paid;

(3) If the refund or adjustment claimed is based upon an instrument filed with the Secretary of State which contained a misstatement of fact, typographical error, error of transcription or other error or defect, no refund or adjustment of any license fee, franchise tax, penalty, or interest shall be made unless a statement of correction has been filed in accordance with Section 1.15 of this Act.

(b) The petition for refund or adjustment shall be executed in accordance with Section 1.10 of this Act and shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is organized.

(2) The amount and nature of the claim.

(3) The details of each transaction and all facts upon which the petitioner relies.

(4) Any other information required by rule.

(c) If the Secretary of State determines that any license fee, franchise tax, penalty, or interest is incorrect, in whole or in part, he or she shall adjust the amount to be paid or shall refund to the corporation any amount paid in excess of the proper amount; provided, however, that no refund shall be made for an amount less than \$200 and any refund in excess of that amount shall be reduced by \$200, and provided further, that such refund shall be made without payment of interest.

(Source: P.A. 91-464, eff. 1-1-00.)

(805 ILCS 5/1.20)

Sec. 1.20. Certificates and certified copies of certain documents to be received in evidence.

All certificates issued by the Secretary of State in accordance with the provisions of this Act and all copies of documents filed in the Secretary's office in accordance with the provisions of this Act when certified by him or her, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Secretary of State under the great seal of the State of Illinois, as to the existence or non-existence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

(Source: P.A. 83-1025.)

(805 ILCS 5/1.25)

Sec. 1.25. List of corporations; exchange of information.

(a) The Secretary of State shall publish each year a list of corporations filing an annual report for the preceding year in accordance with the provisions of this Act, which report shall state the name of the corporation and the respective names and addresses of the president, secretary, and registered agent thereof and the address of the registered office in this State of each such corporation. The Secretary of State shall furnish without charge a copy of such report to each recorder of this State, and to each member of the General Assembly and to each State agency or

department requesting the same. The Secretary of State shall, upon receipt of a written request and a fee as determined by the Secretary, furnish such report to anyone else.

(b)

(1) The Secretary of State shall publish daily a list of all newly formed corporations, business and not for profit, chartered by him on that day issued after receipt of the application. The daily list shall contain the same information as to each corporation as is provided for the corporation list published under subsection (a) of this Section. The daily list may be obtained at the Secretary's office by any person, newspaper, State department or agency, or local government for a reasonable charge to be determined by the Secretary. Inspection of the daily list may be made at the Secretary's office during normal business hours without charge by any person, newspaper, State department or agency, or local government.

(2) The Secretary shall compile the daily list mentioned in paragraph (1) of subsection (b) of this Section monthly, or more often at the Secretary's discretion. The compilation shall be immediately mailed free of charge to all local governments requesting in writing receipt of such publication, or shall be automatically mailed by the Secretary without charge to local governments as determined by the Secretary. The Secretary shall mail a copy of the compilations free of charge to all State departments or agencies making a written request. A request for a compilation of the daily list once made by a local government or State department or agency need not be renewed. However, the Secretary may request from time to time whether the local governments or State departments or agencies desire to continue receiving the compilation.

(3) The compilations of the daily list mentioned in paragraph (2) of subsection (b) of this Section shall be mailed to newspapers, or any other person not included as a recipient in paragraph (2) of subsection (b) of this Section, upon receipt of a written application signed by the applicant and accompanied by the payment of a fee as determined by the Secretary.

(c) If a domestic or foreign corporation has filed with the Secretary of State an annual report for the preceding year or has been newly formed or is otherwise and in any manner registered with the Secretary of State, the Secretary of State shall exchange with the Illinois Department of Public Aid any information concerning that corporation that may be necessary for the enforcement of child support orders entered pursuant to the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support of Spouse and Children Act, the Non-Support Punishment Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or the Illinois Parentage Act of 1984.

Notwithstanding any provisions in this Act to the contrary, the Secretary of State shall not be liable to any person for any disclosure of information to the Illinois Department of Public Aid under this subsection or for any other action taken in good faith to comply with the requirements of this subsection.

(Source: P.A. 90-18, eff. 7-1-97; 91-613, eff. 10-1-99.)

(805 ILCS 5/1.30)

Sec. 1.30. Abstract of corporate record.

(a) The Secretary of State may, upon receipt of a written request and payment of a fee as determined by the Secretary, furnish to the person or agency so requesting an abstract of the corporate record of any domestic or foreign corporation licensed to do business in the State of Illinois. All requests for abstracts shall be made in the manner and the form prescribed by the Secretary of State.

(b) The Secretary of State may certify an abstract of a corporate record upon written request therefor. The fee for such certification shall be \$5 in addition to the fee required for furnishing an

abstract record as provided herein. Such certification shall be made under the signature of the Secretary of State and shall be authenticated by the Seal of his office.

(c) The fees provided in this Section for abstracts of corporate records and certifications of abstracts shall not be applicable to any federal, state or local governmental agency requesting such information or certification.

(Source: P.A. 84-924.)

(805 ILCS 5/1.35)

Sec. 1.35. Interrogatories to be propounded by Secretary of State.

The Secretary of State may propound to any corporation, domestic or foreign, subject to the provisions of this Act, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the Secretary to ascertain whether such corporation has complied with all the provisions of this Act applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him or her, and if directed to a corporation they shall be answered by the president, vice-president, secretary, or assistant secretary thereof. The Secretary of State need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this Act. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this Act.

(Source: P.A. 83-1025.)

(805 ILCS 5/1.40)

Sec. 1.40. Information disclosed by interrogatories.

Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection nor shall the Secretary of State disclose any facts or information obtained therefrom except in so far as official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action by the State.

(Source: P.A. 83-1025.)

(805 ILCS 5/1.45)

Sec. 1.45. Judicial review under the Administrative Review Law.

If the Secretary of State shall fail to approve any articles of incorporation, amendment, merger, consolidation, dissolution, petition for reduction or refund, or any other document required by this Act to be approved by the Secretary of State before the same shall be filed in his or her office, the Secretary shall, within 10 days after the delivery thereof to him or her, give written notice of his or her disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The decision of the Secretary of State is subject to judicial review under the Administrative Review Law, as now or hereafter amended.

If the Secretary of State shall revoke the certificate of authority to transact business in this State of any foreign corporation, pursuant to this Act, such decision shall be subject to judicial review under the Administrative Review Law, as now or hereafter amended.

Appeals from all final orders and judgments entered by the circuit court under this section in review of any ruling or decision of the Secretary of State may be taken as in other civil actions by either party to the proceeding.

(Source: P.A. 84-924.)

(805 ILCS 5/1.50)

Sec. 1.50. Administrative Procedure Act.

The Illinois Administrative Procedure Act is expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act which provides that at hearing the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice required under Section 10-25 of the Administrative Procedure Act is deemed sufficient when mailed to the last known address of a party.

(Source: P.A. 88-45.)

(805 ILCS 5/1.55a)

Sec. 1.55a. Certain powers reserved to General Assembly.

The General Assembly shall at all times have power to prescribe such provisions and limitations as it may deem advisable, which provisions and limitations shall be binding upon any and all corporations, domestic or foreign, subject to the provisions of this Act, and the General Assembly shall have power to amend, repeal, or modify this Act at pleasure.

(Source: P.A. 85-1269.)

(805 ILCS 5/1.60)

Sec. 1.60. Effect of repeal of prior law on rights accrued or liabilities or penalties incurred.

The repeal of a law by this Act shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such law, prior to the repeal thereof, provided, that in computing and adjusting franchise tax and penalties past due from a corporation, domestic or foreign, such computation and adjustment shall be made on the basis prescribed by this Act.

(Source: P.A. 83-1025.)

(805 ILCS 5/1.65)

Sec. 1.65. Effect of invalidity of part of this Act.

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this Act, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, Section or part of this Act so adjudged to be invalid or unconstitutional.

(Source: P.A. 84-545.)

(805 ILCS 5/1.70)

Sec. 1.70. Miscellaneous applications.

(a) Application to existing corporations organized under general laws. The provisions of this Act shall apply to all existing corporations, including public utility corporations, organized under any general law of this State providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this Act.

(b) Application to existing corporations organized under special Acts. All corporations, including public utility corporations, heretofore organized for profit under any special law of this State, for a purpose or purposes for which a corporation might be organized under this Act, shall be entitled to the rights, privileges, immunities, and franchises provided by this Act.

(c) Application of Act to domestic railroad corporations. Corporations organized under the laws of this State for the purpose of operating any railroad in this State shall be subject to the following provisions of this Act regardless of whether or not such corporations have been reincorporated under provisions of this Act:

- (1) Section 3.10(m), relating to the donations for the public welfare or for charitable, scientific, religious or educational purposes.
- (2) Sections 12.05, 12.10, 12.15, 12.20, 12.25 and 12.30, relating to voluntary dissolution.
- (3) Sections 12.35, 12.40, 12.45 and 12.50(a), relating to administrative or judicial dissolution.
- (4) Section 12.80 relating to survival of remedy after dissolution.
- (5) Sections 14.05 and 14.10 relating to annual report of domestic corporations.
- (6) Section 14.20 relating to reports of domestic corporations with respect to issuance of shares.
- (7) Sections 16.50 and 16.10 relating to penalties for failure to file reports.
- (8) Sections 1.05, 1.10, 1.20, 1.25, 1.35, 1.40, 1.45, 7.10, 7.20, 8.45, 15.05, 15.10, 15.15, 15.20, 15.25, 15.30, 15.35, 15.40, 15.45, 15.50, 15.80 and 15.85 relating to fees for filing documents and issuing certificates, license fees, franchise taxes, and miscellaneous charges payable by domestic corporations, recording documents, waiver of notice, action by shareholders, and or informal action by directors, appeal from Secretary of State, receipt in evidence of certificates and certified copies of certain document forms, and powers of Secretary of State.

Corporations organized under the provisions of this Act, or which were organized under the provisions of any other general or special laws of this State and later reincorporated under the provisions of this Act, for the purpose of operating any railroad in this State, shall be entitled to the rights, privileges, immunities, and franchises provided by this Act and shall be in all respects governed by this Act unless otherwise specified herein.

(d) Application to co-operative associations. Any corporation organized under any general or special law of this State as a co-operative association shall be entitled to the benefits of this Act and shall be subject to all the provisions hereof, in so far as they are not in conflict with the general law or special Act under which it was organized, upon the holders of two-thirds of its outstanding shares having voted to accept the benefits of this Act and to be subject to all the provisions hereof, except in so far as they may be in conflict with the general or special law under which it was organized, and the filing in the office of the Secretary of State of a certificate setting forth such fact. Such certificate shall be executed by such co-operative association by its president or vice-president, and verified by him or her, attested by its secretary or an assistant secretary. The notice of the meeting at which such vote is taken, which may be either an annual or a special meeting of shareholders, shall set forth that a vote will be taken at such meeting on the acceptance by such co-operative association of the provisions of this Act.

(e) Application of Act in certain cases. Nothing contained in this Act shall be held or construed to:

- (1) Authorize or permit the Illinois Central Railroad Company to sell the railway constructed under its charter approved February 10, 1851, or to mortgage the same except subject to the rights of the State under its contract with said company, contained in its said charter, or to dissolve its corporate existence, or to relieve itself or its corporate property from its obligations to the State, under the provisions of said charter; nor shall anything herein contained be so construed as to in any manner relieve or discharge any railroad company,

organized under the laws of this State, from the duties or obligations imposed by virtue of any statute now in force or hereafter enacted.

(2) Alter, modify, release, or impair the rights of this State as now reserved to it in any railroad charter heretofore granted, or to affect in any way the rights or obligations of any railroad company derived from or imposed by such charter.

(3) Alter, modify, or repeal any of the provisions of the Public Utilities Act. The term "public utility" or "public utilities" as used in this Act shall be the same as defined in the Public Utilities Act.

(f) Application of Act to foreign and interstate commerce. The provisions of this Act shall apply to commerce with foreign nations and among the several states only in so far as the same may be permitted under the provisions of the Constitution of the United States.

(g) Requirement before incorporation of trust company. Articles of incorporation for the organization of a corporation for the purpose of accepting and executing trusts shall not be filed by the Secretary of State until there is delivered to him or her a statement executed by the Commissioner of Banks and Real Estate that the incorporators of the corporation have made arrangements with the Commissioner of Banks and Real Estate to comply with the Corporate Fiduciary Act.

(h) Application of certain existing acts. Corporations organized under the laws of this State for the purpose of accepting and executing trusts shall be subject to the provisions of the Corporate Fiduciary Act.

Corporations organized for the purpose of building, operating, and maintaining within this State any levee, canal, or tunnel for agricultural, mining, or sanitary purposes, shall be subject to the provisions of the Corporation Canal Construction Act.

In any profession or occupation licensed by the Illinois Department of Agriculture, the Department may, in determining financial ratios and allowable assets, disregard notes and accounts receivable to the corporate licensee from its officers or directors or a parent or subsidiary corporation of such licensee or any receivable owing to a licensee corporation from an unincorporated division of the licensee or any share subscription right owing to a corporation from its shareholders.

(Source: P.A. 88-151; 89-508, eff. 7-3-96.)

(805 ILCS 5/1.80)

Sec. 1.80. Definitions.

As used in this Act, unless the context otherwise requires, the words and phrases defined in this Section shall have the meanings set forth herein.

(a) "Corporation" or "domestic corporation" means a corporation subject to the provisions of this Act, except a foreign corporation.

(b) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this State, but shall not include a banking corporation organized under the laws of another state or of the United States, a foreign banking corporation organized under the laws of a country other than the United States and holding a certificate of authority from the Commissioner of Banks and Real Estate issued pursuant to the Foreign Banking Office Act, or a banking corporation holding a license from the Commissioner of Banks and Real Estate issued pursuant to the Foreign Bank Representative Office Act.

(c) "Articles of incorporation" means the original articles of incorporation, including the articles of incorporation of a new corporation set forth in the articles of consolidation, and all amendments thereto, whether evidenced by articles of amendment, articles of merger, articles of

exchange, statement of correction affecting articles, resolution establishing series of shares or a statement of cancellation under Section 9.05. Restated articles of incorporation shall supersede the original articles of incorporation and all amendments thereto prior to the effective date of filing the articles of amendment incorporating the restated articles of incorporation.

(d) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

(e) "Incorporator" means one of the signers of the original articles of incorporation.

(f) "Shares" means the units into which the proprietary interests in a corporation are divided.

(g) "Shareholder" means one who is a holder of record of shares in a corporation.

(h) "Certificate" representing shares means a written instrument executed by the proper corporate officers, as required by Section 6.35 of this Act, evidencing the fact that the person therein named is the holder of record of the share or shares therein described. If the corporation is authorized to issue uncertificated shares in accordance with Section 6.35 of this Act, any reference in this Act to shares represented by a certificate shall also refer to uncertificated shares and any reference to a certificate representing shares shall also refer to the written notice in lieu of a certificate provided for in Section 6.35.

(i) "Authorized shares" means the aggregate number of shares of all classes which the corporation is authorized to issue.

(j) "Paid-in capital" means the sum of the cash and other consideration received, less expenses, including commissions, paid or incurred by the corporation, in connection with the issuance of shares, plus any cash and other consideration contributed to the corporation by or on behalf of its shareholders, plus amounts added or transferred to paid-in capital by action of the board of directors or shareholders pursuant to a share dividend, share split, or otherwise, minus reductions as provided elsewhere in this Act. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is or may be organized, paid-in capital of a foreign corporation shall be determined on the same basis and in the same manner as paid-in capital of a domestic corporation, for the purpose of computing license fees, franchise taxes and other charges imposed by this Act.

(k) "Net assets", for the purpose of determining the right of a corporation to purchase its own shares and of determining the right of a corporation to declare and pay dividends and make other distributions to shareholders is equal to the difference between the assets of the corporation and the liabilities of the corporation.

(l) "Registered office" means that office maintained by the corporation in this State, the address of which is on file in the office of the Secretary of State, at which any process, notice or demand required or permitted by law may be served upon the registered agent of the corporation.

(m) "Insolvent" means that a corporation is unable to pay its debts as they become due in the usual course of its business.

(n) "Anniversary" means that day each year exactly one or more years after:

(1) the date of filing the articles of incorporation prescribed by Section 2.10 of this Act, in the case of a domestic corporation;

(2) the date of filing the application for authority prescribed by Section 13.15 of this Act, in the case of a foreign corporation; or

(3) the date of filing the articles of consolidation prescribed by Section 11.25 of this Act in the case of a consolidation, unless the plan of consolidation provides for a delayed effective date, pursuant to Section 11.40.

(o) "Anniversary month" means the month in which the anniversary of the corporation occurs.

(p) "Extended filing month" means the month (if any) which shall have been established in lieu of the corporation's anniversary month in accordance with Section 14.01.

(q) "Taxable year" means that 12 month period commencing with the first day of the anniversary month of a corporation through the last day of the month immediately preceding the next occurrence of the anniversary month of the corporation, except that in the case of a corporation that has established an extended filing month "taxable year" means that 12 month period commencing with the first day of the extended filing month through the last day of the month immediately preceding the next occurrence of the extended filing month.

(r) "Fiscal year" means the 12 month period with respect to which a corporation ordinarily files its federal income tax return.

(s) "Close corporation" means a corporation organized under or electing to be subject to Article 2A of this Act, the articles of incorporation of which contain the provisions required by Section 2.10, and either the corporation's articles of incorporation or an agreement entered into by all of its shareholders provide that all of the issued shares of each class shall be subject to one or more of the restrictions on transfer set forth in Section 6.55 of this Act.

(t) "Common shares" means shares which have no preference over any other shares with respect to distribution of assets on liquidation or with respect to payment of dividends.

(u) "Delivered", for the purpose of determining if any notice required by this Act is effective, means:

(1) transferred or presented to someone in person; or

(2) deposited in the United States Mail addressed to the person at his, her or its address as it appears on the records of the corporation, with sufficient first-class postage prepaid thereon.

(v) "Property" means gross assets including, without limitation, all real, personal, tangible, and intangible property.

(w) "Taxable period" means that 12-month period commencing with the first day of the second month preceding the corporation's anniversary month in the preceding year and prior to the first day of the second month immediately preceding its anniversary month in the current year, except that, in the case of a corporation that has established an extended filing month, "taxable period" means that 12-month period ending with the last day of its fiscal year immediately preceding the extended filing month. In the case of a newly formed domestic corporation or a newly registered foreign corporation that had not commenced transacting business in this State prior to obtaining authority, "taxable period" means that period commencing with the filing of the articles of incorporation or, in the case of a foreign corporation, of filing of the application for authority, and prior to the first day of the second month immediately preceding its anniversary month in the next succeeding year.

(x) "Treasury shares" mean (1) shares of a corporation that have been issued, have been subsequently acquired by and belong to the corporation, and have not been cancelled or restored to the status of authorized but unissued shares and (2) shares (i) declared and paid as a share dividend on the shares referred to in clause (1) or this clause (2), or (ii) issued in a share split of the shares referred to in clause (1) or this clause (2). Treasury shares shall be deemed to be "issued" shares but not "outstanding" shares. Treasury shares may not be voted, directly or indirectly, at any meeting or otherwise. Shares converted into or exchanged for other shares of the corporation shall not be deemed to be treasury shares.

(Source: P.A. 92-33, eff. 7-1-01.)

ARTICLE 2. FORMATION OF CORPORATIONS

(805 ILCS 5/2.05)

Sec. 2.05. Incorporators

(a) One or more incorporators may organize a corporation under this Act. Each incorporator shall be either a corporation, domestic or foreign, or a natural person of the age of 18 years or more.

(b) Unless otherwise provided in the articles of incorporation, any action as provided in Section 2.20, Section 10.10 and Section 12.05 to be taken by the incorporators of a corporation, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the incorporators.

(Source: P.A. 84-924.)

(805 ILCS 5/2.10)

Sec. 2.10. Articles of Incorporation.

The articles of incorporation shall be executed and filed in duplicate in accordance with Section 1.10 of this Act.

(a) The articles of incorporation must set forth:

- (1) a corporate name for the corporation that satisfies the requirements of this Act;
- (2) the purpose or purposes for which the corporation is organized, which may be stated to be, or to include, the transaction of any or all lawful businesses for which corporations may be incorporated under this Act;
- (3) the address of the corporation's initial registered office and the name of its initial registered agent at that office;
- (4) the name and address of each incorporator;
- (5) the number of shares of each class the corporation is authorized to issue;
- (6) the number and class of shares which the corporation proposes to issue without further report to the Secretary of State, and the consideration to be received, less expenses, including commissions, paid or incurred in connection with the issuance of shares, by the corporation therefor. If shares of more than one class are to be issued, the consideration for shares of each class shall be separately stated;
- (7) if the shares are divided into classes, the designation of each class and a statement of the designations, preferences, qualifications, limitations, restrictions, and special or relative rights with respect to the shares of each class; and
- (8) if the corporation may issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences of the different series, if the same are fixed in the articles of incorporation, or a statement of the authority vested in the board of directors to establish series and determine the variations in the relative rights and preferences of the different series.

(b) The articles of incorporation may set forth:

- (1) the names and addresses of the individuals who are to serve as the initial directors;
- (2) provisions not inconsistent with law with respect to:
 - (i) managing the business and regulating the affairs of the corporation;
 - (ii) defining, limiting, and regulating the rights, powers and duties of the corporation, its officers, directors and shareholders;

(iii) authorizing and limiting the preemptive right of a shareholder to acquire shares, whether then or thereafter authorized;

(iv) an estimate, expressed in dollars, of the value of all the property to be owned by the corporation for the following year, wherever located, and an estimate of the value of the property to be located within this State during such year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by it during such year and an estimate of the gross amount thereof which will be transacted by it at or from places of business in this State during such year; or

(v) superseding any provision of this Act that requires for approval of corporate action a two-thirds vote of the shareholders by specifying any smaller or larger vote requirement not less than a majority of the outstanding shares entitled to vote on the matter and not less than a majority of the outstanding shares of each class of shares entitled to vote as a class on the matter.

(3) a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its shareholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 8.65 of this Act, or (iv) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring before the date when the provision becomes effective.

(4) any provision that under this Act is required or permitted to be set forth in the articles of incorporation or by-laws.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this Act.

(d) The duration of a corporation is perpetual unless otherwise specified in the articles of incorporation.

(e) If the data to which reference is made in subparagraph (iv) of paragraph (2) of subsection (b) of this Section is not included in the articles of incorporation, the franchise tax provided for in this Act shall be computed on the basis of the entire paid-in capital as set forth pursuant to paragraph (6) of subsection (a) of this Section, until such time as the data to which reference is made in subparagraph (iv) of paragraph (2) of subsection (b) is provided in accordance with either Section 14.05 or Section 14.25 of this Act.

When the provisions of this Section have been complied with, the Secretary of State shall file the articles of incorporation.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/2.15)

Sec. 2.15. Effect of incorporation.

Upon the filing of the articles of incorporation by the Secretary of State, the corporate existence shall begin, and such filing shall be conclusive evidence, except as against the State, that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Act.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/2.20)

Sec. 2.20. Organization of Corporation.

(a) If there are no preincorporation subscribers and if initial directors are not named in the articles of incorporation, a meeting of the incorporators shall be held at the call of a majority of the incorporators for the purpose of naming the initial directors.

(b) If there are preincorporation subscribers and if initial directors are not named in the articles of incorporation, the first meeting of shareholders shall be held after the filing of the articles of incorporation at the call of a majority of the incorporators for the purpose of:

- (1) electing initial directors;
- (2) adopting by-laws if the articles of incorporation so require or the shareholders so determine;
- (3) such other matters as shall be stated in the notice of the meeting.

(4) In lieu of a meeting, shareholder action may be taken by consent in writing pursuant to Section 7.10 of this Act.

(c) The first meeting of the initial directors shall be held at the call of the majority of them for the purpose of:

- (1) adopting by-laws if the shareholders have not adopted them;
- (2) electing officers; and
- (3) transacting such other business as may come before the meeting.

(d) At least three days written notice of an organizational meeting shall be given unless the persons entitled to such notice waive the same in writing, either before or after such meeting. An organizational meeting may be held either within or without this State.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/2.25)

Sec. 2.25. By-laws.

Unless the power to make, alter, amend or repeal the by-laws is reserved to the shareholders by the articles of incorporation, the by-laws of the corporation may be made, altered, amended or repealed by the shareholders or the board of directors, but no by-law adopted by the shareholders may be altered, amended or repealed by the board of directors if the by-laws so provide. The by-laws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

(Source: P.A. 83-1025.)

(805 ILCS 5/2.30)

Sec. 2.30. Emergency by-laws.

The board of directors of any corporation, subject to approval by not less than a majority of the shares voting on the proposal, may adopt emergency by-laws, subject to repeal or change by action of the shareholders, which, to the extent therein provided and notwithstanding any different provisions elsewhere in this Act or in the articles of incorporation or by-laws, shall be operative upon (a) the declaration of a civil defense emergency by the President of the United States or by concurrent resolution of the Congress of the United States pursuant to Title 50, Appendix, Section 2291 of the United States Code, or any amendment thereof, or (b) upon a proclamation of a civil defense emergency by the Governor of the State of Illinois which relates

to an attack or imminent attack on the United States or any of its possessions. Such emergency by-laws shall cease to be effective and shall be suspended upon any proclamation by the President of the United States, or the passage by the Congress of a concurrent resolution, or any declaration by the Governor of Illinois that such civil defense emergency no longer exists.

Emergency by-laws adopted pursuant to this Act may contain such provisions as may be deemed practical and necessary for the interim management of the affairs of the corporation, including, without limitation, provisions with respect to the number of directors or shareholders who shall constitute a quorum at a meeting of the board of directors or the shareholders, the number of votes necessary for action by such board or by the shareholders, the procedure for holding a special election of directors and the procedure for calling and holding meetings of shareholders or directors. No officer, director or employee shall be liable for any action taken by him in good faith in such an emergency to protect or preserve assets of the corporation endangered by the existence of such emergency even though not authorized by the by-laws then in effect.

Notwithstanding anything contained herein to the contrary, emergency by-laws adopted pursuant to this Act shall not supersede the regular by-laws of the corporation, the articles of incorporation or the provisions of this Act, in respect to amending the articles of incorporation or the regular by-laws of the corporation, adopting a plan of merger, consolidation or exchange of shares with another corporation or corporations, authorizing the sale, lease, exchange or other disposition of all or substantially all of the property and assets of the corporation other than in the usual and regular course of business, authorizing a liquidating dividend, or authorizing the dissolution of the corporation; and the regular by-laws of the corporation, the articles of incorporation and the provisions of this Act shall continue in full force and effect for such purposes.

(Source: P.A. 85-1269.)

(805 ILCS 5/2.35)

Sec. 2.35. Meetings.

Meetings of the board of directors of a residential cooperative corporation shall be open to any residential shareholder, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the corporation has been filed and is pending in a court or administrative tribunal, or when the board of directors finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the corporation by a residential shareholder. Any residential shareholder may record by tape, film or other means the proceedings at such meetings or portions thereof required to be open by this Section. The board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of such meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the articles of incorporation, bylaws, or other instrument before the meeting is convened. Copies of notices of meetings of the board of directors shall be posted in entranceways, elevators, or other conspicuous places in the residential cooperative at least 48 hours prior to the meeting of the board of directors. If there is no common entranceway for 7 or more apartments, the board of directors may designate one or more locations in the proximity of such units where the notices of meetings shall be posted. For purposes of this Section, "meeting of the board of directors" means any gathering of a quorum of the members of the board of directors of the residential cooperative held for the purpose of discussing business of the cooperative. The provisions of this Section shall apply to any residential cooperative situated in the State of Illinois regardless of where such cooperative may be incorporated.

(Source: P.A. 94-1099, eff. 2-2-07.)

ARTICLE 2A. CLOSE CORPORATIONS

(805 ILCS 5/2A.05)

Sec. 2A.05. Formation of a close corporation.

A close corporation shall be formed in accordance with the provisions of this Act, except its articles of incorporation shall contain a heading stating that it is being organized as a close corporation. A corporation organized under the Professional Service Corporation Act or the Medical Service Corporation Act, as such Acts are now or hereafter amended, may become a close corporation if it complies with the requirements of this Article.

(Source: P.A. 88-151.)

(805 ILCS 5/2A.10)

Sec. 2A.10. Election of existing corporation to become a close corporation.

Any corporation whose issued and outstanding shares are subject, or upon election shall be subject, to one or more of the restrictions on transfer set forth in Section 6.55 may become a close corporation by executing, filing and recording, in accordance with Sections 1.10 and 10.20 of this Act, articles of amendment of its articles of incorporation which shall contain a statement required by Section 2A.05 to appear in the articles of incorporation of a close corporation. Such amendment shall be adopted in accordance with the requirements of Section 10.20 of this Act, except that, subsection (d) of Section 10.20 notwithstanding, it must be approved unanimously in writing or by the vote of the holders of record of all the outstanding shares of each class of the corporation.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.13)

Sec. 2A.13. Effect of formation or election.

A corporation formed under the provisions of Section 2A.05 or electing to be treated as a close corporation under Section 2A.10 shall be subject to the provisions of this Article.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.15)

Sec. 2A.15. Limitations on continuation of close corporation status.

A close corporation continues to be such and to be subject to this Article until:

- (1) It files with the Secretary of State articles of amendment deleting from its articles of incorporation the provisions required by Sections 2A.05 hereof pursuant to subsection (a) of Section 2A.20; or
- (2) Any one of the restrictions on the transfer of shares set forth in paragraph (s) of Section 1.80 to qualify a corporation as a close corporation has in fact been breached or removed and neither the corporation nor any of its shareholders proceeds under Section 2A.30 of this Act to prevent such loss of status or to remedy such breach.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.20)

Sec. 2A.20. Voluntary termination of close corporation status by amendment of articles of incorporation; vote required.

(a) A corporation may voluntarily terminate its status as a close corporation and cease to be subject to this Article 2A by amending its articles of incorporation to delete therefrom the additional provisions required by Section 2A.05 to be stated in the articles of incorporation of a close corporation and deleting from its articles of incorporation, or terminating or amending any shareholder agreement containing, provisions available only to close corporations. Any such amendment to the articles of incorporation shall be adopted and shall become effective in accordance with Section 10.20 except that, subsection (d) of Section 10.20 notwithstanding, it must be approved in writing or by a vote of the holders of record of at least two-thirds of the outstanding shares of each class of the corporation.

(b) The articles of incorporation of a close corporation may provide that on any amendment to terminate its status as a close corporation, a unanimous vote or any vote greater than two-thirds of the shares of any class shall be required; and, if the articles of incorporation contain such a provision, that provision shall not be amended, repealed or modified by any vote less than that so required to terminate the corporation's status as a close corporation.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.25)

Sec. 2A.25. Issuance or transfer of shares of a close corporation in breach of qualifying conditions.

(a) Every certificate representing shares issued by a close corporation shall conspicuously set forth upon the face or back of the certificate a full statement of all restrictions on transfer and the qualifications of shareholders and the existence of any written agreement permitted under Section 2A.40. Such full statement may be omitted from the certificate if it is conspicuously stated upon the face or back of the certificate that such statement and written agreement, if any, in full, will be furnished by the corporation to any shareholder upon request and without charge.

(b) Any person to whom certificates representing shares of a close corporation containing either statement required by subsection (a) of this Section are issued or assigned is conclusively presumed to have notice (i) of the fact of his ineligibility to be a shareholder, (ii) that he has acquired shares in violation of a restriction on transfer allowed pursuant to this Article, and (iii) of the provisions of a written agreement permitted under Section 2A.40.

(c) Whenever any person to whom shares of a close corporation have been issued or assigned has, or is conclusively presumed under this Section to have, notice either (i) that he is a person not eligible to be a shareholder of the corporation, or (ii) that the assignment of shares is in violation of a restriction on transfer of shares allowed pursuant to this Article, the corporation shall refuse to register or transfer the shares into the name of the assignee.

(d) The provisions of subsection (c) of this Section shall not be applicable if the issuance or transfer of shares has been consented to by all of the shareholders of each class of the close corporation, or if the close corporation has amended its articles of incorporation in accordance with Section 2A.10.

(e) The term "transfer" or "assign" as used in this Section is not limited to a transfer or assignment for value.

(f) The provisions of this Section do not in any way impair any rights of an assignee regarding any right to rescind the transaction or to recover under any applicable warranty, express or implied.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.30)

Sec. 2A.30. Involuntary termination of close corporation status; proceeding to prevent loss of status.

(a) If any event occurs that results in the breach of one or more of the provisions or conditions set forth in paragraph (s) of Section 1.80 as necessary to qualify the corporation as a close corporation, then upon discovery by the corporation of the event, the corporation shall promptly notify all of the shareholders in writing of the event and of the shareholders' rights under subsection (b) of this Section. If, within 90 days after such notification, the breach is not remedied or a proceeding under subsection (b) of this Section is not commenced, then the corporation's status as a close corporation under this Article shall terminate. In the event that all of the shareholders of the corporation are not so notified within one year after the discovery by the corporation, or a shareholder thereof, of the breach, then the corporation's status as a close corporation under this Article shall terminate as of the last day of that one year period, unless within that one year period the breach is remedied or a proceeding is commenced under subsection (b) of this Section. Upon termination as a close corporation, the corporation shall no longer be governed by this Article, but shall continue to be governed by the remaining provisions of this Act.

(b) The circuit court of the county in which the registered office of the corporation is located, upon the suit of the corporation or any shareholder thereof, shall have jurisdiction to issue all orders necessary to prevent the corporation from losing its status as a close corporation, or to restore its status as a close corporation by enjoining or setting aside any act or threatened act on the part of the corporation or a shareholder thereof which would be inconsistent with any of the provisions or conditions set forth in paragraph (s) of Section 1.80 as necessary to qualify the corporation as a close corporation, unless it is an action approved in accordance with Section 2A.25. The circuit court shall enjoin or set aside any transfer or threatened transfer of shares of a close corporation which is contrary to any transfer restriction set forth in paragraph (s) of Section 1.80.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.31)

Sec. 2A.31. Corporate option where a restriction on transfer of shares is held invalid.

If a restriction on transfer of shares of close corporation is held by the circuit court in a proceeding pursuant to subsection (b) of Section 2A.30 to be invalid, the corporation shall nevertheless have an option, for a period of 30 days after the judgment setting aside the restriction becomes final, to acquire the restricted shares at a price which is agreed upon by the parties, or if no agreement is reached as to price within such 30 day period, then at the fair value of such shares as determined by the circuit court. Upon determining the fair value of such shares, the court shall set forth in its order the purchase price and the time within which payment shall be made and may decree such other terms and conditions of sale as it determines to be appropriate, including payment of the purchase price in installments over a period of time.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.40)

Sec. 2A.40. Written agreements as to conduct of certain affairs of corporation.

(a) All shareholders of a close corporation may enter into a written agreement, relating to any phase of the affairs of the corporation, including, but not limited to, the following:

- (1) Management of the business of the corporation.
- (2) Declaration and payment of dividends or division of profits.
- (3) Who shall be officers or directors, or both, of the corporation.
- (4) Restrictions on transfer of shares specified pursuant to paragraph (s) of Section 1.80.
- (5) Voting requirements, including the requirements of unanimous voting of shareholders or directors.
- (6) Employment of shareholders by the corporation.
- (7) Arbitration of issues as to which the shareholders are deadlocked in voting power or as to which the directors are deadlocked and the shareholders are unable to break the deadlock.

(b) No written agreement to which shareholders of a close corporation have actually assented, whether embodied in the articles of incorporation or bylaws of the corporation or in any separate written agreement and which relates to any phase of the affairs of the corporation, whether to the management of its business or division of its profits or otherwise, shall be invalid as between the parties thereto, on the ground that it is an attempt by the parties thereto to treat the corporation as if it were a partnership or to arrange their relationships in a manner that would be appropriate only between partners.

(c) If the business of a close corporation is managed by a board of directors, an agreement among all of the shareholders, whether solely among themselves or between all of them and a party who is not a shareholder, is not invalid, as among the parties thereto, on the ground that it so relates to the conduct of the affairs of the corporation as to interfere with the discretion of the board of directors, but the making of such an agreement shall impose upon the shareholders the liability for managerial acts that is imposed by the laws of this State upon directors.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.45)

Sec. 2A.45. Management by shareholders.

(a) The articles of incorporation of a close corporation may provide that the business of the corporation shall be managed by the shareholders of the corporation rather than by a board of directors. So long as this provision continues in effect:

- (1) no meeting of shareholders need be called to elect directors;
- (2) unless the context clearly requires otherwise, the shareholders of the corporation shall be deemed to be directors for purposes of applying provisions of this Act;
- (3) shareholders shall act in the same manner as directors are required to act under Article 8 to the extent not inconsistent with this Article and unless the articles of incorporation provide otherwise; and
- (4) the shareholders of the corporation shall be subject to all liabilities of directors.

(b) A provision authorized by subsection (a) of this Section may be inserted in the articles of incorporation by amendment if all subscribers and shareholders of record, or if no shares have been issued, all incorporators and subscribers authorize such a provision. An amendment to the

articles of incorporation to delete such provision shall be adopted, subsection (d) of Section 10.20 notwithstanding, by a vote of the holders of record of all the outstanding shares of each class of the corporation. If the articles of incorporation contain a provision authorized by this Section the existence of such provision shall be noted conspicuously on the face or back of every certificate representing shares issued by the corporation.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.50)

Sec. 2A.50. Shareholders' option to dissolve corporation.

(a) The articles of incorporation of any close corporation may include a provision granting to any shareholder, or to the holders of any specified number or percentage of shares of any class, an option to have the corporation dissolved at will or upon the occurrence of any specified event or contingency. Whenever any such option to dissolve is exercised, the shareholders exercising such option shall give written notice thereof to all other shareholders. After the expiration of 30 days following the sending of such notice, the dissolution of the corporation shall proceed as if the required number of shareholders having voting power had consented in writing to dissolution of the corporation.

(b) If the articles of incorporation as originally filed do not contain a provision authorized by subsection (a) of this Section, the articles of incorporation may be amended to include such provision if adopted, subsection (d) of Section 10.20 notwithstanding, by the affirmative vote of the holders of record of all the outstanding shares of each class of the corporation.

(c) Every certificate representing shares issued by a close corporation of which the articles of incorporation authorize dissolution as permitted by this Section shall conspicuously note on the face or back thereof the existence of the provision. Unless noted conspicuously on the face or back of the share certificate, the provision shall be ineffective.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.55)

Sec. 2A.55. Dissolution. Subject to Section 2A.50, the provisions of Article 12 shall apply to the dissolution of a close corporation.

(Source: P.A. 86-1328.)

(805 ILCS 5/2A.60)

Sec. 2A.60. Applicability.

(a) Any corporation organized and existing under The Close Corporation Act on the effective date of this amendatory Act of 1990 shall be deemed to be a close corporation subject to the provisions of this Article.

(b) Any corporation which is not a close corporation shall not be subject to the provisions of this Article nor shall the provisions of this Article be construed to amend or modify any statute or rule of common law otherwise applicable to such a corporation.

(Source: P.A. 86-1328.)

ARTICLE 3. PURPOSES AND POWERS

(805 ILCS 5/3.05)

Sec. 3.05. Purposes.

Corporations for profit may be organized under this Act for any lawful purpose or purposes, except for the purpose of banking or insurance; provided, however, that corporations may be organized under this Act for the purpose of buying, selling, or otherwise dealing in notes (not including the discounting of bills and notes and not including the buying and selling of bills of exchange), open accounts, and other similar evidences of debt, for the purpose of carrying on the business of a syndicate or limited syndicate under Article V-1/2 of the Illinois Insurance Code, or for the purpose of carrying on business as a member of a group including incorporated and individual unincorporated underwriters when the Director of Insurance finds that the group meets the requirements of subsection (3) of Section 86 of the Illinois Insurance Code and the corporations, if insolvent, are subject to liquidation by the Director of Insurance under Article XIII of the Illinois Insurance Code.

Medical corporations, as authorized by the Medical Corporation Act, may be organized under this Act.

Professional Service Corporations, as authorized by the Professional Service Corporation Act, may be organized under this Act.

(Source: P.A. 88-535.)

(805 ILCS 5/3.10)

Sec. 3.10. General powers. Each corporation shall have power:

(a) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(b) To sue and be sued, complain and defend, in its corporate name.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced, provided that the affixing of a corporate seal to an instrument shall not give the instrument additional force or effect, or change the construction thereof, and the use of a corporate seal is not mandatory.

(d) To purchase, take, receive, lease as lessee, take by gift, legacy, or otherwise acquire, and to own, hold, use, and otherwise deal in and with any real or personal property, or any interest therein, situated in or out of this State.

(e) To sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets.

(f) To lend money to its directors, officers, employees and agents.

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals and, subject to the provisions of Sections 9.05 and 9.10 of this Act, to purchase, take, receive, or otherwise acquire, hold, own, pledge, transfer, or otherwise dispose of its own shares. However, if applicable, each corporation shall comply with the provisions of The Illinois Bank Holding Company Act of 1957.

(h) To incur liabilities; to borrow money for its corporate purposes at such rates of interest as the corporation may determine without regard to the restrictions of any usury law of this State, to

issue its notes, bonds, and other obligations; to secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property, franchises, and income; and to make contracts, including contracts of guaranty and suretyship, but a corporation may not be organized hereunder for the purpose of insurance.

(i) To invest its surplus funds from time to time and to lend money for its corporate purposes, and to take and hold real and personal property as security for the payment of funds so invested or loaned.

(j) To conduct its business, carry on its operations, and have offices within and without this State and to exercise in any other state, territory, district, or possession of the United States, or in any foreign country, the powers granted by this Act.

(k) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensations.

(l) To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws of this State, except as provided in Section 2.30, for the administration and regulation of the affairs of the corporation.

(m) To make donations for the public welfare or for charitable, scientific, religious or educational purposes; to lend money to the State or Federal government; and, to transact any lawful business in aid of the United States.

(n) To cease its corporate activities and surrender its corporate franchise.

(o) To establish deferred compensation plans, pension plans, profit-sharing plans, share bonus plans, share option plans, and other incentive plans for its directors, officers and employees and to make the payments and issue the shares provided for therein.

(p) To indemnify its directors, officers, employees or agents in accordance with and to the extent permitted by Section 8.75 of this Act.

(q) To be a promoter, partner, member, associate or manager of any partnership, joint venture or other enterprise.

(r) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is formed.

(Source: P.A. 88-151.)

(805 ILCS 5/3.15)

Sec. 3.15. Defense of Ultra Vires.

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing shall allow to the corporation or the other parties, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through shareholders in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(c) In a proceeding by the State, as provided in this Act, to dissolve the corporation, or in a proceeding by the State to enjoin the corporation from the transaction of unauthorized business.

(Source: P.A. 83-1025.)

(805 ILCS 5/3.20)

Sec. 3.20. Unauthorized assumption of corporate powers.

All persons who assume to exercise corporate powers without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

(Source: P.A. 83-1025.)

(805 ILCS 5/3.25)

Sec. 3.25. Locale misrepresentation.

(a) A person shall not advertise or cause to be listed in a telephone directory an assumed or fictitious business name that intentionally misrepresents where the business is actually located or operating or falsely states that the business is located or operating in the area covered by the telephone directory. This subsection (a) does not apply to a telephone service provider or to the publisher or distributor of a telephone service directory, unless the conduct prescribed in this subsection (a) is on behalf of that telephone service provider or that publisher or distributor.

(b) This Section does not apply to any foreign corporation, the stock of which is traded on a national stock exchange, that has gross annual revenues in excess of \$100,000,000.

(c) A foreign corporation that violates this Section is guilty of a petty offense and must be fined not less than \$501 and not more than \$1,000. A foreign corporation is guilty of an additional offense for each additional day in violation of this Section.

(Source: P.A. 91-906, eff. 1-1-01.)

ARTICLE 4. NAME

(805 ILCS 5/4.05)

Sec. 4.05. Corporate name of domestic or foreign corporation.

(a) The corporate name of a domestic corporation or of a foreign corporation organized, existing or subject to the provisions of this Act:

(1) Shall contain, separate and apart from any other word or abbreviation in such name, the word "corporation", "company", "incorporated", or "limited", or an abbreviation of one of such words, and if the name of a foreign corporation does not contain, separate and apart from any other word or abbreviation, one of such words or abbreviations, the corporation shall add at the end of its name, as a separate word or abbreviation, one of such words or an abbreviation of one of such words.

(2) Shall not contain any word or phrase which indicates or implies that the corporation (i) is authorized or empowered to conduct the business of insurance, assurance, indemnity, or the acceptance of savings deposits; (ii) is authorized or empowered to conduct the business of banking unless otherwise permitted by the Commissioner of Banks and Real Estate pursuant to Section 46 of the Illinois Banking Act; or (iii) is authorized or empowered to be in the business of a corporate fiduciary unless otherwise permitted by the Commissioner of Banks and Real Estate under Section 1-9 of the Corporate Fiduciary Act. The word "trust", "trustee", or "fiduciary" may be used by a corporation only if it has first complied with Section 1-9 of the Corporate Fiduciary Act. The word "bank", "banker" or "banking" may only be used by a corporation if it has first complied with Section 46 of the Illinois Banking Act.

(3) Shall be distinguishable upon the records in the office of the Secretary of State from the name or assumed name of any domestic corporation or limited liability company organized under the Limited Liability Company Act, whether profit or not for profit, existing under any Act of this State or of the name or assumed name of any foreign corporation or foreign limited liability company registered under the Limited Liability Company Act, whether profit or not for profit, authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved or registered in the manner provided in this Act or Section 1-15 of the Limited Liability Company Act, except that, subject to the discretion of the Secretary of State, a foreign corporation that has a name prohibited by this paragraph may be issued a certificate of authority to transact business in this State, if the foreign corporation:

(i) Elects to adopt an assumed corporate name or names in accordance with Section 4.15 of this Act; and

(ii) Agrees in its application for a certificate of authority to transact business in this State only under such assumed corporate name or names.

(4) Shall contain the word "trust", if it be a domestic corporation organized for the purpose of accepting and executing trusts, shall contain the word "pawners", if it be a domestic corporation organized as a pawners' society, and shall contain the word "cooperative", if it be a domestic corporation organized as a cooperative association for pecuniary profit.

(5) Shall not contain a word or phrase, or an abbreviation or derivation thereof, the use of which is prohibited or restricted by any other statute of this State unless such restriction has been complied with.

(6) Shall consist of letters of the English alphabet, Arabic or Roman numerals, or symbols capable of being readily reproduced by the office of the Secretary of State.

(7) Shall be the name under which the corporation shall transact business in this State unless the corporation shall also elect to adopt an assumed corporate name or names as provided in this Act; provided, however, that the corporation may use any divisional designation or trade name without complying with the requirements of this Act, provided the corporation also clearly discloses its corporate name.

(8) (Blank).

(b) The Secretary of State shall determine whether a name is "distinguishable" from another name for purposes of this Act. Without excluding other names which may not constitute distinguishable names in this State, a name is not considered distinguishable, for purposes of this Act, solely because it contains one or more of the following:

(1) the word "corporation", "company", "incorporated", or "limited", "limited liability" or an abbreviation of one of such words;

(2) articles, conjunctions, contractions, abbreviations, different tenses or number of the same word;

(c) Nothing in this Section or Sections 4.15 or 4.20 shall:

(1) Require any domestic corporation existing or any foreign corporation having a certificate of authority on the effective date of this Act, to modify or otherwise change its corporate name or assumed corporate name, if any.

(2) Abrogate or limit the common law or statutory law of unfair competition or unfair trade practices, nor derogate from the common law or principles of equity or the statutes of this State or of the United States with respect to the right to acquire and protect copyrights, trade names, trade marks, service names, service marks, or any other right to the exclusive use of names or symbols.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/4.10)

Sec. 4.10. Reserved name.

The exclusive right to the use of a corporate name or an assumed corporate name, as the case may be, may be reserved by:

(a) Any person intending to organize a corporation under this Act.

(b) Any domestic corporation intending to change its name.

(c) Any foreign corporation intending to make application for a certificate of authority to transact business in this State.

(d) Any foreign corporation authorized to transact business in this State and intending to change its name.

(e) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this State.

(f) Any domestic corporation intending to adopt an assumed corporate name.

(g) Any foreign corporation authorized to transact business in this State and intending to adopt an assumed corporate name.

Such reservation shall be made by filing in the office of the Secretary of State an application to reserve a specified corporate name or a specified assumed corporate name, executed by the applicant. If the Secretary of State finds that such name is available for corporate use, he or she shall reserve the same for the exclusive use of such applicant for a period of ninety days or until surrendered by a written cancellation document signed by the applicant, whichever is sooner.

The right to the exclusive use of a specified corporate name or assumed corporate name so reserved may be transferred to any other person by filing in the office of the Secretary of State a notice of such transfer, executed by the person for whom such name was reserved, and specifying the name and address of the transferee.

The Secretary of State may revoke any reservation if, after a hearing, he or she finds that the application therefor or any transfer thereof was made contrary to this Act.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/4.15)

Sec. 4.15. Assumed corporate name.

(a) A domestic corporation or a foreign corporation admitted to transact business or attempting to gain admission to transact business may elect to adopt an assumed corporate name that complies with the requirements of paragraphs (2), (3), (4), (5) and (6) of subsection (a) of Section 4.05 of this Act with respect to corporate names.

(b) As used in this Act, "assumed corporate name" means any corporate name other than the true corporate name, except that the following shall not constitute the use of an assumed corporate name under this Act:

(1) the identification by a corporation of its business with a trademark or service mark of which it is the owner or licensed user; and

(2) the use of a name of a division, not separately incorporated and not containing the word "corporation", "incorporated", or "limited" or an abbreviation of one of such words, provided the corporation also clearly discloses its corporate name.

(c) Before transacting any business in this State under an assumed corporate name or names, the corporation shall, for each assumed corporate name, pursuant to resolution by its board of directors, execute and file in duplicate in accordance with Section 1.10 of this Act, an application setting forth:

(1) The true corporate name.

(2) The state or country under the laws of which it is organized.

(3) That it intends to transact business under an assumed corporate name.

(4) The assumed corporate name which it proposes to use.

(d) The right to use an assumed corporate name shall be effective from the date of filing by the Secretary of State until the first day of the anniversary month of the corporation that falls within the next calendar year evenly divisible by 5, however, if an application is filed within the 2 months immediately preceding the anniversary month of a corporation that falls within a calendar year evenly divisible by 5, the right to use the assumed corporate name shall be effective until the first day of the anniversary month of the corporation that falls within the next succeeding calendar year evenly divisible by 5.

(e) A corporation shall renew the right to use its assumed corporate name or names, if any, within the 60 days preceding the expiration of such right, for a period of 5 years, by making an election to do so at the time of filing its annual report form and by paying the renewal fee as prescribed by this Act.

(f) Once an application for an assumed corporate name has been filed by the Secretary of State, one copy thereof may be filed for record in the office of the recorder of the county in which the registered office of the corporation is situated in this State.

(g) A foreign corporation may not use an assumed or fictitious name in the conduct of its business to intentionally misrepresent the geographic origin or location of the corporation within Illinois.

(Source: P.A. 91-906, eff. 1-1-01.)

(805 ILCS 5/4.20)

Sec. 4.20. Change and cancellation of assumed corporate name.

(a) Any domestic or foreign corporation may, pursuant to resolution by its board of directors, change or cancel any or all of its assumed corporate names by executing and filing, in accordance with Section 1.10 of this Act, an application setting forth:

(1) The true corporate name.

(2) The state or country under the laws of which it is organized.

(3) That it intends to cease transacting business under an assumed corporate name by changing or cancelling it.

(4) The assumed corporate name to be changed from or cancelled.

(5) If the assumed corporate name is to be changed, the assumed corporate name that the corporation proposes to use.

(b) Upon the filing of an application to change an assumed corporate name, the corporation shall have the right to use the assumed corporate name for the balance of the period authorized by subsection (d) of Section 4.15.

(c) The right to use an assumed corporate name shall be cancelled by the Secretary of State:

(1) If the corporation fails to renew an assumed corporate name.

(2) If the corporation has filed an application to change or cancel an assumed corporate name.

(3) If a domestic corporation has been dissolved.

(4) If a foreign corporation has had its certificate of authority to do business in this State revoked.

(Source: P.A. 87-516.)

(805 ILCS 5/4.25)

Sec. 4.25. Registered name of foreign corporation.

Any foreign corporation not transacting business in this State and not authorized to transact business in this State may register its corporate name, provided its corporate name is available for use as determined by the Secretary of State in accordance with the provisions of this Act.

(a) Such registration shall be made by (1) executing and filing in accordance with Section 1.10 of this Act:

(i) an application for registration, stating the name of the corporation, the State or place under the laws of which it is incorporated, the date of its incorporation, a brief statement of the business in which it is engaged or plans to engage, the post-office address of the corporation to which the Secretary of State may mail notices as required or permitted by this Act, and that it desires to register its name under this Section; and (ii) a certificate setting forth that such corporation is in good standing under the laws of the State or place wherein it is organized executed by the Secretary of State of such State or by such other public official as may have custody of the records pertaining to corporations; and (2) paying to the Secretary of State the fee prescribed by this Act.

(b) Such registration shall be effective from the date of filing by the Secretary of State until the first day of the 12th month following such date.

(c) Such registration may be renewed from year to year by filing an application for renewal setting forth the facts required in an original application for registration and a certificate of good standing as required for the original registration and by paying the fee prescribed by this Act within 60 days immediately preceding the first day of the 12th month following the date of filing the original registration or prior renewal. Such renewal shall extend the registration for 12 months, to expire on the first day of the month in which the original registration was filed the next year.

(d) Any foreign corporation which has in effect a registration of its corporate name may cancel such registration at any time by filing an application for cancellation in the same manner and setting forth the same facts required to be set forth in an original registration and paying the fee prescribed by this Act.

(e) The Secretary of State may cancel any registration if, after a hearing, he or she finds that the application therefor or any renewal thereof was made contrary to this Act.

(Source: P.A. 84-924.)

ARTICLE 5. OFFICE AND AGENT

(805 ILCS 5/5.05)

Sec. 5.05. Registered office and registered agent.

Each domestic corporation and each foreign corporation having authority to transact business in this State shall have and continuously maintain in this State:

(a) A registered office which may be, but need not be, the same as its place of business in this State.

(b) A registered agent, which agent may be either an individual, resident in this State, whose business office is identical with such registered office, or a domestic corporation or a foreign corporation authorized to transact business in this State that is authorized by its articles of incorporation to act as such agent, having a business office identical with such registered office.

(c) The address, including street and number, or rural route number, of the initial registered office, and the name of the initial registered agent of each corporation organized under this Act shall be stated in its articles of incorporation; and of each foreign corporation shall be stated in its application for authority to transact business in this State.

(d) In the event of dissolution of a corporation, either voluntary, administrative, or judicial, the registered agent and the registered office of the corporation on record with the Secretary of State on the date of the issuance of the certificate or judgment of dissolution shall be an agent of the corporation upon whom claims can be served or service of process can be had during the five year post-dissolution period provided in Section 12.80 of this Act, unless such agent resigns or the corporation properly reports a change of registered office or registered agent.

(e) In the event of revocation of the authority of a foreign corporation to transact business in this State, the registered agent and the registered office of the corporation on record with the Secretary of State on the date of the issuance of the certificate of revocation shall be an agent of the corporation upon whom claims can be served or service of process can be had, unless such agent resigns.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/5.10)

Sec. 5.10. Change of registered office or registered agent.

(a) A domestic corporation or a foreign corporation may from time to time change the address of its registered office. A domestic corporation or a foreign corporation shall change its registered agent if the office of registered agent shall become vacant for any reason, or if its registered agent becomes disqualified or incapacitated to act, or if the corporation revokes the appointment of its registered agent.

(b) A domestic corporation or a foreign corporation may change the address of its registered office or change its registered agent, or both, by executing and filing, in duplicate, in accordance with Section 1.10 of this Act a statement setting forth:

(1) The name of the corporation.

(2) The address, including street and number, or rural route number, of its then registered office.

- (3) If the address of its registered office be changed, the address, including street and number, or rural route number, to which the registered office is to be changed.
 - (4) The name of its then registered agent.
 - (5) If its registered agent be changed, the name of its successor registered agent.
 - (6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.
 - (7) That such change was authorized by resolution duly adopted by the board of directors.
- (c) (Blank).

(d) If the registered office is changed from one county to another county, then the corporation shall also file for record within the time prescribed by this Act in the office of the recorder of the county to which such registered office is changed:

- (1) In the case of a domestic corporation:
 - (i) A copy of its articles of incorporation certified by the Secretary of State.
 - (ii) A copy of the statement of change of address of its registered office, certified by the Secretary of State.
- (2) In the case of a foreign corporation:
 - (i) A copy of its application for authority to transact business in this State, certified by the Secretary of State.
 - (ii) A copy of all amendments to such authority, if any, likewise certified by the Secretary of State.
 - (iii) A copy of the statement of change of address of its registered office certified by the Secretary of State.

(e) The change of address of the registered office, or the change of registered agent, or both, as the case may be, shall become effective upon the filing of such statement by the Secretary of State.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/5.15)

Sec. 5.15. Resignation of registered agent.

(a) A registered agent may at any time resign by filing in the office of the Secretary of State written notice thereof, and by mailing a copy thereof to the corporation at its principal office as such is known to said resigning agent, such notice to be mailed at least 10 days prior to the date of filing thereof with the Secretary of State.

- (b) The notice shall set forth:
 - (1) The name of the corporation for which the registered agent is acting.
 - (2) The name of the registered agent.
 - (3) The address, including street and number, or rural route number, of the corporation's then registered office in this State.
 - (4) That the registered agent resigns.
 - (5) The effective date thereof which shall not be less than 30 days after the date of filing.
 - (6) The address of the principal office of the corporation as such is known to the registered agent.
 - (7) A statement that a copy of this notice has been sent to the principal office within the time and in the manner prescribed by this Section.

(c) Such notice shall be executed by the registered agent, if an individual, or if a corporation, by a principal officer.

(Source: P.A. 85-1269.)

(805 ILCS 5/5.20)

Sec. 5.20. Change of Address of Registered Agent.

(a) A registered agent may change the address of the registered office of the domestic corporation or of the foreign corporation, for which he or she or it is registered agent, to another address in this State, by filing, in duplicate, in accordance with Section 1.10 of this Act a statement setting forth:

- (1) The name of the corporation.
- (2) The address, including street and number, or rural route number, of its then registered office.
- (3) The address, including street and number, or rural route number, to which the registered office is to be changed.
- (4) The name of its registered agent.
- (5) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

Such statement shall be executed by the registered agent.

(b) If the registered office is changed from one county to another county, then the corporation shall also file for record within the time prescribed by this Act in the office of the recorder of the county to which such registered office is changed:

- (1) In the case of a domestic corporation:
 - (i) A copy of its articles of incorporation certified by the Secretary of State.
 - (ii) A copy of the statement of change of address of its registered office, certified by the Secretary of State.
- (2) In the case of a foreign corporation:
 - (i) A copy of its application for authority to transact business in this State, certified by the Secretary of State.
 - (ii) A copy of all amendments to such authority, if any, likewise certified by the Secretary of State.
 - (iii) A copy of the statement of change of address of its registered office certified by the Secretary of State.

(c) The change of address of the registered office shall become effective upon the filing of such statement by the Secretary of State.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/5.25)

Sec. 5.25. Service of process on domestic or foreign corporation.

(a) Any process, notice, or demand required or permitted by law to be served upon a domestic corporation or a foreign corporation having authority to transact business in this State may be served either upon the registered agent appointed by the corporation or upon the Secretary of State as provided in this Section.

(b) The Secretary of State shall be irrevocably appointed as an agent of a domestic corporation or of a foreign corporation having authority upon whom any process, notice or demand may be served:

(1) Whenever the corporation shall fail to appoint or maintain a registered agent in this State, or

(2) Whenever the corporation's registered agent cannot with reasonable diligence be found at the registered office in this State, or

(3) When a domestic corporation has been dissolved, the conditions of paragraph (1) or paragraph (2) exist, and a civil action, suit or proceeding is instituted against or affecting the corporation within the five years after the issuance of a certificate of dissolution or the filing of a judgment of dissolution, or

(4) When a domestic corporation has been dissolved, the conditions of paragraph (1) or paragraph (2) exist, and a criminal proceeding has been instituted against or affecting the corporation, or

(5) When the authority of a foreign corporation to transact business in this State has been revoked.

(c) Service under subsection (b) shall be made by:

(1) Service on the Secretary of State, or on any clerk having charge of the corporation division of his or her office, of a copy of the process, notice or demand, together with any papers required by law to be delivered in connection with service, and a fee as prescribed by subsection (b) of Section 15.15 of this Act;

(2) Transmittal by the person instituting the action, suit or proceeding of notice of the service on the Secretary of State and a copy of the process, notice or demand and accompanying papers to the corporation being served, by registered or certified mail:

(i) At the last registered office of the corporation as shown by the records on file in the office of the Secretary of State; and

(ii) At such address the use of which the person instituting the action, suit or proceeding knows or, on the basis of reasonable inquiry, has reason to believe, is most likely to result in actual notice; and

(3) Appendage, by the person instituting the action, suit or proceeding, of an affidavit of compliance with this Section, in substantially such form as the Secretary of State may by rule or regulation prescribe, to the process, notice or demand.

(d) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

(e) The Secretary of State shall keep a record of all processes, notices, and demands served upon him or her under this Section, and shall record therein the time of such service and his or her action with reference thereto, but shall not be required to retain such information for a period longer than five years from his or her receipt of the service.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/5.30)

Sec. 5.30. Service of process on foreign corporation not authorized to transact business in Illinois.

If any foreign corporation transacts business in this State without having obtained authority to transact business, it shall be deemed that such corporation has designated and appointed the

Secretary of State as an agent for process upon whom any notice, process or demand may be served. Service on the Secretary of State shall be made in the manner set forth in subsection (c) of Section 5.25 of this Act.

(Source: P.A. 92-33, eff. 7-1-01.)

ARTICLE 6. SHARES

(805 ILCS 5/6.05)

Sec. 6.05. Authorized shares.

Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, including classes of common shares, any or all of which classes may consist of shares with such designations, preferences, qualifications, limitations, restrictions, and such special or relative rights as shall be stated in the articles of incorporation; provided, however, that common shares may have no preference over any other shares with respect to distribution of assets upon liquidation or with respect to payment of dividends. Subject to the provisions of Section 7.40 of this Act, the articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any and all classes or of any series of a class.

Without limiting the authority herein contained, a corporation, if so authorized in its articles of incorporation, may issue shares of preferred or special classes subject to one or more of the following conditions:

- (a) Subject to the right of the corporation to redeem any of such shares at not exceeding the price fixed by the articles of incorporation for the redemption thereof.
- (b) Entitling the holders thereof to dividends which are cumulative or partially cumulative, or which are non-cumulative.
- (c) Having preference over any other class or classes of shares as to the payment of dividends.
- (d) Having preference as to the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.
- (e) Convertible into shares of any other class, or into shares of any series of the same or any other class.
- (f) The dividend rate on which may be determined upon the basis of any facts ascertainable outside the articles of incorporation, but only if the manner in which such facts are to operate upon the dividend rate of any such preferred or special class shall be clearly and expressly set forth in the articles of incorporation.

Notwithstanding anything contained in Sections 6.10 and 7.40 of this Act, except as otherwise provided in the articles of incorporation, a corporation may create and issue, whether or not in connection with the issue and sale of its shares or bonds, rights or options entitling the holders thereof to purchase from the corporation, upon such consideration, terms and conditions as may be fixed by the board, shares of any class or series, whether authorized but unissued shares, treasury shares or shares to be purchased or acquired, notes of the corporation or assets of the corporation. The terms and conditions of such rights or options may include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer or receipt of such rights or options by any person or persons owning or offering to acquire a specified number or percentage

of the outstanding common shares or other securities of the corporation, or any transferee or transferees of any such person or persons, or that invalidate or void such rights or options held by any such person or persons or any such transferee or transferees. Any such rights or options heretofore created or issued prior to the effective date of this amendatory Act of 1989 which are in conformity with this Section 6.05 and are not otherwise in conflict with other provisions of this Act, are hereby ratified. Nothing in this Section 6.05 shall affect the rights and fiduciary obligations of the board of directors of a corporation in the creation and issuance of such rights or options, or in the taking or failing to take any action with respect to such rights or options.

(Source: P.A. 87-516; 88-151.)

(805 ILCS 5/6.10)

Sec. 6.10. Issuance of shares of preferred or special classes in series.

(a) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation or by resolution of the board of directors pursuant to authority contained in the articles of incorporation, subject to the provisions of Section 7.40, provided that all shares of the same class shall be identical except as to the following relative rights and preferences, in respect of any or all of which there may be variations between different series:

- (1) The rate of dividend, or the facts ascertainable outside the articles of incorporation, or the resolution of the board of directors pursuant to authority contained in the articles of incorporation, providing the basis for determining such rate of dividend, but only if the manner in which such facts are to operate upon the dividend rate of any such series shall be clearly and expressly set forth in the articles of incorporation or in such resolution.
- (2) The price at and the terms and conditions on which shares may be redeemed.
- (3) The amount payable upon shares in event of involuntary liquidation.
- (4) The amount payable upon shares in event of voluntary liquidation.
- (5) Sinking fund provisions for the redemption or purchase of shares.
- (6) The terms and conditions on which shares may be converted, if the shares of any series are issued with the privilege of conversion.
- (7) The limitation or denial of voting rights, or the grant of special voting rights.

(b) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall execute and file in duplicate, in accordance with Section 1.10 of this Act, a statement setting forth:

- (1) The name of the corporation.
- (2) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.
- (3) The date of adoption of such resolution.
- (4) That such resolution was duly adopted by the board of directors.

(c) Upon the filing of such statement by the Secretary of State, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective.

(Source: P.A. 86-464.)

(805 ILCS 5/6.15)

Sec. 6.15. Issuance of fractional shares or scrip.

A corporation may, but shall not be obliged to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the fair value of said fractional share, or issue scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise fractional voting rights, to receive dividends thereon and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation or by an agent on behalf of the holder thereof and the proceeds thereof distributed to the holders of such scrip or subject to any other conditions which the board of directors may deem advisable.

For purposes of this Section, "fair value", with respect to the cashout of a fractional share, means the proportionate interest of the fractional share in the corporation, without any discount for minority status or, absent extraordinary circumstance, lack of marketability.

(Source: P.A. 94-889, eff. 1-1-07.)

(805 ILCS 5/6.20)

Sec. 6.20. Subscriptions for shares.

A subscription for shares of a corporation to be organized shall be irrevocable for a period of six months unless otherwise provided by the terms of the subscription agreement, or unless all of the subscribers consent to the revocation of such subscription. The filing of the articles of incorporation by the Secretary of State shall constitute acceptance by the corporation of all existing subscriptions to its shares, and thereupon subscribers for shares, or their assigns, shall be deemed to be the shareholders of the corporation, and the corporation shall have the right to enforce such subscriptions in its own name.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The by-laws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of the shares, or of the amounts paid thereon, shall be declared as against the estate of any decedent before distribution shall have been made of the estate, or against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his or her last known post office address, with the postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his or her legal representative.

(Source: P.A. 83-1025.)

(805 ILCS 5/6.25)

Sec. 6.25. Consideration for shares.

(a) Shares may be issued for such consideration as shall be authorized from time to time by the board of directors through action which establishes a price in cash or other consideration, or both, or a minimum price or a general formula or method by which the price can be determined.

(b) Upon authorization by the board of directors, the corporation may issue its own shares in exchange for or in conversion of its outstanding shares, or may distribute its own shares pro rata to its shareholders or the shareholders of one or more classes or series to effectuate dividends or splits provided, that the value fixed by the board of directors in connection with such dividend or split shall be transferred to paid-in capital of the corporation and; provided, that no such issuance of shares of any class or series shall be made to the holders of shares of any other class or series unless it is either expressly provided for in the articles of incorporation or authorized by an affirmative vote of the holders of at least a majority of the outstanding shares of the class or series in which the distribution is to be made.

(Source: P.A. 84-1412.)

(805 ILCS 5/6.30)

Sec. 6.30. Payment for shares.

The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be full paid and non-assessable. In the absence of actual fraud in the transaction, and subject to the provisions of Section 8.60, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

(Source: P.A. 83-1025.)

(805 ILCS 5/6.35)

Sec. 6.35. Shares represented by certificates and uncertificated shares.

The issued shares of a corporation shall be represented by certificates or shall be uncertificated shares. Certificates shall be signed by the appropriate corporate officers and may be sealed with the seal, or a facsimile of the seal, of the corporation, if the corporation uses a seal. In case the seal of the corporation is changed after the certificate is sealed with the seal or a facsimile of the seal of the corporation, but before it is issued, the certificate may be issued by the corporation with the same effect as if the seal had not been changed. If a certificate is countersigned by a transfer agent or registrar, other than the corporation itself or its employee, any other signatures or countersignature on the certificate may be facsimiles. In case any officer of the corporation, or any officer or employee of the transfer agent or registrar who has signed or whose facsimile signature has been placed upon such certificate ceases to be an officer of the corporation, or an officer or employee of the transfer agent or registrar before such certificate is issued, the certificate may be issued by the corporation with the same effect as if the officer of the corporation, or the officer or employee of the transfer agent or registrar had not ceased to be such at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate a full summary or

statement of all of the designations, preferences, qualifications, limitations, restrictions, and special or relative rights of the shares of each class authorized to be issued, and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series. Such statement may be omitted from the certificate if it shall be set forth upon the face or back of the certificate that such statement, in full, will be furnished by the corporation to any shareholder upon request and without charge.

Each certificate representing shares shall also state:

- (a) That the corporation is organized under the laws of this State.
- (b) The name of the person to whom issued.
- (c) The number and class of shares, and the designation of the series, if any, which such certificate represents.

No certificate shall be issued for any share until such share is fully paid.

Unless otherwise provided by the articles of incorporation or by-laws, the board of directors of a corporation may provide by resolution that some or all of any or all classes and series of its shares shall be uncertificated shares, provided that such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this Section. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and rights and obligations of the holders of certificates representing shares of the same class and series shall be identical.

(Source: P.A. 83-1025.)

(805 ILCS 5/6.40)

Sec. 6.40. Liability of subscribers, shareholders, personal representatives and pledgees.

A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which the shares were issued or to be issued. Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

No person holding shares as executor, administrator, guardian, trustee, assignee for the benefit of creditors, or receiver shall be personally liable as a shareholder, but the beneficial owner thereof and the estate and funds in the custody of the executor, administrator, guardian, trustee, assignee, or receiver shall be liable for any unpaid portion of the full consideration for which such shares were issued or to be issued. No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

(Source: P.A. 83-1025.)

(805 ILCS 5/6.45)

Sec. 6.45. Expenses of organization, reorganization, and financing.

The reasonable charges and expenses of organization or reorganization of a corporation and reasonable compensation for the sale or underwriting of its shares, may be paid or allowed by

such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares not full paid and non-assessable.

(Source: P.A. 83-1025.)

(805 ILCS 5/6.50)

Sec. 6.50. Shareholders' preemptive rights.

(a) The shareholders of a corporation organized on or after January 1, 1982, shall have no preemptive rights to acquire unissued shares of the corporation, or securities of the corporation convertible into or carrying a right to subscribe to or acquire shares, except to the extent, if any, that such right is provided in the articles of incorporation.

(b) The preemptive right of a shareholder to acquire unissued or treasury shares, whether then or thereafter authorized, of a corporation organized prior to January 1, 1982 may be limited or denied to the extent provided in the articles of incorporation.

(c) Unless otherwise provided by its articles of incorporation, any corporation having preemptive rights may issue and sell its shares to its employees or to the employees of any subsidiary corporation, without first offering the same to its shareholders, for such consideration and upon such terms and conditions as shall be approved by the holders of two-thirds of its shares entitled to vote with respect thereto or by its board of directors pursuant to like approval of the shareholders.

(d) Unless otherwise provided in the articles of incorporation of a corporation having preemptive rights, shareholders have a preemptive right to acquire treasury shares to the same extent that they have a preemptive right to acquire unissued shares.

(Source: P.A. 88-151.)

(805 ILCS 5/6.55)

Sec. 6.55. Restriction on transfer of securities.

(a) A written restriction on the transfer or registration of transfer of a security of a corporation, if permitted by this Section 6.55 and noted conspicuously on the certificate representing the security or, in the case of an uncertificated security, contained in the notice sent pursuant to Section 6.35 of this Act, may be enforced against the holder of the restricted security or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously as required herein, a restriction, even though permitted by this Section is ineffective except against a shareholder with actual knowledge of the restriction at the time of becoming a shareholder.

(b) A restriction on the transfer or registration of transfer of securities of a corporation may be imposed either by the certificate of incorporation or by the by-laws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer of securities of a corporation is permitted by this Section if it:

(1) obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination of the foregoing, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities; or

(2) obligates the corporation or any holder of securities of the corporation or any other person or any combination of the foregoing, to purchase the securities which are the subject of an agreement respecting the purchase and sale of the restricted securities; or

(3) requires the corporation or the holders of any class of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities; or

(4) prohibits the transfer of the restricted securities to designated persons or classes of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer of the shares of a corporation for the purpose of maintaining its status as an electing small business corporation under subchapter S of the United States Internal Revenue Code of 1986, as amended, or of maintaining any other tax advantage to the corporation is conclusively presumed to be for a reasonable purpose.

(e) Any other lawful restriction on transfer or registration of transfer of securities is permitted by this Section.

(Source: P.A. 86-1328.)

ARTICLE 7. SHAREHOLDERS

(805 ILCS 5/7.05)

Sec. 7.05. Meetings of shareholders.

Meetings of shareholders may be held either within or without this State, as may be provided in the by-laws or in a resolution of the board of directors pursuant to authority granted in the by-laws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this State.

An annual meeting of the shareholders shall be held at such time as may be provided in the by-laws or in a resolution of the board of directors pursuant to authority granted in the by-laws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation nor affect the validity of corporate action. If an annual meeting has not been held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting and if, after a request in writing directed to the president of the corporation, a notice of meeting is not given within 60 days of such request, then any shareholder entitled to vote at an annual meeting may apply to the circuit court of the county in which the registered office or principal place of business of the corporation is located for an order directing that the meeting be held and fixing the time and place of the meeting. The court may issue such additional orders as may be necessary or appropriate for the holding of the meeting.

Unless specifically prohibited by the articles of incorporation or by-laws, a corporation may allow shareholders to participate in and act at any meeting of the shareholders through the use of a conference telephone or interactive technology, including but not limited to electronic transmission, Internet usage, or remote communication, by means of which all persons participating in the meeting can communicate with each other. A shareholder entitled to vote at a meeting of the shareholders shall be permitted to attend the meeting where space permits, and subject to the corporation's by-laws and rules governing the conduct of the meeting and the power of the chairman to regulate the orderly conduct of the meeting. Participation in such

meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

Special meetings of the shareholders may be called by the president, by the board of directors, by the holders of not less than one-fifth of all the outstanding shares entitled to vote on the matter for which the meeting is called or by such other officers or persons as may be provided in the articles of incorporation or the by-laws.

(Source: P.A. 94-655, eff. 1-1-06.)

(805 ILCS 5/7.10)

Sec. 7.10. Informal action by shareholders.

(a) Unless otherwise provided in the articles of incorporation or Section 12.10 of this Act, any action required by this Act to be taken at any annual or special meeting of the shareholders of a corporation, or any other action which may be taken at a meeting of the shareholders, may be taken without a meeting and without a vote, if a consent in writing, setting forth the action so taken, shall be signed (i) by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voting or (ii) by all of the shareholders entitled to vote with respect to the subject matter thereof. If such consent is signed by less than all of the shareholders entitled to vote, then such consent shall become effective only if at least 5 days prior to the execution of the consent a notice in writing is delivered to all the shareholders entitled to vote with respect to the subject matter thereof and, after the effective date of the consent, prompt notice of the taking of the corporation action without a meeting by less than unanimous written consent shall be delivered in writing to those shareholders who have not consented in writing.

(b) In the event that the action which is consented to is such as would have required the filing of a certificate under any other Section of this Act if such action had been voted on by the shareholders at a meeting thereof, the certificate filed under such other Section shall state, in lieu of any statement required by such Section concerning any vote of shareholders, that written consent has been delivered in accordance with the provisions of this Section and that written notice has been delivered as provided in this Section.

(Source: P.A. 84-924.)

(805 ILCS 5/7.15)

Sec. 7.15. Notice of shareholders' meetings.

Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than 10 nor more than 60 days before the date of the meeting, or in the case of a merger, consolidation, share exchange, dissolution or sale, lease or exchange of assets not less than 20 nor more than 60 days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his or her address as it appears on the records of the corporation, with postage thereon prepaid.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.20)

Sec. 7.20. Waiver of notice.

Whenever any notice whatever is required to be given under the provisions of this Act or under the provisions of the articles of incorporation or by-laws of any corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute waiver of notice thereof unless the person at the meeting objects to the holding of the meeting because proper notice was not given.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.25)

Sec. 7.25. Fixing record date.

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders, or shareholders entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than 60 days and, for a meeting of shareholders, not less than 10 days, or in the case of a merger, consolidation, share exchange, dissolution or sale, lease or exchange of assets, not less than 20 days, immediately preceding such meeting. If no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this Section, such determination shall apply to any adjournment thereof. In lieu of the board of directors from time to time establishing record dates, the by-laws of the corporation may establish a mechanism for determining record dates in all or specified instances.

(Source: P.A. 84-924.)

(805 ILCS 5/7.30)

Sec. 7.30. Voting lists.

The officer or agent having charge of the transfer book for shares of a corporation shall make, within 20 days after the record date for a meeting of shareholders or 10 days before such meeting, whichever is earlier, a complete list of the shareholders entitled to vote at such meeting, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of 10 days prior to such meeting, shall be kept on file at the registered office of the corporation and shall be subject to inspection by any shareholder, and to copying at the shareholder's expense, at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original share ledger or transfer book, or a duplicate thereof kept in this State, shall be prima facie evidence as to who are the shareholders entitled to examine such list or share ledger or transfer book or to vote at any meeting of shareholders.

Failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

An officer or agent having charge of the transfer books who shall fail to prepare the list of shareholders, or keep the same on file for a period of 10 days, or produce and keep the same open for inspection at the meeting, as provided in this Section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.35)

Sec. 7.35. Inspectors.

At any meeting of shareholders, the chairman of the meeting may, or upon the request of any shareholder shall, appoint one or more persons as inspectors for such meeting, unless an inspector or inspectors shall have been previously appointed for such meeting in the manner provided by the by-laws of the corporation.

Such inspectors shall ascertain and report the number of shares represented at the meeting, based upon their determination of the validity and effect of proxies; count all votes and report the results; and do such other acts as are proper to conduct the election and voting with impartiality and fairness to all the shareholders.

Each report of an inspector shall be in writing and signed by him or her or by a majority of them if there be more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.40)

Sec. 7.40. Voting of shares.

(a) Subject to subsections (b), (c), and (d) of this Section 7.40, each outstanding share, regardless of class, shall be entitled to one vote in each matter submitted to a vote at a meeting of shareholders, and except as specifically provided in Section 8.30, in all elections for directors, every shareholder shall have the right to vote the number of shares owned by such shareholder for as many persons as there are directors to be elected, or to cumulate such votes and give one candidate as many votes as shall equal the number of directors multiplied by the number of such shares or to distribute such cumulative votes in any proportion among any number of candidates. A shareholder may vote either in person or by proxy subject to the provisions of Section 7.50.

(b) The articles of incorporation of any corporation incorporated after December 31, 1981, may limit or eliminate cumulative voting rights in all or specified circumstances, or may limit or deny voting rights or may provide special voting rights as to any class or classes or series of shares of such corporation.

(c) A corporation may amend its articles of incorporation to limit or eliminate cumulative voting rights in all or specified circumstances, or to limit or deny voting rights or to provide special voting rights as to any class or classes or series of shares of such corporation.

(d) If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this Act to a majority or other proportion greater than a majority of shares shall refer to that majority or other proportion greater than a majority of the votes of the shares.

(Source: P.A. 89-48, eff. 6-23-95.)

(805 ILCS 5/7.45)

Sec. 7.45. Voting of shares by certain holders.

Shares of a corporation held by the corporation in a fiduciary capacity may be voted and shall be counted in determining the total number of outstanding shares entitled to vote at any given time.

Shares registered in the name of another corporation, domestic or foreign, may be voted by any officer agent, proxy or other legal representative authorized to vote such shares under the law of incorporation of such corporation. A corporation may treat the president or other person holding the position of chief executive officer of such other corporation as authorized to vote such shares, together with any other person indicated and any other holder of an office indicated by the corporate shareholder to the corporation as a person or an office authorized to vote such shares. Such persons and offices indicated shall be registered by the corporation on the transfer books for shares and included in any voting list prepared in accordance with Section 7.30 of this Act.

Shares registered in the name of a deceased person, a minor ward or a person under legal disability may be voted by his or her administrator, executor, or court appointed guardian, either in person or by proxy without a transfer of such shares into the name of such administrator, executor, or court appointed guardian. Shares registered in the name of a trustee may be voted by him or her, either in person or by proxy.

Shares registered in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his or her name if authority so to do is contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.50)

Sec. 7.50. Proxies.

(a) A shareholder may appoint a proxy to vote or otherwise act for him or her by delivering a valid appointment form to the person so appointed or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person or persons to receive the transmission. Without limiting the manner in which a shareholder may appoint such a proxy pursuant to this Section 7.50, the following shall constitute valid means by which a shareholder may make such an appointment:

(1) A shareholder may sign a proxy appointment form. The shareholder's signature may be affixed by any reasonable means, including, but not limited to, by facsimile signature.

(2) A shareholder may transmit or authorize the transmission of a telegram, cablegram, or other means of electronic transmission; provided that any such transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram, or other electronic transmission was authorized by the shareholder. If it is determined that the telegram, cablegram, or other electronic transmission is valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

Any copy, facsimile telecommunication, or other reliable reproduction of the writing or transmission may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that the copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this Section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by, or by attendance at the meeting and voting in person by, the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) An appointment of a proxy is revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest in the shares or in the corporation generally. By way of example and without limiting the generality of the foregoing, a proxy is coupled with an interest when the proxy appointed is one of the following:

- (1) a pledgee;
- (2) a person who has purchased or has agreed to purchase the shares;
- (3) a creditor of the corporation who has extended it credit under terms requiring the appointment, if the appointment states the purpose for which it was given, the name of the creditor, and the amount of credit extended;
- (4) an employee of the corporation whose employment contract requires the appointment, if the appointment states the purpose for which it was given, the name of the employee, and the period of employment; or
- (5) a party to a voting agreement created under Section 7.70.

(d) The death or incapacity of the shareholder appointing a proxy does not revoke the proxy's authority unless notice of the death or incapacity is received by the officer or agent who maintains the corporation's share transfer book before the proxy exercises his or her authority under the appointment.

(e) An appointment made irrevocable under subsection (c) becomes revocable when the interest in the proxy terminates such as when the pledge is redeemed, the shares are registered in the purchaser's name, the creditor's debt is paid, the employment contract ends, or the voting agreement expires.

(f) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee was ignorant of its existence when the shares were acquired and both the existence of the appointment and its irrevocability were not noted conspicuously on the certificate (or information statement for shares without certificates) representing the shares.

(g) Unless the appointment of a proxy contains an express limitation on the proxy's authority, a corporation may accept the proxy's vote or other action as that of the shareholder making the appointment. If the proxy appointed fails to vote or otherwise act in accordance with the appointment, the shareholder is entitled to such legal or equitable relief as is appropriate in the circumstances.

(Source: P.A. 90-666, eff. 7-30-98.)

(805 ILCS 5/7.55)

Sec. 7.55. Proxy solicitation.

No proxy shall be solicited by means of any communication containing a statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order that the statements made not be false or misleading.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.60)

Sec. 7.60. Quorum of shareholders.

Unless otherwise provided in the articles of incorporation, a majority of votes of the shares, entitled to vote on a matter, represented in person or by proxy, shall constitute a quorum for consideration of such matter at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the votes of the shares entitled so to vote. If a quorum is present, the affirmative vote of the majority of the votes of the shares represented at the meeting and entitled to vote on a matter shall be the act of the shareholders, unless a greater number of votes or voting by classes is required by this Act or the articles of incorporation. The articles of incorporation may require any number or percent greater than a majority of votes up to and including a requirement of unanimity to constitute a quorum.

(Source: P.A. 89-48, eff. 6-23-95.)

(805 ILCS 5/7.65)

Sec. 7.65. Voting trust.

(a) One or more shareholders may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares for a stated duration, which may be perpetual or for a fixed period or may be determined by the occurrence of a stated condition or conditions, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, and by transferring the subject shares to such trustee or trustees pursuant to the agreement. If the agreement or any amendment thereto does not contain a stated duration, the trust shall terminate 10 years after the agreement first became effective.

(b) No voting trust agreement shall be effective until a counterpart of the agreement is deposited at the corporation's registered office. The counterpart of the voting trust agreement so deposited shall be subject to examination as provided in Section 7.75 by any holder of a beneficial interest in the voting trust as if that holder were a shareholder.

(c) The rule against perpetuities does not apply to any voting trust created in accordance with this Section.

(d) Every voting trust agreement entered into pursuant to this Section is specifically enforceable in accordance with the principles of equity.

(e) The changes made by this amendatory Act of the 91st General Assembly apply only to voting trust agreements that are:

(1) entered into after the effective date of this amendatory Act of the 91st General Assembly; or

(2) amended after the effective date of this amendatory Act of the 91st General Assembly to include a stated duration in accordance with subsection (a).

(Source: P.A. 91-527, eff. 1-1-00.)

(805 ILCS 5/7.70)

Sec. 7.70. Voting agreements.

(a) Shareholders may provide for the voting of their shares by signing an agreement for that purpose. A voting agreement created under this Section is not subject to the provisions of Section 7.65.

(b) A voting agreement created under this Section is specifically enforceable in accordance with the principles of equity.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.71)

Sec. 7.71. Shareholder agreements.

(a) Shareholders may unanimously agree in writing as to matters concerning the management of a corporation provided no fraud or apparent injury to the public or creditors is present, and no clearly prohibitory statutory language is violated.

(b) An agreement created pursuant to this Section is ineffective against any shareholder not a party to the agreement unless:

(1) such shareholder had actual knowledge of the agreement at the time of becoming a shareholder; or

(2) the existence of the agreement is conspicuously referred to (i) on the certificate representing the security; or (ii) on the notice sent pursuant to Section 6.35 in the case of any uncertificated security.

(c) No agreement created pursuant to this Section shall be invalid as between the parties thereto, or shall subject employees, officers, directors or shareholders to personal liability for corporation liabilities, on the basis that the agreement:

(1) is an attempt to treat the corporation as if it were a partnership or to arrange the shareholders' relationship in a manner that would be appropriate only between partners; or

(2) so relates to the conduct of the affairs of the corporation as to interfere with the discretion of the board of directors.

(d) Any agreement created pursuant to this Section is specifically enforceable in accordance with the principles of equity.

(e) This Section is cumulative and does not limit any statute or rule of common law that is otherwise applicable to any corporation, whenever formed.

(Source: P.A. 86-1328.)

(805 ILCS 5/7.75)

Sec. 7.75. Corporate records - Examination by shareholders.

(a) Each corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its shareholders and board of directors and committees thereof; and shall keep at its registered office or principal place of business in this State, or at the office of a transfer agent or registrar in this State, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each. A record of shareholders certified by an officer or transfer agent shall be competent evidence in all courts of this State.

(b) Any person who is a shareholder of record shall have the right to examine, in person or by agent, at any reasonable time or times, the corporation's books and records of account, minutes, voting trust agreements filed with the corporation and record of shareholders, and to make extracts therefrom, but only for a proper purpose. In order to exercise this right, a shareholder must make written demand upon the corporation, stating with particularity the records sought to be examined and the purpose therefor.

(c) If the corporation refuses examination, the shareholder may file suit in the circuit court of the county in which either the registered agent or principal office of the corporation is located to compel by mandamus or otherwise such examination as may be proper. If a shareholder seeks to examine books or records of account the burden of proof is upon the shareholder to establish a proper purpose. If the purpose is to examine minutes or the record of shareholders or a voting trust agreement, the burden of proof is upon the corporation to establish that the shareholder does not have a proper purpose.

(d) Any officer, or agent, or a corporation which shall refuse to allow any shareholder or his or her agent so to examine and make extracts from its books and records of accounts, minutes and records of shareholders, for any proper purpose, shall be liable to such shareholder, in a penalty of up to ten per cent of the value of the shares owned by such shareholder, in addition to any other damages or remedy afforded him or her by law. It shall be a defense to any action for penalties under this Section that the person suing therefor has within two years sold or offered for sale any list of shareholders of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders for any such purpose, or has improperly used any information secured through any prior examination of the books and records of account, or minutes, or records of shareholders of such corporation or any other corporation.

(e) Upon the written request of any shareholder of a corporation, the corporation shall mail to such shareholder within 14 days after receipt of such request a balance sheet as of the close of its latest fiscal year and a profit and loss statement for such fiscal year; provided that if such request is received by the corporation before such financial statements are available, the corporation shall mail such financial statements within 14 days after they become available, but in any event within 120 days after the close of its latest fiscal year.

(Source: P.A. 84-924.)

(805 ILCS 5/7.80)

Sec. 7.80. Provisions relating to actions by shareholders.

(a) No action shall be brought in this State by a shareholder in the right of a domestic or foreign corporation unless the plaintiff was a shareholder of record at the time of the transaction of which he or she complains, or his or her shares or voting trust certificates thereafter devolved upon him or her by operation of law from a person who was a holder at such time; provided, however, that a shareholder who does not meet such requirement may nevertheless be allowed in the discretion of the court to bring such action on a preliminary showing to and determination by the court, upon motion and after a hearing at which the court may consider such evidence by affidavit or testimony as it deems material, that plaintiff acquired the shares before there was disclosure to the public or to the plaintiff of the wrongdoing of which plaintiff complains.

(b) A complaint in a proceeding brought in the right of a corporation must allege with particularity the demand made, if any, to obtain action by the directors and either why the complainant could not obtain the action or why he or she did not make the demand. If a demand for action was made and the corporation's investigation of the demand is in progress when the proceeding is filed, the court may stay the suit for thirty days or until the investigation is completed, whichever is less.

(c) A proceeding commenced under this Section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court may direct that notice be given the shareholders affected.

(Source: P.A. 83-1025.)

(805 ILCS 5/7.85)

Sec. 7.85. Vote required for certain business combinations.

A. This Section shall apply to any domestic corporation that (i) has any equity securities registered under Section 12 of the Securities Exchange Act of 1934 or is subject to Section 15(d) of that Act (a "reporting company") and (ii) any domestic corporation other than one described in (i) that either specifically adopts this Section 7.85 in its original articles of incorporation or amends its articles of incorporation to specifically adopt this Section 7.85, however, the restrictions contained in this Section shall not apply in the event of any of the following:

(1) In case of a reporting company, the corporation's articles of incorporation immediately prior to the time it becomes a reporting company contains a provision expressly electing not to be governed by this Section.

(2) The corporation, by action of its board of directors, adopts an amendment to its by-laws within 90 days after the effective date of this amendatory Act of 1997 expressly electing not to be governed by this Section, which amendment shall not be further amended by the board of directors.

(3) In the case of a reporting company, the corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or by-laws expressly electing not to be governed by this Section, provided that, in addition to any other vote required by law, such amendment to the articles of incorporation or by-laws must be approved by the affirmative vote of a majority of the voting shares (as defined in paragraph B of this Section 7.85). An amendment adopted under this paragraph shall not be effective until 12 months after the adoption of the amendment and shall not apply to a business combination between the corporation and a person who became an interested shareholder of the corporation at the same time as or before the adoption of the amendment. A by-law amendment adopted under this paragraph shall not be further amended by the board of directors.

(4) A shareholder becomes an interested shareholder inadvertently and (i) as soon as practical divests sufficient shares so that the shareholder ceases to be an interested shareholder and (ii) would not, at any time within the 3 year period immediately before a business combination between the corporation and the shareholder, have been an interested shareholder but for the inadvertent acquisition.

In the case of circumstances described in subparagraphs (1), (2), and (3) of this paragraph A, the election not to be governed may be in whole or in part, generally, or generally by types, or as to specifically identified or unidentified interested shareholders.

B. Higher vote for certain business combinations. In addition to any affirmative vote required by law or the articles of incorporation, except as otherwise expressly provided in paragraph C of this Section 7.85, any business combination shall require (i) the affirmative vote of the holders of at least 80% of the combined voting power of the then outstanding shares of all classes and series of the corporation entitled to vote generally in the election of directors, voting together as a single class (the "voting shares") (it being understood that, for the purposes of this Section 7.85, each voting share shall have the number of votes granted to it pursuant to the corporation's articles of incorporation) and (ii) the affirmative vote of a majority of the voting shares held by disinterested shareholders.

C. When higher vote is not required. The provisions of paragraph B of this Section 7.85 shall not be applicable to any particular business combination, and such business combination shall require only such affirmative vote as is required by law and any other provision of the corporation's article of incorporation and any resolutions of the board of directors adopted pursuant to Section 6.10 if all of the conditions specified in either of the following subparagraphs (1) and (2) of this paragraph C are met:

(1) Approval by disinterested directors. The business combination shall have been approved by two-thirds of the disinterested directors (as hereinafter defined).

(2) Price and procedure requirements. All of the following conditions shall have been met:

(a) The business combination shall provide for consideration to be received by all holders of common shares in exchange for all their shares, and the aggregate amount of the cash and the fair market value as of the date of consummation of the business combination of consideration other than cash to be received per share by holders of common shares in such business combination shall be at least equal to the higher of the following:

(i) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder or any affiliate or associate of the interested shareholder to acquire any common shares beneficially owned by the interested shareholder which were acquired (a) within the two year period immediately prior to the first public announcement of the proposal of the business combination (the "announcement date") or (b) in the transaction in which it became an interested shareholder, whichever is higher; and

(ii) the fair market value per common share on the first trading date after the announcement date or on the first trading date after the date of the first public announcement that the interested shareholder became an interested shareholder (the "Determination Date"), whichever is higher.

(b) The business combination shall provide for consideration to be received by all holders of outstanding shares other than common shares in exchange for all such shares, and the aggregate amount of the cash and the fair market value as of the date of the consummation of the business combination of consideration other than cash to be received per share by holders of outstanding shares other than common shares shall be at least equal to the highest of the following (it being intended that the requirements of this subparagraph (2)(b) shall be required to be met with respect to every class and series of outstanding shares other than common shares whether or not the interested shareholder or any affiliate or associate of the interested shareholder has previously acquired any shares of a particular class or series):

(i) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder or any affiliate or associate of the interested shareholder to acquire any shares of such class or series beneficially owned by the interested shareholder which were acquired (a) within the 2-year period immediately prior to the announcement date or (b) in the transaction in which it became an interested shareholder, whichever is higher;

(ii) (if applicable) the highest preferential amount per share to which the holders of shares of such class or series are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation;

(iii) the fair market value per share of such class or series on the first trading date after the announcement date or on the determination date, whichever is higher; and

(iv) an amount equal to the fair market value per share of such class or series determined pursuant to clause (iii) times the highest value obtained in calculating the following quotient for each class or series of which the interested shareholder has

acquired shares within the 2-year period ending on the announcement date: (x) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the interested shareholder or any affiliate or associate of the interested Shareholder for any shares of such class or series acquired within such 2-year period divided by (y) the market value per share of such class or series on the first day in such 2-year period on which the interested shareholder or any affiliate or associate of the interested shareholder acquired any shares of such class or series.

(c) The consideration to be received by holders of a particular class or series of outstanding shares shall be in cash or in the same form as the interested shareholder or any affiliate or associate of the interested shareholder has previously paid to acquire shares of such class or series beneficially owned by the interested shareholder. If the interested shareholder and any affiliates or associates of the interested shareholder have paid for shares of any class or series with varying forms of consideration, the form of consideration for such class or series shall be either cash or the form used to acquire the largest number of shares of such class or series beneficially owned by the interested shareholder.

(d) After such interested shareholder has become an interested shareholder and prior to the consummation of such business combination: (1) except as approved by two-thirds of the disinterested directors, there shall have been no failure to declare and pay at the regular date therefor any full periodic dividends (whether or not cumulative) on any outstanding shares of the corporation other than the common shares; (2) there shall have been (a) no reduction in the annual rate of dividends paid on the common shares (except as necessary to reflect any subdivision of the common shares), except as approved by two-thirds of the disinterested directors, and (b) an increase in such annual rate of dividends (as necessary to prevent any such reduction) in the event of any reclassification (including any reverse share split), recapitalization, reorganization or any similar transaction which has the effect of reducing the number of outstanding common shares; and (3) such interested shareholder shall not have become the beneficial owner of any additional Voting Shares except as part of the transaction which results in such interested shareholder becoming an interested shareholder or as a result of action taken by the corporation not caused, directly or indirectly, by such interested shareholder.

(e) After such interested shareholder has become an interested shareholder, such interested shareholder shall not have received the benefit, directly or indirectly (except proportionately as a shareholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the corporation or any Subsidiary, whether in anticipation of or in connection with such business combination or otherwise.

(f) A proxy or information statement describing the proposed business combination and complying with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to public shareholders of the corporation at least 30 days prior to the consummation of such business combination (whether or not such proxy or information statement is required to be mailed pursuant to such Act or subsequent provisions).

D. Certain definitions. For the purposes of this Section 7.85:

(1) "Person" means an individual, firm, corporation, partnership, trust or other entity.

(2) "Interested shareholder" means (i) a person (other than the corporation and a direct or indirect majority-owned subsidiary of the corporation) that (a) is the owner of 15% or more of the outstanding voting shares of the corporation or (b) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting shares of the corporation at any time within the 3 year period immediately before the date on which it is sought to be determined whether the person is an interested shareholder and (ii) the affiliates and associates of that person, provided, however, that the term "interested shareholder" shall not include (x) a person who (A) owned shares in excess of the 15% limitation as of January

1, 1997 and either (I) continued to own shares in excess of the 15% limitation or would have but for action by the corporation or (II) is an affiliate or associate of the corporation and so continued (or so would have continued but for action by the corporation) to be the owner of 15% or more of the outstanding voting shares of the corporation at any time within the 3-year period immediately prior to the date on which it is sought to be determined whether such a person is an interested shareholder or (B) acquired the shares from a person described in clause (A) by gift, inheritance, or in a transaction in which no consideration was exchanged or (y) a person whose ownership of shares in excess of the 15% limitation is the result of action taken solely by the corporation, provided that the person shall be an interested shareholder if thereafter the person acquires additional shares of the corporation, except as a result of further corporate action not caused, directly or indirectly, by the person or if the person acquires additional shares in transactions approved by the board of directors, which approval shall include a majority of the disinterested directors. For the purpose of determining whether a person is an interested shareholder, the voting shares of the corporation deemed to be outstanding shall include shares deemed to be owned by the person through application of subparagraph (3) of this paragraph, but shall not include any other unissued shares of the corporation that may be issuable pursuant to any agreement, arrangement, or understanding, upon exercise of conversion rights, warrants, or options, or otherwise.

(3) "Owner", including the terms "own" and "owned", when used with respect to shares means a person that individually or with or through any of its affiliates or associates:

(a) beneficially owns the shares, directly or indirectly; or

(b) has (i) the right to acquire the shares (whether the right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement, or understanding, upon exercise of conversion rights, exchange rights, warrants, or options, or otherwise; provided, however, that a person shall not be deemed the owner of shares tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange or (ii) the right to vote the shares pursuant to an agreement, arrangement, or understanding; provided, however, that a person shall not be deemed the owner of any shares because of the person's right to vote the shares if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(c) has an agreement, arrangement, or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in clause (ii) of item (b) of this subparagraph), or disposing of the shares with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

(4) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another person.

(5) "Associate", when used to indicate a relationship with a person, means (i) a corporation, partnership, unincorporated association, or other entity of which the person is a director, officer, or partner or is, directly or indirectly, the owner of 20% or more of a class of voting shares, (ii) a trust or other estate in which the person has at least a 20% beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (iii) a relative or spouse of the person, or a relative of that spouse who has the same residence as the person.

(6) "Subsidiary" means any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the corporation; provided, however, that for the purposes of the definition of interested shareholder set forth in subparagraph (2) of this paragraph D, the term "subsidiary" shall mean only a corporation of which a majority of each class or equity security is owned, directly or indirectly, by the corporation.

(7) "Disinterested director" means any member of the board of directors of the corporation who: (a) is neither the interested shareholder nor an affiliate or associate of the interested shareholder; (b) was a member of the board of directors prior to the time that the interested shareholder became an interested shareholder or was a director of the corporation before January 1, 1997, or was recommended to succeed a disinterested director by a majority of the disinterested directors then in office; and (c) was not nominated for election as a director by the interested shareholder or any affiliate or associate of the interested shareholder.

(8) "Fair market value" means: (a) in the case of shares, the highest closing sale price during the 30-day period immediately preceding the date in question of a share on the New York Stock Exchange Composite Tape, or, if such shares are not quoted on the Composite Tape, on the New York Stock Exchange, or, if such shares are not listed on such Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such shares are listed, or, if such shares are not listed on any such exchange, the highest closing sale price or bid quotation with respect to a share during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share as determined by a majority of the disinterested directors in good faith; and (b) in the case of property other than cash or shares, the fair market value of such property on the date in question as determined by a majority of the disinterested directors in good faith.

(9) "Disinterested shareholder" shall mean a shareholder of the corporation who is not an interested shareholder or an affiliate or an associate of an interested shareholder.

(10) "Business combination" has the meaning set forth in Section 11.75 of this Act (regardless of the case of the word "only" in that Section).

(11) In the event of any business combination in which the corporation survives, the phrase "consideration other than cash" as used in subparagraphs (2)(a) and (2)(b) of paragraph C of this Section 7.85 shall include the common shares and the shares of any other class or series retained by the holders of such shares.

(12) "Shares" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(13) "Voting shares" means, with respect to any corporation, shares of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in its election of the governing body of the entity.

E. Determinations by disinterested directors. A majority of the disinterested directors shall have the power to determine, for the purposes of this Section 7.85, (a) whether a person is an interested shareholder, (b) the number of voting shares beneficially owned by any person, (c) whether a person is an affiliate or associate of another, and (d) whether the transaction is the subject of any business combination.

(Source: P.A. 90-461, eff. 1-1-98.)

(805 ILCS 5/7.90)

Sec. 7.90. Waiver.

(a) Unless otherwise provided in the articles of incorporation, a shareholder who executes and delivers to the corporation a written instrument irrevocably waiving the right (i) to vote any shares held by such shareholder, whether for the election of directors or otherwise, (ii) to be a director or officer of the corporation, and (iii) in any other manner to control, directly or

indirectly, corporate actions or the election or removal of any director or officer of the corporation, and who at the time of such waiver is not a director or officer of the corporation, shall have no fiduciary duty to the corporation or any of its shareholders arising out of the fact that such person is a shareholder of the corporation. No such waiver shall affect any breach of fiduciary duty arising prior to the effective date of the waiver.

(b) The corporation shall give prompt notice of such waiver to the remaining shareholders, except that no such notice need be given by a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

(c) The waiver referred to in this Section shall not affect any other rights or obligations of the shareholder, including but not limited to the rights under Sections 7.80, 11.65, 11.70, 12.55 and 12.56 of this Act.

(d) Shares that cannot be voted because of a waiver under this Section shall not be counted in determining the number of shares necessary for a quorum or for shareholder action under Section 7.60 of this Act. A waiver under this Section shall not apply to any transferee of the shares.

(e) The waiver referred to in this Section is specifically enforceable in accordance with the principles of equity.

(f) This Section is not intended to describe or suggest the circumstances under which any fiduciary duty arises or exists, including with respect to any shareholder who fails to make a waiver under this Section.

(Source: P.A. 94-394, eff. 8-1-05.)

ARTICLE 8. DIRECTORS AND OFFICERS

(805 ILCS 5/8.05)

Sec. 8.05. Board of directors.

(a) Except as provided in Article 2A of this Act, each corporation shall have a board of directors and the business and affairs of the corporation shall be managed by or under the direction of the board of directors.

(b) The articles of incorporation or by-laws may prescribe qualifications for directors. A director need not be a resident of this State or a shareholder of the corporation unless the articles of incorporation or by-laws so prescribe.

(c) Unless otherwise provided in the articles of incorporation or by-laws, the board of directors, by the affirmative vote of a majority of the directors then in office, and irrespective of any personal interest of any of its members, shall have authority to establish reasonable compensation of all directors for services to the corporation as directors, officers or otherwise, notwithstanding the provisions of Section 8.60.

(Source: P.A. 88-151.)

(805 ILCS 5/8.10)

Sec. 8.10. Number, election and resignation of directors.

(a) The board of directors of a corporation shall consist of one or more members. The number of directors shall be fixed by the by-laws, except the number of initial directors shall be fixed by

the incorporators in the articles of incorporation or at the organizational meeting. In the absence of a by-law fixing the number of directors, the number shall be the same as that fixed in the articles of incorporation or at the organizational meeting. The number of directors may be increased or decreased from time to time by amendment to the by-laws.

(b) The by-laws may establish a variable range for the size of the board by prescribing a minimum and maximum (which may not exceed the minimum by more than five) number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the directors or the shareholders without further amendment to the by-laws.

(c) The terms of all directors expire at the next annual shareholders' meeting following their election unless their terms are staggered under subsection (e). The term of a director elected to fill a vacancy expires at the next annual shareholders' meeting at which his or her predecessor's term would have expired. The term of a director elected as a result of an increase in the number of directors expires at the next annual shareholders' meeting unless the term is staggered under subsection (e).

(d) Despite the expiration of a director's term, he or she continues to serve until the next meeting of shareholders at which directors are elected. A decrease in the number of directors does not shorten an incumbent director's term.

(e) If the board of directors consists of six or more members, in lieu of electing the membership of the whole board of directors annually, the articles of incorporation or by-laws may provide that the directors shall be divided into either two or three classes, each class to be as nearly equal in number as is possible. The term of office of directors of the first class shall expire at the first annual meeting of shareholders after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose terms expire at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes.

(f) If the articles of incorporation authorize dividing the shares into classes or series, the articles may also authorize the election of all or a specified number or percentage of directors by the holders of one or more authorized classes or series of shares.

(g) A director may resign at any time by giving written notice to the board of directors, its chairman, or to the president or secretary of the corporation. A resignation is effective when the notice is given unless the notice specifies a future date. The pending vacancy may be filled before the effective date, but the successor shall not take office until the effective date.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.15)

Sec. 8.15. Quorum of directors.

(a) A majority of the number of directors fixed by the by-laws, or in the absence of a by-law fixing the number of directors, the number stated in the articles of incorporation or named by the incorporators, shall constitute a quorum for the transaction of business unless a greater number is specified by the articles of incorporation or the by-laws.

(b) If a corporation has a variable range board of directors, a quorum shall consist of a majority of the directors then in office, but not less than a majority of the minimum number of directors specified for the variable range of the board unless the articles of incorporation or by-laws specify a greater number.

(c) The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the by-laws.

(d) Unless specifically prohibited by the articles of incorporation or by-laws, members of the board of directors or of any committee of the board of directors may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.20)

Sec. 8.20. Place of directors' meetings.

Regular or special meetings of the board of directors may be held either within or without this State.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.25)

Sec. 8.25. Notice of directors' meetings.

Meetings of the board of directors shall be held upon such notice as the by-laws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.30)

Sec. 8.30. Vacancies.

Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by election at an annual meeting or at a special meeting of shareholders called for that purpose; provided, however, the by-laws may provide a method for filling vacancies arising between meetings of shareholders by reason of an increase in the number of directors or otherwise, by director or shareholder action and, in the absence of such a provision, the board of directors may fill the vacancy. A director elected by the shareholders to fill a vacancy shall hold office for the balance of the term for which he or she was elected. A director appointed to fill a vacancy shall serve until the next meeting of shareholders at which directors are to be elected.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.35)

Sec. 8.35. Removal of directors.

(a) One or more of the directors may be removed, with or without cause, at a meeting of shareholders by the affirmative vote of the holders of a majority of the outstanding shares then entitled to vote at an election of directors, except as follows:

(1) No director shall be removed at a meeting of shareholders unless the notice of such meeting shall state that a purpose of the meeting is to vote upon the removal of one or more directors named in the notice. Only the named director or directors may be removed at such meeting.

(2) In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no director may be removed, with or without cause, if the votes cast against his or her removal would be sufficient to elect him or her if then cumulatively voted at an election of the entire board of directors.

(3) If a director is elected by a class or series of shares, he or she may be removed only by the shareholders of that class or series.

(4) In the case of a corporation whose board is classified as provided in subsection (e) of Section 8.10, the articles of incorporation may provide that directors may be removed only for cause.

(b) The provisions of subsection (a) shall not preclude the circuit court of the county in which the corporation's registered office is located from removing a director of the corporation from office in a proceeding commenced either by corporation or by shareholders of the corporation holding at least 10 percent of the outstanding shares of any class if the court finds (1) the director is engaged in fraudulent or dishonest conduct or has grossly abused his or her position to the detriment of the corporation, and (2) removal is in the best interest of the corporation. If the court removes a director, it may bar the director from reelection for a period prescribed by the court. If such a proceeding is commenced by the shareholders, they shall make the corporation a party defendant.

(Source: P.A. 84-924.)

(805 ILCS 5/8.40)

Sec. 8.40. Committees.

(a) If the articles of incorporation or by-laws so provide, a majority of the directors may create one or more committees, each to have one or more members, and appoint members of the board to serve on the committee or committees. A committee's members shall serve at the pleasure of the board.

(b) Unless the appointment by the board of directors requires a greater number, a majority of any committee shall constitute a quorum and a majority of a quorum is necessary for committee action. A committee may act by unanimous consent in writing without a meeting and, subject to the provisions of the by-laws or action by the board of directors, the committee by majority vote of its members shall determine the time and place of meetings and the notice required therefor.

(c) To the extent specified by the board of directors or in the articles of incorporation or by-laws, each committee may exercise the authority of the board of directors under Section 8.05; provided, however, a committee may not:

(1) authorize distributions, except for dividends to be paid with respect to shares of any preferred or special classes or any series thereof;

(2) approve or recommend to shareholders any act this Act requires to be approved by shareholders;

- (3) fill vacancies on the board or on any of its committees;
- (4) elect or remove officers or fix the compensation of any member of the committee;
- (5) adopt, amend or repeal the by-laws;
- (6) approve a plan of merger not requiring shareholder approval;
- (7) authorize or approve reacquisition of shares, except according to a general formula or method prescribed by the board;
- (8) authorize or approve the issuance or sale, or contract for sale, of shares, except that the board may direct a committee (i) to fix the specific terms of the issuance or sale or contract for sale, including without limitation the pricing terms or the designation and relative rights, preferences, and limitations of a series of shares if the board of directors has approved the maximum number of shares to be issued pursuant to such delegated authority or (ii) to fix the price and the number of shares to be allocated to particular employees under an employee benefit plan; or
- (9) amend, alter, repeal, or take action inconsistent with any resolution or action of the board of directors when the resolution or action of the board of directors provides by its terms that it shall not be amended, altered or repealed by action of a committee.

(Source: P.A. 91-464, eff. 1-1-00.)

(805 ILCS 5/8.45)

Sec. 8.45. Informal action by directors.

(a) Unless specifically prohibited by the articles of incorporation or by-laws, any action required by this Act to be taken at a meeting of the board of directors of a corporation, or any other action which may be taken at a meeting of the board of directors or a committee thereof, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof, or by all the members of such committee, as the case may be.

(b) The consent shall be evidenced by one or more written approvals, each of which sets forth the action taken and bears the signature of one or more directors. All the approvals evidencing the consent shall be delivered to the secretary to be filed in the corporate records. The action taken shall be effective when all the directors have approved the consent unless the consent specifies a different effective date.

(c) Any such consent signed by all the directors or all the members of a committee shall have the same effect as a unanimous vote, and may be stated as such in any document filed with the Secretary of State under this Act.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.50)

Sec. 8.50. Officers.

A corporation shall have such officers as shall be provided in the by-laws, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the by-laws. Officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the by-laws. If the by-laws so provide, any two or more offices may be held by the same person. One officer, in this Act generally referred to as the secretary, shall have the authority to certify the by-laws, resolutions of the shareholders and board of directors and committees thereof, and

other documents of the corporation as true and correct copies thereof. All officers and agents of the corporation, as between themselves and the corporation, shall have such express authority and perform such duties in the management of the property and affairs of the corporation as may be provided in the by-laws, or as may be determined by resolution of the board of directors not inconsistent with the by-laws and such implied authority as recognized by the common law from time to time.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.55)

Sec. 8.55. Removal of officers.

Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.60)

Sec. 8.60. Director conflict of interest.

(a) If a transaction is fair to a corporation at the time it is authorized, approved, or ratified, the fact that a director of the corporation is directly or indirectly a party to the transaction is not grounds for invalidating the transaction or the director's vote regarding the transaction; provided, however, that in a proceeding contesting the validity of such a transaction, the person asserting validity has the burden of proving fairness unless:

(1) the material facts of the transaction and the director's interest or relationship were disclosed or known to the board of directors or a committee of the board and the board or committee authorized, approved or ratified the transaction by the affirmative votes of a majority of disinterested directors, even though the disinterested directors be less than a quorum; or

(2) the material facts of the transaction and the director's interest or relationship were disclosed or known to the shareholders entitled to vote and they authorized, approved or ratified the transaction without counting the vote of any shareholder who is an interested director.

(b) For purposes of this Section, a director is "indirectly" a party to a transaction if the other party to the transaction is an entity in which the director has a material financial interest or of which the director is an officer, director or general partner.

(Source: P.A. 90-421, eff. 1-1-98.)

(805 ILCS 5/8.65)

Sec. 8.65. Liability of directors in certain cases.

(a) In addition to any other liabilities imposed by law upon directors of a corporation, they are liable as follows:

(1) The directors of a corporation who vote for or assent to any distribution prohibited by Section 9.10 of this Act shall be jointly and severally liable to the corporation for the amount of such distribution.

(2) If a dissolved corporation shall proceed to bar any known claims against it under Section 12.75, the directors of such corporation who fail to take reasonable steps to cause the notice required by Section 12.75 of this Act to be given to any known creditor of such corporation shall be jointly and severally liable to such creditor for all loss and damage occasioned thereby.

(3) The directors of a corporation that carries on its business after the filing by the Secretary of State of articles of dissolution, otherwise than so far as may be necessary for the winding up thereof, shall be jointly and severally liable to the creditors of such corporation for all debts and liabilities of the corporation incurred in so carrying on its business.

(b) A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken is conclusively presumed to have assented to the action taken unless his or her dissent is entered in the minutes of the meeting or unless he or she files his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or forwards such dissent by registered or certified mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent does not apply to a director who voted in favor of such action.

(c) A director shall not be liable for a distribution of assets to the shareholders of a corporation in excess of the amount authorized by Section 9.10 of this Act if he or she relied and acted in good faith upon a balance sheet and profit and loss statement of the corporation represented to him or her to be correct by the president or the officer of such corporation having charge of its books of account, or certified by an independent public or certified public accountant or firm of such accountants to fairly reflect the financial condition of such corporation, nor shall he or she be so liable if in good faith in determining the amount available for any such dividend or distribution he or she considered the assets to be of their book value.

(d) Any director against whom a claim is asserted under this Section and who is held liable thereon, is entitled to contribution from the other directors who are likewise liable thereon.

Any director against whom a claim is asserted for the improper distribution of assets of a corporation and who is held liable thereon, is entitled to contribution from the shareholders who knowingly accepted or received any such distribution in proportion to the amounts received by them respectively.

(Source: P.A. 84-924.)

(805 ILCS 5/8.70)

Sec. 8.70. Kickbacks, bribes, etc. -Liability of officers or directors.

Any Corporate director or officer who commits commercial bribery or commercial bribe receiving as defined in Article 29 of the "Criminal Code of 1961", shall be liable to the corporation which he or she serves as officer or director for treble damages, based on the aggregate amount given or received plus attorneys' fees. A conviction in a criminal proceeding for a commercial bribery or commercial bribe receiving shall be deemed prima facie evidence of the convicted director's or officer's liability under this Section.

(Source: P.A. 83-1025.)

(805 ILCS 5/8.75)

Sec. 8.75. Indemnification of officers, directors, employees and agents; insurance.

(a) A corporation may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil,

criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation or, with respect to any criminal action or proceeding, that the person had reasonable cause to believe that his or her conduct was unlawful.

(b) A corporation may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, provided that no indemnification shall be made with respect to any claim, issue, or matter as to which such person has been adjudged to have been liable to the corporation, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

(c) To the extent that a present or former director, officer or employee of a corporation has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, if the person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the corporation only as authorized in the specific case, upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsections (a) or (b). Such determination shall be made with respect to a person who is a director or officer at the time of the determination: (1) by the majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, (2) by a committee of the directors who are not parties to such action, suit, or proceeding, even though less than a quorum, designated by a majority vote of the directors, (3) if there are no such directors, or if the directors so direct, by independent legal counsel in a written opinion, or (4) by the shareholders.

(e) Expenses (including attorney's fees) incurred by an officer or director in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this Section. Such expenses

(including attorney's fees) incurred by former directors and officers or other employees and agents may be so paid on such terms and conditions, if any, as the corporation deems appropriate.

(f) The indemnification and advancement of expenses provided by or granted under the other subsections of this Section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of shareholders or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

(g) A corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of this Section.

(h) If a corporation indemnifies or advances expenses to a director or officer under subsection (b) of this Section, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders meeting.

(i) For purposes of this Section, references to "the corporation" shall include, in addition to the surviving corporation, any merging corporation (including any corporation having merged with a merging corporation) absorbed in a merger which, if its separate existence had continued, would have had the power and authority to indemnify its directors, officers, and employees or agents, so that any person who was a director, officer, employee or agent of such merging corporation, or was serving at the request of such merging corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section with respect to the surviving corporation as such person would have with respect to such merging corporation if its separate existence had continued.

(j) For purposes of this Section, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries. A person who acted in good faith and in a manner he or she reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interest of the corporation" as referred to in this Section.

(k) The indemnification and advancement of expenses provided by or granted under this Section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of that person.

(l) The changes to this Section made by this amendatory Act of the 92nd General Assembly apply only to actions commenced on or after the effective date of this amendatory Act of the 92nd General Assembly.

(Source: P.A. 94-889, eff. 1-1-07.)

(805 ILCS 5/8.85)

Sec. 8.85.

In discharging the duties of their respective positions, the board of directors, committees of the board, individual directors and individual officers may, in considering the best long term and short term interests of the corporation, consider the effects of any action (including without limitation, action which may involve or relate to a change or potential change in control of the corporation) upon employees, suppliers and customers of the corporation or its subsidiaries, communities in which offices or other establishments of the corporation or its subsidiaries are located, and all other pertinent factors.

(Source: P.A. 86-126.)

ARTICLE 9. DISTRIBUTIONS

(805 ILCS 5/9.05)

Sec. 9.05. Power of corporation to acquire its own shares.

(a) A corporation may acquire its own shares, subject to limitations set forth in Section 9.10 of this Act.

(b) If a corporation acquires its own shares after the effective date of this amendatory Act of 1993, the shares constitute treasury shares until cancelled as provided by subsection (d) of this Section.

(c) A corporation shall file a report under Section 14.25 of this Act in the case of its acquisition of its own shares that occurs either prior to January 1, 1991 or on or prior to the last day of the third month immediately preceding the corporation's anniversary month in 1991. A corporation shall file a report under Section 14.30 of this Act in the case of its acquisition and cancellation of its own shares that occurs after both December 31, 1990 and the last day of such third month. However, if the articles of incorporation provide that the number of authorized shares is reduced by an acquisition and cancellation of shares, then the corporation shall, within 60 days after the date of acquisition, execute and file in duplicate in accordance with Section 1.10 of this Act, a statement of cancellation which sets forth:

- (1) The name of the corporation.
- (2) The aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class before giving effect to the cancellation.
- (3) The aggregate number of issued shares, itemized by classes and series, if any, within a class before giving effect to the cancellation.
- (4) The number of shares cancelled, itemized by classes and series, if any, within a class.
- (5) The aggregate number of shares which the corporation has the authority to issue, itemized by classes and series, if any, within a class after giving effect to the cancellation.
- (6) The aggregate number of issued shares, itemized by classes and series, if any, within a class, after giving effect to the cancellation.
- (7) A statement, expressed in dollars, of the amount of the paid-in capital of the corporation before giving effect to the cancellation.
- (8) A statement, expressed in dollars, of the amount of the paid-in capital of the corporation after giving effect to the cancellation.

Upon the filing of the statement of cancellation by the Secretary of State, the paid-in capital of the corporation shall be deemed to be reduced by that part of the paid-in capital which was, at the time of the cancellation, represented by the shares so cancelled, to the extent of the cost from the paid-in capital of the reacquired and cancelled shares or a lesser amount as may be elected by the corporation, and the statement of cancellation shall operate as an amendment to the articles of incorporation so as to reduce the number of authorized shares by the number of shares so cancelled.

(d) A corporation, by resolution of the board of directors, may cancel any of its treasury shares. When cancelled, the shares shall constitute authorized but unissued shares unless the articles of incorporation provide that the shares shall not be reissued, in which case the number of authorized shares shall be reduced by the number of shares cancelled.

(e) Until the report required by subsection (c) of this Section, or the report required by Section 14.25 or Section 14.30 of this Act reporting a reduction in paid-in capital, shall have been filed in the office of the Secretary of State, the basis of the annual franchise tax payable by the corporation shall not be reduced, provided, however, in no event shall the annual franchise tax for any taxable year be reduced if such report is not filed prior to the first day of the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of that taxable year and before payment of its annual franchise tax.

(Source: P.A. 94-605, eff. 1-1-06.)

(805 ILCS 5/9.10)

Sec. 9.10. Distributions to shareholders.

(a) The board of directors of a corporation may authorize, and the corporation may make, distributions to its shareholders, subject to any restriction in the articles of incorporation and subject also to the limitations of subsection (c) of this Section.

(b) If not otherwise determined under Section 7.25, the record date for determining shareholders entitled to a distribution is the date of the resolution of the board of directors authorizing the distribution.

(c) No distribution may be made if, after giving it effect:

(1) the corporation would be insolvent; or

(2) the net assets of the corporation would be less than zero or less than the maximum amount payable at the time of distribution to shareholders having preferential rights in liquidation if the corporation were then to be liquidated.

(d) The board of directors may base a determination that a distribution may be made under subsection (c) either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(e) The effect of a distribution under subsection (c) is measured as of the earlier of:

(1) the date of its authorization if payment occurs within 120 days after the date of authorization or the date of payment if payment occurs more than 120 days after the date of authorization; or

(2) in the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, the earlier of (i) the date money or other property is transferred or debt incurred by the corporation or (ii) the date shareholders cease to be shareholders.

(Source: P.A. 83-1025.)

(805 ILCS 5/9.20)

Sec. 9.20. Reduction of paid-in capital.

(a) A corporation may reduce its paid-in capital:

(1) by resolution of its board of directors by charging against its paid-in capital (i) the paid-in capital represented by shares acquired and cancelled by the corporation as permitted by law, to the extent of the cost from the paid-in capital of the reacquired and cancelled shares or a lesser amount as may be elected by the corporation, (ii) dividends paid on preferred shares, or (iii) distributions as liquidating dividends; or

(2) pursuant to an approved reorganization in bankruptcy that specifically directs the reduction to be effected.

(b) Notwithstanding anything to the contrary contained in this Act, at no time shall the paid-in capital be reduced to an amount less than the aggregate par value of all issued shares having a par value.

(c) Until the report under Section 14.30 has been filed in the Office of the Secretary of State showing a reduction in paid-in capital, the basis of the annual franchise tax payable by the corporation shall not be reduced; provided, however, that in no event shall the annual franchise tax for any taxable year be reduced if the report is not filed prior to the first day of the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the corporation of that taxable year and before payment of its annual franchise tax.

(d) A corporation that reduced its paid-in capital after December 31, 1986 by one or more of the methods described in subsection (a) may report the reduction pursuant to Section 14.30, subject to the restrictions of subsections (b) and (c) of this Section.

(e) Nothing in this Section shall be construed to forbid any reduction in paid-in capital to be effected under Section 9.05 of this Act.

(f) In the case of a vertical merger, the paid-in capital of a subsidiary may be eliminated if either (1) it was created, totally funded, and wholly owned by the parent or (2) the amount of the parent's investment in the subsidiary was equal to or exceeded the subsidiary's paid-in capital.

(Source: P.A. 94-605, eff. 1-1-06.)

ARTICLE 10. AMENDMENTS

(805 ILCS 5/10.05)

Sec. 10.05. Authority to amend articles of incorporation.

(a) A corporation may amend its articles of incorporation at any time and from time to time to add a new provision or to change or remove an existing provision, provided that the articles as amended contain only such provisions as are required or permitted in original articles of incorporation at the time of amendment. The articles as amended must contain all the provisions required by subsection (a) of Section 2.10 except that the names and addresses of the initial directors may be omitted and the name of the initial registered agent or the address of the initial registered office may be omitted if a statement of change is on file.

(b) A corporation whose period of duration as provided in the articles of incorporation has expired may amend its articles of incorporation to revive its articles and extend the period of

corporate duration, including making the duration perpetual, at any time within 5 years after the date of expiration.

(Source: P.A. 91-464, eff. 1-1-00.)

(805 ILCS 5/10.10)

Sec. 10.10. Amendment before issuance of shares.

If a corporation has not issued shares, an amendment to the articles of incorporation may be adopted by a majority of the incorporators if initial directors were not named in the articles or have not been elected, or, if initial directors were named in the articles or have been elected, an amendment to the articles may be adopted by a majority of the directors.

(Source: P.A. 83-1025.)

(805 ILCS 5/10.15)

Sec. 10.15. Amendment by directors.

A majority of the whole board of directors of a corporation may adopt one or more amendments to its articles of incorporation without shareholder action:

(a) to remove the names and addresses of the initial directors if such directors were named in the original articles of incorporation;

(b) to remove the name and address of the initial registered agent or the address of the initial registered office, if a statement of change is on file with the Secretary of State;

(c) to increase, decrease, create or eliminate the par value of the shares of any class, so long as no class or series of shares is adversely affected.

(d) to split all of the issued and authorized, but unissued, shares of any class, whether or not any shares of the class are issued or outstanding, by multiplying them by a whole number, so long as no class or series of shares is adversely affected.

(e) to change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding a geographical attribution to the name;

(f) to reduce the authorized shares of any class pursuant to a cancellation statement filed with respect to such shares after acquisition by the corporation in circumstances in which the articles of incorporation prohibit reissuance of such shares after acquisition by the corporation; or

(g) to restate its articles of incorporation as currently amended; such restated articles supersede the original articles and all amendments thereto.

(Source: P.A. 88-151.)

(805 ILCS 5/10.20)

Sec. 10.20. Amendment by directors and shareholders.

Any amendment authorized by Section 10.05 may be adopted by the action of the directors and shareholders in the following manner:

(a) The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record within the time and in the manner

provided in this Act for the giving of notice of meetings of shareholders. If such meeting be an annual meeting, the proposed amendment, or such summary as aforesaid, may be included in the notice of such annual meeting. If the adoption of the amendment would give any class or series of shares the right to dissent, the notice shall also enclose a copy of Section 11.70 of this Act or otherwise provide adequate notice of the right to dissent and the procedures therefor.

(c) At such meeting a vote of the shareholders entitled to vote on the proposed amendment shall be taken. The proposed amendment shall be adopted upon receiving the affirmative vote of at least two-thirds of the votes of the shares entitled to vote on such amendment, unless any class or series of shares is entitled to vote as a class in respect thereof, in which event the proposed amendment shall be adopted upon receiving the affirmative votes of at least two-thirds of the votes of the shares of each class or series of shares entitled to vote as a class in respect thereof and of the total votes of the shares entitled to vote on such amendment.

(d) The articles of incorporation of a corporation may supersede the two-thirds vote requirement of subsection (c) by specifying any smaller or larger vote requirement not less than a majority of the votes of the shares entitled to vote on the amendment and not less than a majority of the votes of the shares of each class or series of shares entitled to vote as a class on the amendment.

(e) Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting.

(Source: P.A. 89-48, eff. 6-23-95.)

(805 ILCS 5/10.25)

Sec. 10.25. Class voting.

Except as provided in Section 10.40, the holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment if the articles of incorporation so provide or if the amendment would:

- (a) Increase or decrease the aggregate number of authorized shares of such class.
- (b) Effect an exchange, reclassification, or cancellation of all or part of the shares of such class.
- (c) Change the designations, preferences, qualifications, limitations, restrictions, or special or relative rights of the shares of such class.
- (d) In the case of a preferred or special class of shares, divide the shares of such class into series and fix or authorize the board of directors to fix the variations in the relative rights and preferences between the shares of such series.
- (e) Change the shares of such class into the same or a different number of shares of the same class or another class or classes.
- (f) Create a right of exchange, of all or any part of the shares of another class into the shares of such class.
- (g) Create a new class of shares having rights and preferences prior, superior or substantially equal to those of the shares of such class, or increase the rights and preferences of any class having rights and preferences prior, superior or substantially equal to those of the shares of such class, or increase the rights and preferences of any class having rights and preferences subordinate to those of such class if such increase would then make the rights and preferences substantially equal to or superior to those of such class.
- (h) Limit or deny the existing preemptive rights of the shares of such class.
- (i) Cancel or otherwise affect dividends on the shares of such class which had accumulated but had not been declared.

(j) Limit or deny the voting rights of the shares of such class.

The holders of the outstanding shares of a class shall not be entitled to vote as a class upon a proposed amendment if such class is divided into series, and the proposed amendment would affect one or more but not all of such series in one or more of the ways described in subsections (a) through (i) above. In such event, the holders of the outstanding shares of any series to be affected by the proposed amendment shall be entitled to vote as a class thereon.

(Source: P.A. 83-1025.)

(805 ILCS 5/10.30)

Sec. 10.30. Articles of amendment.

(a) Except as provided in Section 10.40, the articles of amendment shall be executed and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

(1) The name of the corporation.

(2) The text of each amendment adopted.

(3) If the amendment was adopted by the incorporators, a statement that the amendment was adopted by a majority of the incorporators, that no shares have been issued and that the directors were neither named in the articles of incorporation nor elected at the time the amendment was adopted.

(4) If the amendment was adopted by the directors without shareholder action, a statement that the amendment was adopted by a majority of the directors and that shareholder action was not required.

(5) Where the amendment was approved by the shareholders:

(i) a statement that the amendment was adopted at a meeting of shareholders by the affirmative vote of the holders of outstanding shares having not less than the minimum number of votes necessary to adopt such amendment, as provided by the articles of incorporation; or

(ii) a statement that the amendment was adopted by written consent signed by the holders of outstanding shares having not less than the minimum number of votes necessary to adopt such amendment, as provided by the articles of incorporation, and in accordance with Section 7.10 of this Act.

(6) If the amendment provides for an exchange, reclassification, or cancellation of issued shares, or a reduction of the number of authorized shares of any class below the number of issued shares of that class, then a statement of the manner in which such amendment shall be effected.

(7) If the amendment effects a change in the amount of paid-in capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of paid-in capital as changed by such amendment.

(8) If the amendment restates the articles of incorporation, the amendment shall so state and shall set forth:

(i) the text of the articles as restated;

(ii) the date of incorporation, the name under which the corporation was incorporated, subsequent names, if any, that the corporation adopted pursuant to amendment of its articles of incorporation, and the effective date of any such amendments;

(iii) the address of the registered office and the name of the registered agent on the date of filing the restated articles; and

(iv) the number of shares of each class issued on the date of filing the restated articles and the amount of paid-in capital as of such date.

The articles as restated must include all the information required by subsection (a) of Section 2.10, except that the articles need not set forth the information required by paragraphs 3, 4 or 6 thereof. If any provision of the articles of incorporation is amended in connection with the restatement, the articles of amendment shall clearly identify such amendment.

(9) If, pursuant to Section 10.35, the amendment is to become effective subsequent to the date on which the certificate of amendment is issued, the date on which the amendment is to become effective.

(10) If the amendment revives the articles of incorporation and extends the period of corporate duration, the amendment shall so state and shall set forth:

- (i) the date the period of duration expired under the articles of incorporation;
- (ii) a statement that the period of duration will be perpetual, or, if a limited duration is to be provided, the date to which the period of duration is to be extended; and
- (iii) a statement that the corporation has been in continuous operation since before the date of expiration of its original period of duration.

(b) When the provisions of this Section have been complied with, the Secretary of State shall file the articles of amendment.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/10.35)

Sec. 10.35. Effect of amendment.

(a) The amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, as of the later of:

- (1) the filing of the articles of amendment by the Secretary of State; or
- (2) the time established under the articles of amendment, not to exceed 30 days after the filing of the articles of amendment by the Secretary of State.

(b) If the amendment is made in accordance with the provisions of Section 10.40, upon the filing of the articles of amendment by the Secretary of State, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

(c) If the amendment restates the articles of incorporation, such restated articles of incorporation shall, upon such amendment becoming effective, supersede and stand in lieu of the corporation's preexisting articles of incorporation.

(d) If the amendment revives the articles of incorporation and extends the period of corporate duration, upon the filing of the articles of amendment by the Secretary of State, the amendment shall become effective and the corporate existence shall be deemed to have continued without interruption from the date of expiration of the original period of duration, and the corporation shall stand revived with such powers, duties and obligations as if its period of duration had not expired; and all acts and proceedings of its officers, directors and shareholders, acting or purporting to act as such, which would have been legal and valid but for such expiration, shall stand ratified and confirmed.

(e) Each amendment which affects the number of issued shares or the amount of paid-in capital shall be deemed to be a report under the provisions of this Act.

(f) No amendment of the articles of incorporation of a corporation shall affect any existing cause of action in favor of or against such corporation, or any pending suit in which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall be abated for that reason.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/10.40)

Sec. 10.40. Amendment pursuant to reorganization.

(a) The articles of incorporation of a corporation may be amended without director or shareholder action to carry out a plan of reorganization ordered by a court of competent jurisdiction pursuant to any applicable statute of the United States if the articles after amendment contain only provisions required or permitted by Section 2.10 of this Act.

(b) The individual or individuals designated by the court shall execute, verify and deliver to the Secretary of State for filing in accordance with Section 1.10 of this Act, articles of amendment setting forth:

- (1) the name of the corporation;
- (2) the text of each amendment approved by the court;
- (3) the date of the court's order approving the articles of amendment;
- (4) the title of the reorganization proceeding in which the order was entered; and
- (5) a statement that the court had jurisdiction of the proceeding under federal statute.

(c) Shareholders of a corporation undergoing reorganization do not have dissenters' rights except and to the extent provided in the reorganization plan.

(Source: P.A. 83-1025.)

ARTICLE 11. MERGER AND CONSOLIDATION -DISSENTERS' RIGHTS

(805 ILCS 5/11.05)

Sec. 11.05. Procedure for merger or consolidation.

Any 2 or more corporations may merge into one of such corporations or consolidate into a new corporation in the following manner:

The board of directors of each corporation shall, by resolution adopted by a majority vote of the members of each such board, approve a plan of merger or consolidation setting forth:

(a) The names of the corporations proposing to merge or consolidate, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation or to consolidate, which is hereinafter designated as the new corporation.

(b) The terms and conditions of the proposed merger or consolidation and the mode of carrying the same into effect.

(c) The manner and basis of converting the shares of each merging or consolidating corporation into shares, obligations or other securities of the surviving or new corporation, or into shares, obligations or other securities of any other corporation which immediately before or immediately after the merger or consolidation is effected is the owner of all of the outstanding

voting securities of the corporation named as the surviving or new corporation, or into cash or other property, or into any combination of the foregoing.

(d) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger or a statement of the articles of incorporation of the new corporation.

(e) Such other provisions with respect to the proposed merger or consolidation as are deemed necessary or desirable, including provisions, if any, under which the proposed merger or consolidation may be abandoned prior to the filing of articles of merger or consolidation by the Secretary of State.

(Source: P.A. 84-924.)

(805 ILCS 5/11.10)

Sec. 11.10. Procedure for share exchange

A corporation may acquire all of the issued or outstanding shares of one or more classes of another corporation in the following manner:

The board of directors of each corporation shall, by resolution adopted by a majority vote of members of each such board, approve a plan of exchange setting forth:

(a) The name of the corporation whose shares will be acquired and the name of the acquiring corporation.

(b) The terms and conditions of the exchange.

(c) The manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring corporation or for cash or other property or for any combination of the foregoing.

(d) Other provisions considered necessary or desirable with respect to the exchange, including provisions, if any, under which the proposed exchange may be abandoned prior to the filing of articles of exchange by the Secretary of State.

This Section does not limit the power of a corporation to acquire all or part of the shares of one or more classes of another corporation through a voluntary exchange or otherwise by agreement with the shareholders.

(Source: P.A. 85-1269.)

(805 ILCS 5/11.15)

Sec. 11.15. Call of shareholders' meeting.

The board of directors of each corporation, upon approving such plan of merger, consolidation or exchange, shall, if shareholders are entitled to vote on such plan, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written notice shall be given to each shareholder of record within the time and in the manner provided by this Act for the giving of notice of meetings of shareholders. Such notice, whether the meeting be an annual or special meeting, shall include a copy or a summary of the plan of merger, consolidation or exchange, as the case may be, and shall also inform the shareholders of their right to dissent in accordance with Section 11.70 and either enclose a copy of Section 11.70 or otherwise provide adequate notice of the procedure to dissent.

(Source: P.A. 83-1025.)

(805 ILCS 5/11.20)

Sec. 11.20. Approval by shareholders.

(a) A vote of the shareholders entitled to vote on the proposed plan of merger, consolidation or exchange shall be taken. The plan of merger, consolidation or exchange shall be approved upon receiving by each corporation the affirmative votes of at least two-thirds of the votes of the shares entitled to vote on the plan unless any class or series of shares of any of such corporations is entitled to vote as a class on the plan in which event, as to such corporation, the plan of merger, consolidation or exchange shall be approved upon receiving the affirmative votes of at least two-thirds of the votes of the shares of each such class or series of shares entitled to vote as a class on the plan and of the votes of the total shares entitled to vote on the plan. Any class of shares of any such corporation shall be entitled to vote as a class if the articles of incorporation so provide or if the plan of merger, consolidation or exchange, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

(b) The articles of incorporation of any corporation may supersede the two-thirds vote requirement of this Section as to that corporation by specifying any smaller or larger vote requirement not less than a majority of the votes of the shares entitled to vote on the issue and not less than a majority of the votes of the shares of each class or series of shares entitled to vote as a class on the issue.

(c) No vote by the shareholders of a corporation that is a surviving party to a plan of merger or that is the acquiring corporation in a plan of exchange shall be required, unless its articles of incorporation provide to the contrary, if:

(1) the plan of merger or exchange does not amend in any respect the articles of incorporation of such corporation;

(2) each share of such corporation outstanding immediately prior to the effective date of the merger or exchange has the identical designations, preferences, qualifications, limitations, restrictions and special or relative rights immediately after the effective date thereof; and

(3) either no common shares of the surviving or acquiring corporation and no shares, securities or obligations convertible into such shares are to be issued or delivered under the plan of merger or exchange, or the authorized unissued common shares of the surviving or acquiring corporation to be issued or delivered under the plan of merger or plan of exchange, plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan, do not exceed 20 per cent of the common shares of such corporation outstanding immediately prior to the effective date of the merger or exchange.

(Source: P.A. 89-48, eff. 6-23-95.)

(805 ILCS 5/11.25)

Sec. 11.25. Articles of merger, consolidation or exchange.

(a) Upon such approval, articles of merger, consolidation or exchange shall be executed by each corporation and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

(1) The plan of merger, consolidation or exchange.

(2) As to each corporation:

(i) a statement that the plan was adopted at a meeting of shareholders by the affirmative vote of the holders of outstanding shares having not less than the minimum

number of votes necessary to adopt such plan, as provided by the articles of incorporation of the respective corporations; or

(ii) a statement that the plan was adopted by a consent in writing signed by the holders of outstanding shares having not less than the minimum number of votes necessary to adopt such plan, as provided by the articles of incorporation of the respective corporations, and in accordance with Section 7.10 of this Act.

(b) When the provisions of this Section have been complied with, the Secretary of State shall file the articles of merger, consolidation, or share exchange.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/11.30)

Sec. 11.30. Merger of subsidiary corporation.

(a) Any corporation, in this Section referred to as the "parent corporation", owning at least 90% of the outstanding shares of each class of shares of any other corporation or corporations, in this Section referred to as the "subsidiary corporation", may merge the subsidiary corporation or corporations into itself or into one of the subsidiary corporations, if each merging subsidiary corporation is solvent, without approval by a vote of the shareholders of the parent corporation or the shareholders of any of the merging subsidiary corporations, upon completion of the requirements of this Section.

(b) The board of directors of the parent corporation shall, by resolution, approve a plan of merger setting forth:

(1) The name of each merging subsidiary corporation and the name of the parent corporation; and

(2) The manner and basis of converting the shares of each merging subsidiary corporation not owned by the parent corporation into shares, obligations or other securities of the surviving corporation or of the parent corporation or into cash or other property or into any combination of the foregoing.

(c) A copy of such plan of merger shall be mailed to each shareholder, other than the parent corporation, of a merging subsidiary corporation who was a shareholder of record on the date of the adoption of the plan of merger, together with a notice informing such shareholders of their right to dissent and enclosing a copy of Section 11.70 or otherwise providing adequate notice of the procedure to dissent.

(d) After 30 days following the mailing of a copy of the plan of merger and notice to the shareholders of each merging subsidiary corporation, or upon the written consent to the merger or written waiver of the 30 day period by the holders of all the outstanding shares of all shares of all such subsidiary corporations, the articles of merger shall be executed by the parent corporation and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

(1) The plan of merger.

(2) The number of outstanding shares of each class of each merging subsidiary corporation and the number of such shares of each class owned immediately prior to the adoption of the plan of merger by the parent corporation.

(3) The date of mailing a copy of the plan of merger and notice of right to dissent to the shareholders of each merging subsidiary corporation.

(e) When the provisions of this Section have been complied with, the Secretary of State shall file the articles of merger.

(f) Subject to Section 11.35 and provided that all the conditions hereinabove set forth have been met, any domestic corporation may be merged into or may merge into itself any foreign corporation in the foregoing manner.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/11.31)

Sec. 11.31. Merger of mid-tier bank holding company into subsidiary bank.

(a) A mid-tier bank holding company may merge into its subsidiary in the following manner:

(1) The mid-tier bank holding company shall comply with the provisions of this Act with respect to the merger of domestic corporations, and the surviving subsidiary bank shall comply with the provisions of Section 30.5 of the Illinois Banking Act.

(2) Section 11.50 of this Act shall, insofar as it is applicable, apply to mergers between mid-tier bank holding companies and their subsidiary banks.

(b) For the purpose of this Section 11.31, "mid-tier bank holding company" means a corporation (1) that owns 100% of the issued and outstanding shares of each class of stock of a State bank, (2) that has no other subsidiaries, and (3) of which 100% of the issued and outstanding shares are owned by a parent bank holding company.

(Source: P.A. 90-301, eff. 8-1-97.)

(805 ILCS 5/11.32)

Sec. 11.32. Merger or conversion of trust company into a State bank.

(a) A trust company may merge into a State bank in the following manner:

(1) The trust company shall comply with the provisions of this Act with respect to the merger of domestic corporations, and the surviving State bank shall comply with the provisions of Section 30 of the Illinois Banking Act.

(2) Section 11.50 of this Act shall, insofar as it is applicable, apply to mergers between trust companies and State banks.

(b) Whenever a trust company shall effect a conversion into a State bank pursuant to Section 30 of the Illinois Banking Act, it shall forthwith file with the Secretary of State a copy of the certificate of conversion duly authenticated by the Commissioner of Banks and Real Estate. The filing fee shall be the same as for filing articles of merger.

(c) For the purpose of this Section 11.32, a "trust company" means a corporation organized under this Act for the purpose of accepting and executing trusts.

(Source: P.A. 90-301, eff. 8-1-97.)

(805 ILCS 5/11.35)

Sec. 11.35. Merger, consolidation or share exchange of domestic and foreign corporations.

One or more foreign corporations and one or more domestic corporations may be merged or consolidated or their shares exchanged in the following manner, provided such merger, consolidation or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this Act with respect to the merger, consolidation or exchange, as the case may be, of domestic corporations and each foreign

corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this State, it shall comply with the provisions of this Act with respect to foreign corporations if it is to do business in this State, and in every case it shall file with the Secretary of State of this State:

(1) an agreement that it may be served with process in this State in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation,

(2) an irrevocable appointment of the Secretary of State of this State as its agent to accept service of process in any such proceeding, and

(3) an agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this Act with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations.

(c) If the acquiring corporation in a share exchange is governed by the laws of any state other than this State, it shall comply with the provisions of this Act with respect to foreign corporations if it is to do business in this State and, in every case, it shall file with the Secretary of State of this State:

(1) an agreement that it may be served with process in this State in any proceeding for the enforcement of the rights of a dissenting shareholder of a domestic corporation whose shares are acquired against the acquiring corporation.

(2) an irrevocable appointment of the Secretary of State of this State as its agent to accept service of process in any such proceeding, and

(3) an agreement that it will promptly pay to the dissenting shareholders of such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this Act with respect to the rights of dissenting shareholders.

(Source: P.A. 84-1308.)

(805 ILCS 5/11.37)

Sec. 11.37. Merger of domestic or foreign corporations and domestic not for profit corporations.

(a) One or more domestic corporations or one or more foreign corporations may merge into a domestic not for profit corporation subject to the provisions of the General Not For Profit Corporation Act of 1986, as amended, provided that in the case of a foreign corporation for profit, such merger is permitted by the laws of the State or country under which such foreign corporation for profit is organized.

(b) Each domestic corporation shall comply with the provisions of this Act with respect to the merger of domestic corporations, each domestic not for profit corporation shall comply with the provisions of the General Not For Profit Corporation Act of 1986, as amended. With respect to merger of domestic not for profit corporations, each foreign corporation for profit shall comply with the laws of the state or country under which it is organized, and each foreign corporation for profit having a certificate of authority to transact business in this State under the provisions of this Act shall comply with the provisions of this Act with respect to merger of foreign corporations for profit.

(c) The plan of merger shall set forth, in addition to all matters required by Section 11.05 of this Act, the manner and basis of converting shares of each merging domestic or foreign corporation for profit into membership or other interests of the surviving domestic not for profit corporation, or into cash, or into property, or into any combination of the foregoing.

(d) The effect of a merger under this Section shall be the same as in the case of a merger of domestic corporations as set forth in subsection (a) of Section 11.50 of this Act.

(e) When such merger has been effected, the shares of the corporation or corporations to be converted under the terms of the plan cease to exist. The holders of those shares are entitled only to the membership or other interests, cash, or other property or combination thereof, into which those shares have been converted in accordance with the plan, subject to any dissenters' rights under Section 11.70 of this Act.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/11.39)

Sec. 11.39. Merger of domestic corporation and limited liability company.

(a) Any one or more domestic corporations may merge with or into one or more limited liability companies of this State, any other state or states of the United States, or the District of Columbia, if the laws of the other state or states or the District of Columbia permit the merger. The domestic corporation or corporations and the limited liability company or companies may merge with or into a corporation, which may be any one of these corporations, or they may merge with or into a limited liability company, which may be any one of these limited liability companies, which shall be a domestic corporation or limited liability company of this State, any other state of the United States, or the District of Columbia, which permits the merger pursuant to a plan of merger complying with and approved in accordance with this Section.

(b) The plan of merger must set forth the following:

(1) The names of the domestic corporation or corporations and limited liability company or companies proposing to merge and the name of the domestic corporation or limited liability company into which they propose to merge, which is designated as the surviving entity.

(2) The terms and conditions of the proposed merger and the mode of carrying the same into effect.

(3) The manner and basis of converting the shares of each domestic corporation and the interests of each limited liability company into shares, interests, obligations, other securities of the surviving entity or into cash or other property or any combination of the foregoing.

(4) In the case of a merger in which a domestic corporation is the surviving entity, a statement of any changes in the articles of incorporation of the surviving corporation to be effected by the merger.

(5) Any other provisions with respect to the proposed merger that are deemed necessary or desirable, including provisions, if any, under which the proposed merger may be abandoned prior to the filing of the articles of merger by the Secretary of State of this State.

(c) The plan required by subsection (b) of this Section shall be adopted and approved by the constituent corporation or corporations in the same manner as is provided in Sections 11.05, 11.15, and 11.20 of this Act and, in the case of a limited liability company, in accordance with the terms of its operating agreement, if any, and in accordance with the laws under which it was formed.

(d) Upon this approval, articles of merger shall be executed by each constituent corporation and limited liability company and filed with the Secretary of State and shall be recorded with

respect to each constituent corporation as provided in Section 11.45 of this Act. The merger shall become effective for all purposes of the laws of this State when and as provided in Section 11.40 of this Act with respect to the merger of corporations of this State.

(e) If the surviving entity is to be governed by the laws of the District of Columbia or any state other than this State, it shall file with the Secretary of State of this State an agreement that it may be served with process in this State in any proceeding for enforcement of any obligation of any constituent corporation or limited liability company of this State, as well as for enforcement of any obligation of the surviving corporation or limited liability company arising from the merger, including any suit or other proceeding to enforce the shareholders right to dissent as provided in Section 11.70 of this Act, and shall irrevocably appoint the Secretary of State of this State as its agent to accept service of process in any such suit or other proceedings.

(f) Section 11.50 of this Act shall, insofar as it is applicable, apply to mergers between domestic corporations and limited liability companies.

(g) In any merger under this Section, the surviving entity shall not engage in any business or exercise any power that a domestic corporation or domestic limited liability company may not otherwise engage in or exercise in this State. Furthermore, the surviving entity shall be governed by the ownership and control restrictions in Illinois law applicable to that type of entity.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/11.40)

Sec. 11.40. Effective date of merger, consolidation or exchange.

The merger, consolidation or exchange shall become effective upon filing of the articles of merger, consolidation or exchange by the Secretary of State or on a later specified date, not more than 30 days subsequent to the filing of the articles of merger, consolidation or exchange by the Secretary of State, as may be provided for in the plan.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/11.45)

Sec. 11.45. Recording of articles of merger, consolidation or exchange.

A copy of the articles of merger, consolidation or exchange as filed by the Secretary of State shall be returned to the surviving or new or acquiring corporation, as the case may be, or to its representative, and such articles, or a copy thereof certified by the Secretary of State, shall be filed for record within the time prescribed by Section 1.10 of this Act in the office of the Recorder of each county in which the registered office of each merging or consolidating or acquiring corporation may be situated, and in the case of a consolidation, in the office of the Recorder of the county in which the registered office of the new corporation shall be situated and, in the case of a share exchange, in the office of the Recorder of the county in which the registered office of the corporation whose shares were acquired shall be situated.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/11.50)

Sec. 11.50. Effect of merger, consolidation or exchange.

(a) When such merger or consolidation has been effected:

(1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, is that corporation designated in the plan of

merger as the surviving corporation, and, in the case of a consolidation, is the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation has all the rights, privileges, immunities, and powers and is subject to all the duties and liabilities of a corporation organized under this Act.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as of a public or a private nature, of each of the merging or consolidating corporations; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporations shall be impaired by such merger or consolidation.

(6) In case of a merger, the articles of incorporation of the surviving corporation are deemed to be amended to the extent, if any, that changes in its articles are stated in the articles of merger; and, in the case of a consolidation, the articles of incorporation of the new corporation are set forth in the articles of consolidation.

(b) When such merger, consolidation or exchange has been effected, the shares of the corporation or corporations to be converted or exchanged under the terms of the plan cease to exist in the case of a merger or consolidation, or are deemed to be exchanged in the case of an exchange. The holders of those shares are entitled only to the money, securities or other property into which those shares have been converted or for which those shares have been exchanged in accordance with the plan, subject to any dissenters' rights under Section 11.70 of this Act.

(c) The merger, consolidation or exchange of shares of a corporation shall not: (i) prohibit the State from prosecuting a corporation criminally by indictment, information or complaint filed subsequent to its merger, consolidation or exchange for any offenses it committed prior thereto; or (ii) abate or suspend a criminal proceeding which is pending against a corporation on the effective date of said merger, consolidation or exchange.

(d) Where a corporation has been criminally prosecuted pursuant to subsection (c) herein, and has been convicted and fined for a criminal offense, the surviving or new corporation shall be responsible for the payment of the fine only to the extent of any assets contributed to the merger, consolidation or exchange of shares by the convicted corporation, provided that the surviving or new corporation, at the time of acquisition, did not know, or have reason to know, of the criminal acts which were the basis for the criminal action. In the event the surviving or new corporation did know, or have reason to know, of the criminal acts which were the basis for the criminal action, it shall be responsible for the entire amount of the fine. Nothing herein shall prohibit the State from collecting a fine which was assessed against a corporation from a shareholder to the extent that the corporation may have distributed assets to the shareholder.

(Source: P.A. 85-1440.)

(805 ILCS 5/11.55)

Sec. 11.55. Sale, lease, exchange, or mortgage of assets in usual and regular course of business.

The sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, the property and assets of a corporation, when made in the usual and regular course of the business of the corporation, may be made upon such terms and conditions and for such considerations, which may consist, in whole or in part, of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in such case no authorization or consent of the shareholders shall be required.

(Source: P.A. 83-1025.)

(805 ILCS 5/11.60)

Sec. 11.60. Sale, lease or exchange of assets, other than in usual and regular course of business.

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist, in whole or in part, of money or property, real or personal, including shares of any other corporation, domestic or foreign, as may be authorized in the following manner:

(a) The board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each shareholder of record within the time and in the manner provided by this Act for the giving of notice of meetings of shareholders and shall also inform the shareholders of their right to dissent and either enclose a copy of Section 11.70 or otherwise provide adequate notice of the procedure to dissent. If such meeting be an annual meeting, such purpose may be included in the notice of such annual meeting.

(c) At such meeting the shareholders entitled to vote on such matter may authorize such sale, lease, exchange, or other disposition and fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require the affirmative vote of the holders of at least two-thirds of the outstanding shares entitled to vote on such matter unless any class or series of shares is entitled to vote as a class in respect thereof, in which event such authorization shall require the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class or series of shares entitled to vote as a class on such matter, and of the total outstanding shares entitled to vote on such matter.

(d) After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

(e) The articles of incorporation of a corporation may supersede the two-thirds vote requirement of this Section by specifying any smaller or larger vote requirement, not less than a majority of the outstanding shares entitled to vote on the matter and not less than a majority of the outstanding shares of each class of shares entitled to vote as a class on the matter.

(Source: P.A. 83-1025.)

(805 ILCS 5/11.65)

Sec. 11.65. Right to dissent.

(a) A shareholder of a corporation is entitled to dissent from, and obtain payment for his or her shares in the event of any of the following corporate actions:

(1) consummation of a plan of merger or consolidation or a plan of share exchange to which the corporation is a party if (i) shareholder authorization is required for the merger or consolidation or the share exchange by Section 11.20 or the articles of incorporation or (ii) the corporation is a subsidiary that is merged with its parent or another subsidiary under Section 11.30;

(2) consummation of a sale, lease or exchange of all, or substantially all, of the property and assets of the corporation other than in the usual and regular course of business;

(3) an amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

(i) alters or abolishes a preferential right of such shares;

(ii) alters or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of such shares;

(iii) in the case of a corporation incorporated prior to January 1, 1982, limits or eliminates cumulative voting rights with respect to such shares; or

(4) any other corporate action taken pursuant to a shareholder vote if the articles of incorporation, by-laws, or a resolution of the board of directors provide that shareholders are entitled to dissent and obtain payment for their shares in accordance with the procedures set forth in Section 11.70 or as may be otherwise provided in the articles, by-laws or resolution.

(b) A shareholder entitled to dissent and obtain payment for his or her shares under this Section may not challenge the corporate action creating his or her entitlement unless the action is fraudulent with respect to the shareholder or the corporation or constitutes a breach of a fiduciary duty owed to the shareholder.

(c) A record owner of shares may assert dissenters' rights as to fewer than all the shares recorded in such person's name only if such person dissents with respect to all shares beneficially owned by any one person and notifies the corporation in writing of the name and address of each person on whose behalf the record owner asserts dissenters' rights. The rights of a partial dissenter are determined as if the shares as to which dissent is made and the other shares were recorded in the names of different shareholders. A beneficial owner of shares who is not the record owner may assert dissenters' rights as to shares held on such person's behalf only if the beneficial owner submits to the corporation the record owner's written consent to the dissent before or at the same time the beneficial owner asserts dissenters' rights.

(Source: P.A. 85-1269.)

(805 ILCS 5/11.70)

Sec. 11.70. Procedure to Dissent.

(a) If the corporate action giving rise to the right to dissent is to be approved at a meeting of shareholders, the notice of meeting shall inform the shareholders of their right to dissent and the procedure to dissent. If, prior to the meeting, the corporation furnishes to the shareholders material information with respect to the transaction that will objectively enable a shareholder to vote on the transaction and to determine whether or not to exercise dissenters' rights, a

shareholder may assert dissenters' rights only if the shareholder delivers to the corporation before the vote is taken a written demand for payment for his or her shares if the proposed action is consummated, and the shareholder does not vote in favor of the proposed action.

(b) If the corporate action giving rise to the right to dissent is not to be approved at a meeting of shareholders, the notice to shareholders describing the action taken under Section 11.30 or Section 7.10 shall inform the shareholders of their right to dissent and the procedure to dissent. If, prior to or concurrently with the notice, the corporation furnishes to the shareholders material information with respect to the transaction that will objectively enable a shareholder to determine whether or not to exercise dissenters' rights, a shareholder may assert dissenter's rights only if he or she delivers to the corporation within 30 days from the date of mailing the notice a written demand for payment for his or her shares.

(c) Within 10 days after the date on which the corporate action giving rise to the right to dissent is effective or 30 days after the shareholder delivers to the corporation the written demand for payment, whichever is later, the corporation shall send each shareholder who has delivered a written demand for payment a statement setting forth the opinion of the corporation as to the estimated fair value of the shares, the corporation's latest balance sheet as of the end of a fiscal year ending not earlier than 16 months before the delivery of the statement, together with the statement of income for that year and the latest available interim financial statements, and either a commitment to pay for the shares of the dissenting shareholder at the estimated fair value thereof upon transmittal to the corporation of the certificate or certificates, or other evidence of ownership, with respect to the shares, or instructions to the dissenting shareholder to sell his or her shares within 10 days after delivery of the corporation's statement to the shareholder. The corporation may instruct the shareholder to sell only if there is a public market for the shares at which the shares may be readily sold. If the shareholder does not sell within that 10 day period after being so instructed by the corporation, for purposes of this Section the shareholder shall be deemed to have sold his or her shares at the average closing price of the shares, if listed on a national exchange, or the average of the bid and asked price with respect to the shares quoted by a principal market maker, if not listed on a national exchange, during that 10 day period.

(d) A shareholder who makes written demand for payment under this Section retains all other rights of a shareholder until those rights are cancelled or modified by the consummation of the proposed corporate action. Upon consummation of that action, the corporation shall pay to each dissenter who transmits to the corporation the certificate or other evidence of ownership of the shares the amount the corporation estimates to be the fair value of the shares, plus accrued interest, accompanied by a written explanation of how the interest was calculated.

(e) If the shareholder does not agree with the opinion of the corporation as to the estimated fair value of the shares or the amount of interest due, the shareholder, within 30 days from the delivery of the corporation's statement of value, shall notify the corporation in writing of the shareholder's estimated fair value and amount of interest due and demand payment for the difference between the shareholder's estimate of fair value and interest due and the amount of the payment by the corporation or the proceeds of sale by the shareholder, whichever is applicable because of the procedure for which the corporation opted pursuant to subsection (c).

(f) If, within 60 days from delivery to the corporation of the shareholder notification of estimate of fair value of the shares and interest due, the corporation and the dissenting shareholder have not agreed in writing upon the fair value of the shares and interest due, the corporation shall either pay the difference in value demanded by the shareholder, with interest, or file a petition in the circuit court of the county in which either the registered office or the principal office of the corporation is located, requesting the court to determine the fair value of the shares and interest due. The corporation shall make all dissenters, whether or not residents of this State, whose demands remain unsettled parties to the proceeding as an action against their shares and all parties shall be served with a copy of the petition. Nonresidents may be served by

registered or certified mail or by publication as provided by law. Failure of the corporation to commence an action pursuant to this Section shall not limit or affect the right of the dissenting shareholders to otherwise commence an action as permitted by law.

(g) The jurisdiction of the court in which the proceeding is commenced under subsection (f) by a corporation is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it.

(h) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds that the fair value of his or her shares, plus interest, exceeds the amount paid by the corporation or the proceeds of sale by the shareholder, whichever amount is applicable.

(i) The court, in a proceeding commenced under subsection (f), shall determine all costs of the proceeding, including the reasonable compensation and expenses of the appraisers, if any, appointed by the court under subsection (g), but shall exclude the fees and expenses of counsel and experts for the respective parties. If the fair value of the shares as determined by the court materially exceeds the amount which the corporation estimated to be the fair value of the shares or if no estimate was made in accordance with subsection (c), then all or any part of the costs may be assessed against the corporation. If the amount which any dissenter estimated to be the fair value of the shares materially exceeds the fair value of the shares as determined by the court, then all or any part of the costs may be assessed against that dissenter. The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable, as follows:

(1) Against the corporation and in favor of any or all dissenters if the court finds that the corporation did not substantially comply with the requirements of subsections (a), (b), (c), (d), or (f).

(2) Against either the corporation or a dissenter and in favor of any other party if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this Section.

If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated and that the fees for those services should not be assessed against the corporation, the court may award to that counsel reasonable fees to be paid out of the amounts awarded to the dissenters who are benefited. Except as otherwise provided in this Section, the practice, procedure, judgment and costs shall be governed by the Code of Civil Procedure.

(j) As used in this Section:

(1) "Fair value", with respect to a dissenter's shares, means the proportionate interest of the shareholder in the corporation, without discount for minority status or, absent extraordinary circumstance, lack of marketability, immediately before the consummation of the corporate action to which the dissenter objects excluding any appreciation or depreciation in anticipation of the corporate action, unless exclusion would be inequitable.

(2) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(Source: P.A. 94-889, eff. 1-1-07.)

Sec. 11.75. Business combinations with interested shareholders.

(a) Notwithstanding any other provisions of this Act, a corporation (as defined in this Section 11.75) shall not engage in any business combination with any interested shareholder for a period of 3 years following the time that such shareholder became an interested shareholder, unless (1) prior to such time the board of directors of the corporation approved either the business combination or the transaction which resulted in the shareholder becoming an interested shareholder, or (2) upon consummation of the transaction which resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85% of the voting shares of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer, or (3) at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of shareholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting shares which are not owned by the interested shareholder.

(b) The restrictions contained in this Section shall not apply if:

(1) the corporation's original articles of incorporation contains a provision expressly electing not to be governed by this Section;

(2) the corporation, by action of its board of directors, adopts an amendment to its by-laws within 90 days of the effective date of this amendatory Act of 1989, expressly electing not to be governed by this Section, which amendment shall not be further amended by the board of directors;

(3) the corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or by-laws expressly electing not to be governed by this Section, provided that, in addition to any other vote required by law, such amendment to the articles of incorporation or by-laws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this paragraph shall be effective immediately in the case of a corporation that both (i) has never had a class of voting shares that falls within any of the categories set out in paragraph (4) of this subsection (b) and (ii) has not elected by a provision in its original articles of incorporation or any amendment thereto to be governed by this Section. In all other cases, an amendment adopted pursuant to this paragraph shall not be effective until 12 months after the adoption of such amendment and shall not apply to any business combination between such corporation and any person who became an interested shareholder of such corporation on or prior to such adoption. A by-law amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

(4) the corporation does not have a class of voting shares that is (i) listed on a national securities exchange, (ii) authorized for quotation on the NASDAQ Stock Market or (iii) held of record by more than 2,000 shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder;

(5) a shareholder becomes an interested shareholder inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the shareholder ceases to be an interested shareholder and (ii) would not, at any time within the 3 year period immediately prior to a business combination between the corporation and such shareholder, have been an interested shareholder but for the inadvertent acquisition of ownership;

(6) the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required hereunder of

a proposed transaction which (i) constitutes one of the transactions described in the second sentence of this paragraph; (ii) is with or by a person who either was not an interested shareholder during the previous 3 years or who became an interested shareholder with the approval of the corporation's board of directors or during the period described in paragraph (7) of this subsection (b); and (iii) is approved or not opposed by a majority of the members of the board of directors then in office (but not less than 1) who were directors prior to any person becoming an interested shareholder during the previous 3 years or were recommended for election or elected to succeed such directors by a majority of such directors. The proposed transactions referred to in the preceding sentence are limited to (x) a merger or consolidation of the corporation (except for a merger in respect of which, pursuant to subsection (c) of Section 11.20 of this Act, no vote of the shareholders of the corporation is required); (y) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation (other than to any direct or indirect wholly-owned subsidiary or to the corporation) having an aggregate market value equal to 50% or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding shares of the corporation; or (z) a proposed tender or exchange offer for 50% or more of the outstanding voting shares of the corporation. The corporation shall give not less than 20 days notice to all interested shareholders prior to the consummation of any of the transactions described in clauses (x) or (y) of the second sentence of this paragraph; or

(7) The business combination is with an interested shareholder who became an interested shareholder at a time when the restrictions contained in this Section did not apply by reason of any of the paragraphs (1) through (4) of this subsection (b), provided, however, that this paragraph (7) shall not apply if, at the time the interested shareholder became an interested shareholder, the corporation's articles of incorporation contained a provision authorized by the last sentence of this subsection (b). Notwithstanding paragraphs (1), (2), (3) and (4) of this subsection and subparagraph (A) of paragraph (5) of subsection (c), any domestic corporation may elect by a provision of its original articles of incorporation or any amendment thereto to be governed by this Section, provided that any such amendment to the articles of incorporation shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation if the interested shareholder became such prior to the effective date of the amendment.

(c) As used in this Section 11.75 only, the term:

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(2) "Associate" when used to indicate a relationship with any person, means (i) any corporation, partnership, unincorporated association, or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting shares, (ii) any trust or other estate in which such person has at least a 20% beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) "Business combination" when used in reference to any corporation and any interested shareholder of such corporation, means:

(A) any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with (i) the interested shareholder, or (ii) with any other corporation if the merger or consolidation is caused by the interested shareholder and as a result of such merger or consolidation subsection (a) of this Section is not applicable to the surviving corporation;

(B) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a shareholder of such corporation, to or with the interested shareholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation which assets have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding shares of the corporation;

(C) any transaction which results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any shares of the corporation or of such subsidiary to the interested shareholder, except (i) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares of such corporation or any such subsidiary which securities were outstanding prior to the time that the interested shareholder became such, (ii) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares of such corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of shares of such corporation subsequent to the time the interested shareholder became such, (iii) pursuant to an exchange offer by the corporation to purchase shares made on the same terms to all holders of said shares, or (iv) any issuance or transfer of shares by the corporation, provided however, that in no case under clauses (ii), (iii) and (iv) above shall there be an increase in the interested shareholder's proportionate share of the shares of any class or series of the corporation or of the voting shares of the corporation;

(D) any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation which has the effect, directly or indirectly, of increasing the proportionate share of the shares of any class or series, or securities convertible into the shares of any class or series, of the corporation or of any such subsidiary which is owned by the interested shareholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of any class or series not caused, directly or indirectly, by the interested shareholder; or

(E) any receipt by the interested shareholder of the benefit, directly or indirectly (except proportionately as a shareholder of such corporation) of any loans, advances, guarantees, pledges, or other financial benefits (other than those expressly permitted in subparagraphs (A) through (D) of this paragraph (3)) provided by or through the corporation or any direct or indirect majority owned subsidiary; or

(F) any receipt by the interested shareholder of the benefit, directly or indirectly, (except proportionately as a shareholder of such corporation) of any assets, loans, advances, guarantees, pledges or other financial benefits (other than those expressly permitted in subparagraphs (A) through (D) of this paragraph (3)) provided by or through any "defined benefit pension plan" (as defined in Section 3 of the Employee Retirement Income Security Act) of the corporation or any direct or indirect majority owned subsidiary.

(4) "Control", including the term "controlling", "controlled by" and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract or otherwise. A person who is the owner of 20% or more of the outstanding voting shares of any corporation, partnership, unincorporated association, or other entity shall be presumed to have control of such entity, in the absence of proof by preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds voting shares, in good faith and not for the purpose of circumventing this Section, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) "Corporation" means a domestic corporation that:

(A) has any equity securities registered under Section 12 of the Securities Exchange Act of 1934 or is subject to Section 15(d) of that Act; and

(B) either

(i) has its principal place of business or its principal executive office located in Illinois; or

(ii) owns or controls assets located within Illinois that have a fair market value of at least \$1,000,000, and

(C) either

(i) has more than 10% of its shareholders resident in Illinois;

(ii) has more than 10% of its shares owned by Illinois residents; or

(iii) has 2,000 shareholders resident in Illinois.

The residence of a shareholder is presumed to be the address appearing in the records of the corporation. Shares held by banks (except as trustee, executor or guardian), securities dealers or nominees are disregarded for purposes of calculating the percentages and numbers in this paragraph (5).

(6) "Interested shareholder" means any person (other than the corporation and any direct or indirect majority-owned subsidiary of the corporation) that (i) is the owner of 15% or more of the outstanding voting shares of the corporation, or (ii) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting shares of the corporation at any time within the 3 year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder; and the affiliates and associates of such person, provided, however, that the term "interested shareholder" shall not include (x) any person who (A) owned shares in excess of the 15% limitation set forth herein as of, or acquired such shares pursuant to a tender offer commenced prior to the effective date of this amendatory Act of 1989 or pursuant to an exchange offer announced prior to the aforesaid date and commenced within 90 days thereafter and either (I) continued to own shares in excess of such 15% limitation or would have but for action by the corporation or (II) is an affiliate or associate of the corporation and so continued (or so would have continued but for action by the corporation) to be the owner of 15% or more of the outstanding voting shares of the corporation at any time within the 3-year period immediately prior to the date on which it is sought to be determined whether such a person is an interested shareholder or (B) acquired said shares from a person described in (A) above by gift, inheritance or in a transaction in which no consideration was exchanged; or (y) any person whose ownership of shares in excess of the 15% limitation set forth herein is the result of action taken solely by the corporation, provided that such person shall be an interested shareholder if thereafter such person acquires additional shares of voting shares of the corporation, except as a result of further corporate action not caused, directly or indirectly, by such person. For the purpose of determining whether a person is an interested shareholder, the voting shares of the corporation deemed to be outstanding shall include shares deemed to be owned by the person through application of paragraph (9) of this subsection, but shall not include any other unissued shares of such corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(7) "Person" means any individual, corporation, partnership, unincorporated association or other entity.

(7.5) "Shares" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(8) "Voting shares" means, with respect to any corporation, shares of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in its election of the governing body of the entity.

(9) "Owner" including the terms "own" and "owned" when used with respect to any shares means a person that individually or with or through any of its affiliates or associates:

(A) beneficially owns such shares, directly or indirectly; or

(B) has (i) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the owner of shares tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered shares is accepted for purchase or exchange; or (ii) the right to vote such shares pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the owner of any shares because of such person's right to vote such shares if the agreement, arrangement or understanding to vote such shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(C) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in clause (ii) of subparagraph (B) of this paragraph), or disposing of such shares with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such shares.

(d) No provision of a certificate of incorporation or by-law shall require, for any vote of shareholders required by this Section a greater vote of shareholders than that specified in this Section.

(e) The provisions of this Section 11.75 are severable and any provision held invalid shall not affect or impair any of the remaining provisions of this Section.

(Source: P.A. 93-59, eff. 7-1-03.)

ARTICLE 12. DISSOLUTION AND REMEDIES

(805 ILCS 5/12.05)

Sec. 12.05. Voluntary dissolution by incorporators or by initial directors.

Dissolution of a corporation may be authorized either by a majority of incorporators if initial directors were not named in the articles of incorporation or have not been elected, or by a majority of the directors if initial directors were named in the articles of incorporation or have been elected, provided that:

(a) None of the shares of the corporation have been issued.

(b) The amount, if any, actually paid in on the subscriptions to the shares of the corporation, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(c) No debts of the corporation remain unpaid.

(d) Written notice of the election to dissolve the corporation has been given to all incorporators or all directors, as the case may be, not less than three days before the execution of articles of dissolution.

(Source: P.A. 83-1025.)

(805 ILCS 5/12.10)

Sec. 12.10. Voluntary dissolution by written consent of all shareholders.

Dissolution of a corporation may be authorized by the unanimous consent in writing of the holders of all outstanding shares entitled to vote on dissolution.

Dissolution pursuant to this Section does not require any vote or action of the directors of the corporation.

(Source: P.A. 83-1025.)

(805 ILCS 5/12.15)

Sec. 12.15. Voluntary dissolution by vote of shareholders.

Dissolution of a corporation may be authorized by a vote of shareholders, in the following manner:

(a) Either:

(1) The board of directors shall adopt a resolution, which may be with or without their recommendation, proposing that the corporation be dissolved voluntarily, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or special meeting, or

(2) Holders of not less than one-fifth of the votes of the shares entitled to vote on dissolution may, in writing, propose the dissolution of the corporation to the board of directors; if the directors fail or refuse to call a meeting of shareholders to consider such proposal for more than one year after delivery thereof, the shareholders proposing dissolution may call a meeting of the shareholders to consider such proposal.

(b) Written notice stating that the purpose, or one of the purposes, of the shareholders' meeting is to consider the voluntary dissolution of the corporation, shall be given to each shareholder whether or not entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of shareholders. If such meeting be an annual meeting, such purpose may be included in the notice of such annual meeting.

(c) At such meeting a vote of the shareholders entitled to vote on dissolution shall be taken on the resolution to dissolve voluntarily the corporation, which shall require for its adoption the affirmative votes of at least two-thirds of the votes of the shares entitled to vote on dissolution, unless any class of shares is entitled to vote as a class in respect thereof, in which event the resolution shall require for its adoption the affirmative votes of at least two-thirds of the votes of the shares of each class of shares entitled to vote as a class in respect thereof and of the votes of the total shares entitled to vote on dissolution.

(d) The articles of incorporation of any corporation may supersede the two thirds vote requirement of subsection (c) as to that corporation by specifying any smaller or larger vote requirement not less than a majority of the votes of the shares entitled to vote on dissolution and not less than a majority of the votes of the shares of any class entitled to vote as a class on dissolution.

(Source: P.A. 89-48, eff. 6-23-95.)

(805 ILCS 5/12.20) (from Ch. 32, par. 12.20)

Sec. 12.20. Articles of dissolution.

(a) When a voluntary dissolution has been authorized as provided by this Act, articles of dissolution shall be executed and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

- (1) The name of the corporation.
- (2) The date dissolution was authorized.
- (3) A post-office address to which may be mailed a copy of any process against the corporation that may be served on the Secretary of State.
- (4) A statement of the aggregate number of issued shares of the corporation itemized by classes and series, if any, within a class, as of the date of execution.
- (5) A statement of the amount of paid-in capital of the corporation as of the date of execution.
- (6) Such additional information as may be necessary or appropriate in order to determine any unpaid fees or franchise taxes payable by such corporation as in this Act prescribed.
- (7) Where dissolution is authorized pursuant to Section 12.05, a statement that a majority of incorporators or majority of directors, as the case may be, have consented to the dissolution and that all provisions of Section 12.05 have been complied with.
- (8) Where dissolution is authorized pursuant to Section 12.10, a statement that the holders of all the outstanding shares entitled to vote on dissolution have consented thereto.
- (9) Where dissolution is authorized pursuant to Section 12.15, a statement that a resolution proposing dissolution has been adopted at a meeting of shareholders by the affirmative vote of the holders of outstanding shares having not less than the minimum number of votes necessary to adopt such resolution as provided by the articles of incorporation.

(b) When the provisions of this Section have been complied with, the Secretary of State shall file the articles of dissolution.

(c) The dissolution is effective on the date of the filing of the articles thereof by the Secretary of State.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/12.25)

Sec. 12.25. Revocation of Dissolution.

(a) A corporation may revoke its dissolution within 60 days of the effective date of dissolution if the corporation has not begun to distribute its assets or has not commenced a proceeding for court-supervision of its winding up under Section 12.50.

(b) The corporation's board of directors, or its incorporators if shares have not been issued and the initial directors have not been designated, may revoke the dissolution without shareholder action.

(c) Within 60 days after the dissolution has been revoked by the corporation, articles of revocation of dissolution shall be executed and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

- (1) The name of the corporation.
- (2) The effective date of the dissolution that was revoked.

(3) A statement that the corporation has not begun to distribute its assets nor has it commenced a proceeding for court-supervision of its winding up.

(4) The date the revocation of dissolution was authorized.

(5) A statement that the corporation's board of directors (or incorporators) revoked the dissolution.

(d) When the provisions of this Section have been complied with, the Secretary of State shall file the articles of revocation of dissolution. Failure to file the revocation of dissolution as required in subsection (c) hereof shall not be grounds for the Secretary of State to reject the filing, but the corporation filing beyond the time period shall pay a penalty as prescribed by this Act.

(e) The revocation of dissolution is effective on the date of filing thereof by the Secretary of State and shall relate back and take effect as of the date of dissolution and the corporation may resume carrying on business as if dissolution had never occurred.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/12.30)

Sec. 12.30. Effect of dissolution.

(a) Dissolution of a corporation terminates its corporate existence and a dissolved corporation shall not thereafter carry on any business except that necessary to wind up and liquidate its business and affairs, including:

(1) Collecting its assets;

(2) Disposing of its assets that will not be distributed in kind to its shareholders;

(3) Giving notice in accordance with Section 12.75 and discharging or making provision for discharging its liabilities;

(4) Distributing its remaining assets among its shareholders according to their interests; and

(5) Doing such other acts as are necessary to wind up and liquidate its business and affairs.

(b) After dissolution, a corporation may transfer good and merchantable title to its assets as authorized by its board of directors or in accordance with its by-laws.

(c) Dissolution of a corporation does not:

(1) Transfer title to the corporation's assets;

(2) Prevent transfer of its shares or securities, provided, however, the authorization to dissolve may provide for closing the corporation's share transfer books;

(3) Effect any change in the by-laws of the corporation or otherwise affect the regulation of the affairs of the corporation except that all action shall be directed to winding up the business and affairs of the corporation;

(4) Prevent suit by or against the corporation in its corporate name;

(5) Abate or suspend a criminal, civil or any other proceeding pending by or against the corporation on the effective date of dissolution.

(Source: P.A. 85-1344.)

(805 ILCS 5/12.35)

Sec. 12.35. Grounds for administrative dissolution.

The Secretary of State may dissolve any corporation administratively if:

(a) It has failed to file its annual report or final transition annual report and pay its franchise tax as required by this Act before the first day of the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the corporation of the year in which such annual report becomes due and such franchise tax becomes payable;

(b) it has failed to file in the office of the Secretary of State any report after the expiration of the period prescribed in this Act for filing such report;

(c) it has failed to pay any fees, franchise taxes, or charges prescribed by this Act;

(d) it has misrepresented any material matter in any application, report, affidavit, or other document filed by the corporation pursuant to this Act;

(e) it has failed to appoint and maintain a registered agent in this State;

(f) it has tendered payment to the Secretary of State which is returned due to insufficient funds, a closed account, or for any other reason, and acceptable payment has not been subsequently tendered;

(g) upon the failure of an officer or director to whom interrogatories have been propounded by the Secretary of State as provided in this Act, to answer the same fully and to file such answer in the office of the Secretary of State; or

(h) if the answer to such interrogatories discloses, or if the fact is otherwise ascertained, that the proportion of the sum of the paid-in capital of such corporation represented in this State is greater than the amount on which such corporation has theretofore paid fees and franchise taxes, and the deficiency therein is not paid.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/12.40)

Sec. 12.40. Procedure for administrative dissolution.

(a) After the Secretary of State determines that one or more grounds exist under Section 12.35 for the administrative dissolution of a corporation, he or she shall send by regular mail to each delinquent corporation a Notice of Delinquency to its registered office, or, if the corporation has failed to maintain a registered office, then to the president or other principal officer at the last known office of said officer.

(b) If the corporation does not correct the default described in paragraphs (a) through (e) of Section 12.35 within 90 days following such notice, the Secretary of State shall thereupon dissolve the corporation by issuing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. If the corporation does not correct the default described in paragraphs (f) through (h) of Section 12.35, within 30 days following such notice, the Secretary of State shall thereupon dissolve the corporation by issuing a certificate of dissolution as herein prescribed. The Secretary of State shall file the original of the certificate in his or her office, mail one copy to the corporation at its registered office or, if the corporation has failed to maintain a registered office, then to the president or other principal officer at the last known office of said officer, and file one copy for record in the office of the recorder of the county in which the registered office of the corporation in this State is situated, to be recorded by such recorder. The recorder shall submit for payment to the Secretary of State, on a quarterly basis, the amount of filing fees incurred.

(c) The administrative dissolution of a corporation terminates its corporate existence and such a dissolved corporation shall not thereafter carry on any business, provided however, that such a dissolved corporation may take all action authorized under Section 12.75 or necessary to wind up and liquidate its business and affairs under Section 12.30.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/12.45)

Sec. 12.45. Reinstatement following administrative dissolution.

(a) A domestic corporation administratively dissolved under Section 12.40 may be reinstated by the Secretary of State following the date of issuance of the certificate of dissolution upon:

(1) The filing of an application for reinstatement.

(2) The filing with the Secretary of State by the corporation of all reports then due and theretofore becoming due.

(3) The payment to the Secretary of State by the corporation of all fees, franchise taxes, and penalties then due and theretofore becoming due.

(b) The application for reinstatement shall be executed and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

(1) The name of the corporation at the time of the issuance of the certificate of dissolution.

(2) If such name is not available for use as determined by the Secretary of State at the time of filing the application for reinstatement, the name of the corporation as changed, provided however, and any change of name is properly effected pursuant to Section 10.05 and Section 10.30 of this Act.

(3) The date of the issuance of the certificate of dissolution.

(4) The address, including street and number, or rural route number of the registered office of the corporation upon reinstatement thereof, and the name of its registered agent at such address upon the reinstatement of the corporation, provided however, that any change from either the registered office or the registered agent at the time of dissolution is properly reported pursuant to Section 5.10 of this Act.

(c) When a dissolved corporation has complied with the provisions of this Sec the Secretary of State shall file the application for reinstatement.

(d) Upon the filing of the application for reinstatement, the corporate existence shall be deemed to have continued without interruption from the date of the issuance of the certificate of dissolution, and the corporation shall stand revived with such powers, duties and obligations as if it had not been dissolved; and all acts and proceedings of its officers, directors and shareholders, acting or purporting to act as such, which would have been legal and valid but for such dissolution, shall stand ratified and confirmed.

(Source: P.A. 94-605, eff. 1-1-06.)

(805 ILCS 5/12.50)

Sec. 12.50. Grounds for judicial dissolution in actions by nonshareholders.

(a) A Circuit Court may dissolve a corporation:

(1) In an action by the Attorney General, if it is established that:

(i) The corporation obtained its certificate of incorporation through fraud; or

(ii) The corporation has continued to exceed or abuse the authority conferred upon it by law, or has continued to violate the law, after notice of the same has been given to such corporation, either personally or by registered mail; or

(iii) Any interrogatory propounded by the Secretary of State to the corporation, its officers or directors, as provided in this Act, has been answered falsely or has not been

answered fully within 30 days after the mailing of such interrogatories by the Secretary of State or within such extension of time as shall have been authorized by the Secretary of State.

(2) In an action by a creditor, if it is established that:

(i) The creditor's claim has been reduced to judgment, a copy of the judgment has been returned unsatisfied, and the corporation is insolvent; or

(ii) The corporation has admitted in writing that the creditor's claim is due and owing, and the corporation is insolvent.

(3) In an action by the corporation to dissolve under court supervision, if it is established that dissolution is reasonably necessary because the business of the corporation can no longer be conducted to the general advantage of its shareholders.

(b) As an alternative to dissolution, the court may order any of the other remedies contained in subsection (b) of Section 12.55.

(Source: P.A. 89-169, eff. 7-19-95; 89-364, eff. 8-18-95.)

(805 ILCS 5/12.55)

Sec. 12.55. Shareholder remedies: public corporations.

(a) In an action by a shareholder of a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the Circuit Court may order one or more of the remedies listed in subsection (b) if it is established that:

(1) The directors are deadlocked, whether because of even division in the number of directors or because of greater than majority voting requirements in the articles of incorporation or the by-laws, in the management of the corporate affairs; the shareholders are unable to break the deadlock; and either irreparable injury to the corporation is thereby caused or threatened or the business of the corporation can no longer be conducted to the general advantage of the shareholders; or

(2) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive or fraudulent with respect to the petitioning shareholder; or

(3) The corporate assets are being misapplied or wasted.

(b) In an action under subsection (a), the court may order the following relief:

(1) The appointment of a custodian to manage the business and affairs of the corporation to serve for the term and under the conditions prescribed by the court;

(2) The appointment of a provisional director to serve for the term and under the conditions prescribed by the court; or

(3) The dissolution of the corporation.

(c) The court, at any time during the pendency of the action and upon the motion of the complaining shareholder, may order the corporation to purchase the shares of the petitioning shareholder at a fair price determined by the court, with or without the assistance of appraisers, and payable in cash or in installments and with or without such security other than personal commitments of other shareholders as the court may direct.

(d) Either the corporation or any shareholder or group of shareholders may, any time after the filing of an action for dissolution pursuant to subdivision (b)(3), petition the court to purchase the shares of a complaining shareholder and, unless the court finds such procedure to be inequitable, the court shall determine the fair value of the shares as of such date as the court finds equitable. In

so doing, the court shall follow the procedures set forth for appraisal of shares under Section 11.70 and shall thereafter dismiss the action.

(e) Nothing in this Section limits the equitable powers of the court to order other relief.

(Source: P.A. 89-169; eff. 7-19-95; 89-364, eff. 8-18-95; 89-626, eff. 8-9-96.)

(805 ILCS 5/12.56)

Sec. 12.56. Shareholder remedies: non-public corporations.

(a) In an action by a shareholder in a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the Circuit Court may order one or more of the remedies listed in subsection (b) if it is established that:

(1) The directors are deadlocked, whether because of even division in the number of directors or because of greater than majority voting requirements in the articles of incorporation or the by-laws or otherwise, in the management of the corporate affairs; the shareholders are unable to break the deadlock; and either irreparable injury to the corporation is thereby caused or threatened or the business of the corporation can no longer be conducted to the general advantage of the shareholders; or

(2) The shareholders are deadlocked in voting power and have failed, for a period that includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have expired and either irreparable injury to the corporation is thereby caused or threatened or the business of the corporation can no longer be conducted to the general advantage of the shareholders; or

(3) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent with respect to the petitioning shareholder whether in his or her capacity as a shareholder, director, or officer; or

(4) The corporation assets are being misapplied or wasted.

(b) The relief which the court may order in an action under subsection (a) includes but is not limited to the following:

(1) The performance, prohibition, alteration, or setting aside of any action of the corporation or of its shareholders, directors, or officers of or any other party to the proceedings;

(2) The cancellation or alteration of any provision in the corporation's articles of incorporation or by-laws;

(3) The removal from office of any director or officer;

(4) The appointment of any individual as a director or officer;

(5) An accounting with respect to any matter in dispute;

(6) The appointment of a custodian to manage the business and affairs of the corporation to serve for the term and under the conditions prescribed by the court;

(7) The appointment of a provisional director to serve for the term and under the conditions prescribed by the court;

(8) The submission of the dispute to mediation or other forms of non-binding alternative dispute resolution;

(9) The payment of dividends;

(10) The award of damages to any aggrieved party;

(11) The purchase by the corporation or one or more other shareholders of all, but not less than all, of the shares of the petitioning shareholder for their fair value and on the terms determined under subsection (e); or

(12) The dissolution of the corporation if the court determines that no remedy specified in subdivisions (1) through (11) or other alternative remedy is sufficient to resolve the matters in dispute. In determining whether to dissolve the corporation, the court shall consider among other relevant evidence the financial condition of the corporation but may not refuse to dissolve the corporation solely because it has accumulated earnings or current operating profits.

(c) The remedies set forth in subsection (b) shall not be exclusive of other legal and equitable remedies which the court may impose.

(d) In determining the appropriate relief to order pursuant to this Section, the court may take into consideration the reasonable expectations of the corporation's shareholders as they existed at the time the corporation was formed and developed during the course of the shareholders' relationship with the corporation and with each other.

(e) If the court orders a share purchase, it shall:

(i) Determine the fair value of the shares, with or without the assistance of appraisers, taking into account any impact on the value of the shares resulting from the actions giving rise to a petition under this Section;

(ii) Consider any financial or legal constraints on the ability of the corporation or the purchasing shareholder to purchase the shares;

(iii) Specify the terms of the purchase, including, if appropriate, terms for installment payments, interest at the rate and from the date determined by the court to be equitable, subordination of the purchase obligation to the rights of the corporation's other creditors, security for a deferred purchase price, and a covenant not to compete or other restriction on the seller;

(iv) Require the seller to deliver all of his or her shares to the purchaser upon receipt of the purchase price or the first installment of the purchase price; and

(v) Retain jurisdiction to enforce the purchase order by, among other remedies, ordering the corporation to be dissolved if the purchase is not completed in accordance with the terms of the purchase order.

For purposes of this subsection (e), "fair value", with respect to a petitioning shareholder's shares, means the proportionate interest of the shareholder in the corporation, without any discount for minority status or, absent extraordinary circumstances, lack of marketability.

The purchase ordered pursuant to this subsection (e) shall be consummated within 20 days after the date the order becomes final unless before that time the corporation files with the court a notice of its intention to dissolve and articles of dissolution are properly filed with the Secretary of State within 50 days after filing the notice with the court.

After the purchase order is entered and before the purchase price is fully paid, any party may petition the court to modify the terms of the purchase and the court may do so if it finds that such changes are equitable.

Unless the purchase order is modified by the court, the selling shareholder shall have no further rights as a shareholder from the date the seller delivers all of his or her shares to the purchaser or such other date specified by the court.

If the court orders shares to be purchased by one or more other shareholders, in allocating the shares to be purchased by the other shareholders, unless equity requires otherwise, the court shall attempt to preserve the existing distribution of voting rights and other designations, preferences, qualifications, limitations, restrictions and special or relative rights among the holders of the class

or classes and may direct that holders of a specific class or classes shall not participate in the purchase.

(f) When the relief requested by the petition includes the purchase of the petitioner's shares, then at any time within 90 days after the filing of the petition under this Section, or at such time determined by the court to be equitable, the corporation or one or more shareholders may elect to purchase all, but not less than all, of the shares owned by the petitioning shareholder for their fair value. An election pursuant to this Section shall state in writing the amount which the electing party will pay for the shares.

(1) The election shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2) If the election to purchase is filed by one or more shareholders, the corporation shall, within 10 days thereafter, give written notice to all shareholders. The notice must state: (i) the name and number of shares owned by the petitioner; (ii) the name and number of shares owned by each electing shareholder; and (iii) the amount which each electing party will pay for the shares and must advise the recipients of their right to join in the election to purchase shares. Shareholders who wish to participate must file notice of their intention to join in a purchase no later than 30 days after the date of the notice to them or at such time as the court in its discretion may allow. 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.

(3) The court in its discretion may allow the corporation and all non-petitioning shareholders to file an election to purchase the petitioning shareholder's shares at a higher price. If the court does so, it shall allow other shareholders an opportunity to join in the purchase at the higher price in accordance with their proportionate ownership interest.

(4) After an election has been filed by the corporation or one or more shareholders, the proceeding filed under this Section may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of his or her shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit the discontinuance, settlement, sale, or other disposition. In considering whether equity exists to approve any settlement, the court may take into consideration the reasonable expectations of the shareholders as set forth in subsection (d), including any existing agreement among the shareholders.

(5) If, within 30 days of the filing of the latest election allowed by the court, 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 petitioner's shares upon the terms and conditions agreed to by the parties.

(6) If the parties are unable to reach an agreement as provided for in paragraph (5) of this subsection (f), the court, upon application of any party, shall stay the proceeding under subsection (a) and shall determine the fair value of the petitioner's shares pursuant to subsection (e) as of the day before the date on which the petition under subsection (a) was filed or as of such other date as the court deems appropriate under the circumstances.

(g) In any proceeding under this Section, the court shall allow reasonable compensation to the custodian, provisional director, appraiser, or other such person appointed by the court for services rendered and reimbursement or direct payment of reasonable costs and expenses, which amounts shall be paid by the corporation.

(Source: P.A. 94-394, eff. 8-1-05; 94-889, eff. 1-1-07.)

Sec. 12.60. Practice in actions under Section 12.50, 12.55, and 12.56.

(a) The practice in actions under Sections 12.50, 12.55, and 12.56 shall be the same as in other civil actions except as may be otherwise provided in this Act. Every action under Section 12.50, 12.55, or 12.56 shall be commenced in the circuit court of the county in which either the registered office or principal office of the corporation is located. Summons shall issue and be served as in other civil actions.

(b) In an action brought by the Attorney General under subsection (a) of Section 12.50, if process is returned not found, the Attorney General shall cause publication to be made as in other civil actions in a newspaper of general circulation published in the county in which the action is filed. The publication shall contain a notice of the pendency of such action, the title of the court, the title of the case, and the date on or after which default may be entered. The Attorney General may include in one notice the names of any number of corporations against which actions are then pending in the same court. The Attorney General shall cause a copy of such notice to be mailed to the corporation at its registered office within 10 days after the first publication thereof. The certificate of the Attorney General of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two consecutive weeks and the first publication thereof may begin at any time after summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than 30 days after the first publication of such notice.

(c) It is not necessary to make shareholders of the corporation named in an action under Section 12.50, 12.55, or 12.56 parties to any such action or proceeding unless relief is sought against them personally. The court, in its discretion, may order that the shareholders be made parties.

(d) The circuit court in an action under Section 12.50, 12.55, or 12.56 may issue injunctions, appoint an interim receiver with such powers and duties as the court, from time to time, may direct, and take such other action as is necessary or desirable to preserve the corporate assets and carry on the business of the corporation until a full hearing can be had. Sections 12.50, 12.55, and 12.56 shall not be construed as limiting the equitable powers of the court in ordering interim or permanent relief.

(e) Upon ordering dissolution under Section 12.50, 12.55, or 12.56, and after such notice as the court may direct to be given to all parties to the proceeding and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by shareholders on account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver shall have authority, subject to order of court, to sell, convey, and dispose of all or any part of the assets of the corporation, either at public or private sale, and to make such other action as is necessary to wind up and liquidate the corporation's business and affairs under Section 12.30 and to notify known claimants under Section 12.75. The order appointing such liquidating receiver shall state his or her powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings by the court.

(f) A receiver of a corporation appointed under the provisions of this Section shall have authority to sue and defend in all courts in his or her own name as receiver of such corporation.

(g) A receiver shall in all cases be a resident of this State or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this State, and shall give such bond as the court may direct with such sureties as the court may require.

(h) During the pendency of the action, the court may redesignate a receiver as a custodian, or a custodian as a receiver, if such would be to the general advantage of the corporation, its shareholders and its creditors.

(i) The court shall allow reasonable compensation to the receiver or the custodian for services rendered and reimbursement or direct payment of reasonable expenses from the assets of the corporation or the proceeds of sale of the assets.

(j) If the court finds that a party to any proceeding under Section 12.50, 12.55, or 12.56 acted arbitrarily, vexatiously, or otherwise not in good faith, it may award one or more other parties their reasonable expenses, including counsel fees and the expenses of appraisers or other experts, incurred in the proceeding.

(Source: P.A. 89-169, eff. 7-19-95; 89-364, eff. 8-18-95.)

(805 ILCS 5/12.65)

Sec. 12.65. Order of dissolution.

(a) If, after a hearing, the court orders dissolution pursuant to Section 12.50, 12.55, or 12.56, it shall enter an order dissolving the corporation and the clerk of the court shall deliver a certified copy of the order to the Secretary of State, who shall file the order, and to the recorder of the county in which the registered office of the corporation is located, who shall record the order.

(b) After entering the order of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with Section 12.30 and the notification of its known claimants in accordance with Section 12.75 and shall retain jurisdiction until the same is complete.

(Source: P.A. 89-169, eff. 7-19-95; 89-364, eff. 8-18-95.)

(805 ILCS 5/12.70)

Sec. 12.70. Deposit of amount due certain shareholders.

Upon the distribution of the assets of a corporation among its shareholders, the distributive portion to which a shareholder would be entitled who is unknown or can not be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be presumed abandoned and reported and delivered to the State Treasurer and become subject to the provision of the Uniform Disposition of Unclaimed Property Act. In the event such distribution be made other than in cash, such distributive portion of the assets shall be reduced to cash before being so reported and delivered.

(Source: P.A. 91-16, eff. 7-1-99.)

(805 ILCS 5/12.75)

Sec. 12.75. Known claims against dissolved corporation.

(a) A dissolved corporation may bar any known claim against it, its directors, officers, employees or agents, or its shareholders or their transferees, by following the procedures set forth in subsections (b) and (c) of this Section.

A claimant that does not deliver its claim by the deadline established pursuant to subsection (b) or that does not file suit by the deadline established pursuant to subsection (c) shall have no further rights against the dissolved corporation, its directors, officers, employees or agents, or its shareholders or their transferees.

(b) Within 60 days from the effective date of dissolution, the dissolved corporation shall send a notification to the claimant setting forth the following information:

(1) The corporation has been dissolved and the effective date thereof.

(2) The mailing address to which the claimant must send its claim and the essential information to be submitted with the claim.

(3) The deadline, not less than 120 days from the effective date of dissolution, by which the dissolved corporation must receive the claim.

(4) A statement that the claim will be barred if not received by the deadline.

(c) If, after complying with the procedure in subsection (b), the dissolved corporation rejects the claim in whole or in part, the dissolved corporation shall notify the claimant of such rejection and shall also notify the claimant that the claim shall be barred unless the claimant files suit to enforce the claim within a deadline not less than 90 days from the date of the rejection notice.

(d) For purposes of this Section, "claim" does not include any contingent liability or a claim arising after the effective date of dissolution or a claim arising from the failure of the corporation to pay any tax, penalty, or interest related to any tax or penalty.

(e) This Section shall not apply to claims arising out of violations of the criminal law.

(Source: P.A. 85-1344.)

(805 ILCS 5/12.80)

Sec. 12.80. Survival of remedy after dissolution.

The dissolution of a corporation either (1) by filing articles of dissolution in accordance with Section 12.20 of this Act, (2) by the issuance of a certificate of dissolution in accordance with Section 12.40 of this Act, (3) by a judgment of dissolution by a circuit court of this State, or (4) by expiration of its period of duration, shall not take away nor impair any civil remedy available to or against such corporation, its directors, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within five years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/12.85)

Sec. 12.85. Criminal prosecution of dissolved corporation.

The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the Secretary of State, or (2) by a judgment of dissolution by a circuit court of this State, or (3) by expiration of its period of duration, shall not: (a) Prohibit the State from prosecuting said corporation criminally by indictment, information or complaint filed subsequent to its dissolution for any offenses committed prior to dissolution; or (b) Abate or suspend a criminal proceeding which is pending against the corporation on the effective date of dissolution.

(Source: P.A. 85-1344.)

ARTICLE 13. FOREIGN CORPORATIONS

(805 ILCS 5/13.05)

Sec. 13.05. Admission of foreign corporation.

Except as provided in Article V of the Illinois Insurance Code, a foreign corporation organized for profit, before it transacts business in this State, shall procure authority so to do from the Secretary of State. A foreign corporation organized for profit, upon complying with the provisions of this Act, may secure from the Secretary of State the authority to transact business in this State, but no foreign corporation shall be entitled to procure authority under this Act to act as trustee, executor, administrator, administrator to collect, or guardian, or in any other like fiduciary capacity in this State or to transact in this State the business of banking, insurance, suretyship, or a business of the character of a building and loan corporation. A foreign professional service corporation may secure authority to transact business in this State from the Secretary of State upon complying with this Act and demonstrating compliance with the Act regulating the professional service to be rendered by the professional service corporation. However, no foreign professional service corporation shall be granted authority unless it complies with the requirements of the Professional Service Corporation Act concerning ownership and control by specified licensed professionals. These professionals must be licensed in the state of domicile or this State. A foreign corporation shall not be denied authority by reason of the fact that the laws of the state under which such corporation is organized governing its organization and internal affairs differ from the laws of this State, and nothing in this Act contained shall be construed to authorize this State to regulate the organization or the internal affairs of such corporation.

(Source: P.A. 91-593, eff. 8-14-99; 92-33, eff. 7-1-01.)

(805 ILCS 5/13.10)

Sec. 13.10. Powers of foreign corporation.

No foreign corporation shall transact in this State any business which a corporation organized under the laws of this State is not permitted to transact. A foreign corporation which shall have received authority to transact business under this Act shall, until a certificate of revocation has been issued or an application for withdrawal shall have been filed as provided in this Act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such authority is granted; and, except as in Section 13.05 otherwise provided with respect to the organization and internal affairs of a foreign corporation and except as elsewhere in this Act otherwise provided, shall be subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.15)

Sec. 13.15. Application for authority.

(a) A foreign corporation, in order to procure authority to transact business in this State, shall execute and file in duplicate an application therefor, in accordance with Section 1.10 of this Act, and shall also file a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the state or country wherein it is incorporated. Such application shall set forth:

- (1) The name of the corporation, with any additions thereto required in order to comply with Section 4.05 of this Act together with the state or country under the laws of which it is organized.
- (2) The date of its incorporation and the period of its duration.

(3) The address, including street and number, or rural route number, of its principal office.

(4) The address, including street and number, if any, of its proposed registered office in this State, and the name of its proposed registered agent in this State at such address.

(5) (Blank.)

(6) The purpose or purposes for which it was organized which it proposes to pursue in the transaction of business in this State.

(7) The names and respective addresses, including street and number, or rural route number, of its directors and officers.

(8) A statement of the aggregate number of shares which it has authority to issue, itemized by classes, and series, if any, within a class.

(9) A statement of the aggregate number of its issued shares itemized by classes, and series, if any, within a class.

(10) A statement of the amount of paid-in capital of the corporation, as defined in this Act.

(11) An estimate, expressed in dollars, of the value of all the property to be owned by it for the following year, wherever located, and an estimate of the value of the property to be located within this State during such year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by it during such year and an estimate of the gross amount thereof which will be transacted by it at or from places of business in this State during such year.

(12) In the case of telegraph, telephone, cable, railroad, or pipe line corporations, the total length of such telephone, telegraph, cable, railroad, or pipe line and the length of the line located in this State, and the total value of such line and the value of such line in this State.

(13) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine whether such corporation is entitled to be granted authority to transact business in this State and to determine and assess the franchise taxes, fees, and charges payable as in this Act prescribed.

(b) Such application shall be made on forms prescribed and furnished by the Secretary of State.

(c) When the provisions of this Section have been complied with, the Secretary of State shall file the application for authority.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.20)

Sec. 13.20. Effect of authority.

Upon the filing of the application for authority by the Secretary of State, the corporation shall have the right to transact business in this State for those purposes set forth in its application, subject, however, to the right of this State to revoke such right to transact business in this State as provided in this Act.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.25)

Sec. 13.25. Change of name by foreign corporation.

Whenever a foreign corporation which is admitted to transact business in this State shall change its name to one under which authority to transact business in this State would not be granted to it on application therefor, the authority of such corporation to transact business in this State shall be suspended and it shall not thereafter transact any business in this State until it has changed its name to a name which is available to it under the laws of this State or until it has adopted an assumed corporate name in accordance with Section 4.15 of this Act.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.30)

Sec. 13.30. Amendment to articles of incorporation of foreign corporation.

Each foreign corporation authorized to transact business in this State, whenever its articles of incorporation are amended, shall forthwith file in the office of the Secretary of State a copy of such amendment duly authenticated by the proper officer of the State or country under the laws of which such corporation is organized; but the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in the transaction of business in this State, nor authorize such corporation to transact business in this State under any other name than the name set forth in its application for authority, nor extend the duration of its corporate existence.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.35)

Sec. 13.35. Merger of foreign corporation authorized to transact business in this state.

Whenever a foreign corporation authorized to transact business in this State shall be a party to a statutory merger permitted by the laws of the state or country under which it is organized, and such corporation shall be the surviving corporation, it shall forthwith file with the Secretary of State a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either new or amended authority to transact business in this State unless the name of such corporation or the duration of its corporate existence be changed thereby or unless the corporation desires to pursue in this State other or additional purposes than those which it is then authorized to transact in this State.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.40)

Sec. 13.40. Amended authority.

A foreign corporation authorized to transact business in this State shall secure amended authority to do so in the event it changes its corporate name, changes the duration of its corporate existence, or desires to pursue in this State other or additional purposes than those set forth in its prior application for authority, by making application therefor to the Secretary of State.

The application shall set forth:

- (1) The name of the corporation, with any additions required in order to comply with Section 4.05 of this Act, together with the state or country under the laws of which it is organized.

(2) The change to be effected.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/13.45)

Sec. 13.45. Withdrawal of foreign corporation.

A foreign corporation authorized to transact business in this State may withdraw from this State upon filing with the Secretary of State an application for withdrawal. In order to procure such withdrawal, the foreign corporation shall:

(a) execute and file in duplicate, in accordance with Section 1.10 of this Act, an application for withdrawal and a final report, which shall set forth:

(1) that no proportion of its issued shares is, on the date of the application, represented by business transacted or property located in this State;

(2) that it surrenders its authority to transact business in this State;

(3) that it revokes the authority of its registered agent in this State to accept service of process and consents that service of process in any suit, action, or proceeding based upon any cause of action arising in this State during the time the corporation was licensed to transact business in this State may thereafter be made on the corporation by service on the Secretary of State;

(4) a post-office address to which may be mailed a copy of any process against the corporation that may be served on the Secretary of State;

(5) the name of the corporation and the state or country under the laws of which it is organized;

(6) a statement of the aggregate number of issued shares of the corporation itemized by classes, and series, if any, within a class, as of the date of the final report;

(7) a statement of the amount of paid-in capital of the corporation as of the date of the final report; and

(8) such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine and assess any unpaid fees or franchise taxes payable by the foreign corporation as prescribed in this Act; or

(b) if it has been dissolved, file a copy of the articles of dissolution duly authenticated by the proper officer of the state or country under the laws of which the corporation was organized; or

(c) if it has been the non-survivor of a statutory merger and the surviving corporation was a foreign corporation which had not obtained authority to transact business in this State, file a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which the corporation was organized.

The application for withdrawal and the final report shall be made on forms prescribed and furnished by the Secretary of State.

When the corporation has complied with subsection (a) of this Section, the Secretary of State shall file the application for withdrawal and mail a copy of the application to the corporation or its representative. If the provisions of subsection (b) of this Section have been followed, the Secretary of State shall file the copy of the articles of dissolution in his or her office.

Upon the filing of the application for withdrawal or copy of the articles of dissolution, the authority of the corporation to transact business in this State shall cease.

(Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/13.50)

Sec. 13.50. Grounds for revocation of authority.

The authority of a foreign corporation to transact business in this State may be revoked by the Secretary of State:

(a) Upon the failure of an officer or director to whom interrogatories have been propounded by the Secretary of State as provided in this Act, to answer the same fully and to file such answer in the office of the Secretary of State.

(b) If the answer to such interrogatories discloses, or if the fact is otherwise ascertained, that the proportion of the sum of the paid-in capital of such corporation represented in this State is greater than the amount on which such corporation has theretofore paid fees and franchise taxes, and the deficiency therein is not paid.

(c) If the corporation for a period of one year has transacted no business and has had no tangible property in this State as revealed by its annual reports.

(d) Upon the failure of the corporation to keep on file in the office of the Secretary of State duly authenticated copies of each amendment to its articles of incorporation.

(e) Upon the failure of the corporation to appoint and maintain a registered agent in this State.

(f) Upon the failure of the corporation to file for record in the office of the recorder of the county in which its registered office is situated, any appointment of registered agent.

(g) Upon the failure of the corporation to file any report after the period prescribed by this Act for the filing of such report.

(h) Upon the failure of the corporation to pay any fees, franchise taxes, or charges prescribed by this Act.

(i) For misrepresentation of any material matter in any application, report, affidavit, or other document filed by such corporation pursuant to this Act.

(j) Upon the failure of the corporation to renew its assumed name or to apply to change its assumed name pursuant to the provisions of this Act, when the corporation can only transact business within this State under its assumed name in accordance with the provisions of Section 4.05 of this Act.

(k) When under the provisions of the "Consumer Fraud and Deceptive Business Practices Act" a court has found that the corporation substantially and willfully violated such Act.

(l) Upon tender of payment to the Secretary of State which is subsequently returned due to insufficient funds, a closed account, or any other reason, and acceptable payment has not been subsequently tendered.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/13.55)

Sec. 13.55. Procedure for revocation of authority.

(a) After the Secretary of State determines that one or more grounds exist under Section 13.50 for the revocation of authority of a foreign corporation, he or she shall send by regular mail to each delinquent corporation a Notice of Delinquency to its registered office, or, if the corporation has failed to maintain a registered office, then to the president or other principal officer at the last known office of said officer.

(b) If the corporation does not correct the default described in paragraphs (c) through (k) of Section 13.50 within 90 days following such notice, the Secretary of State shall thereupon revoke the authority of the corporation by issuing a certificate of revocation that recites the grounds for revocation and its effective date. If the corporation does not correct the default described in

paragraph (a), (b), or (l) of Section 13.50, within 30 days following such notice, the Secretary of State shall thereupon revoke the authority of the corporation by issuing a certificate of revocation as herein prescribed. The Secretary of State shall file the original of the certificate in his or her office, mail one copy to the corporation at its registered office or, if the corporation has failed to maintain a registered office, then to the president or other principal officer at the last known office of said officer, and file one copy for record in the office of the recorder of the county in which the registered office of the corporation in this State is situated, to be recorded by such recorder. The recorder shall submit for payment to the Secretary of State, on a quarterly basis, the amount of filing fees incurred.

(c) Upon the issuance of the certificate of revocation, the authority of the corporation to transact business in this State shall cease and such revoked corporation shall not thereafter carry on any business in this State.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/13.60)

Sec. 13.60. Reinstatement following revocation.

(a) A foreign corporation revoked under Section 13.55 may be reinstated by the Secretary of State following the date of issuance of the certificate of revocation upon:

(1) The filing of an application for reinstatement.

(2) The filing with the Secretary of State by the corporation of all reports then due and theretofore becoming due.

(3) The payment to the Secretary of State by the corporation of all fees, franchise taxes, and penalties then due and theretofore becoming due.

(b) The application for reinstatement shall be executed and filed in duplicate in accordance with Section 1.10 of this Act and shall set forth:

(1) The name of the corporation at the time of the issuance of the certificate of revocation.

(2) If such name is not available for use as determined by the Secretary of State at the time of filing the application for reinstatement, the name of the corporation as changed; provided, however, that any change of name is properly effected pursuant to Section 13.30 and Section 13.40 of this Act.

(3) The date of the issuance of the certificate of revocation.

(4) The address, including street and number, or rural route number, of the registered office of the corporation upon reinstatement thereof, and the name of its registered agent at such address upon the reinstatement of the corporation; provided, however, that any change from either the registered office or the registered agent at the time of revocation is properly reported pursuant to Section 5.10 of this Act.

(c) When a revoked corporation has complied with the provisions of this Section, the Secretary of State shall file the application for reinstatement.

(d) Upon the filing of the application for reinstatement, the authority of the corporation to transact business in this State shall be deemed to have continued without interruption from the date of the issuance of the certificate of revocation, and the corporation shall stand revived as if its authority had not been revoked; and all acts and proceedings of its officers, directors and shareholders, acting or purporting to act as such, which would have been legal and valid but for such revocation, shall stand ratified and confirmed.

(Source: P.A. 94-605, eff. 1-1-06.)

(805 ILCS 5/13.65)

Sec. 13.65. Application to corporations heretofore qualified to transact business in this state.

Foreign corporations which have been duly authorized to transact business in this State at the time this Act takes effect, for a purpose or purposes for which a corporation might secure such authority under this Act, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring authority to transact business in this State under this Act, and from the time this Act takes effect such corporation shall be subject to all the limitations, restrictions, liabilities, and duties prescribed herein for foreign corporations procuring under this Act authority to transact business in this State.

(Source: P.A. 83-1025.)

(805 ILCS 5/13.70)

Sec. 13.70. Transacting business without authority.

(a) No foreign corporation transacting business in this State without authority to do so is permitted to maintain a civil action in any court of this State, until the corporation obtains that authority. Nor shall a civil action be maintained in any court of this State by any successor or assignee of the corporation on any right, claim or demand arising out of the transaction of business by the corporation in this State, until authority to transact business in this State is obtained by the corporation or by a corporation that has acquired all or substantially all of its assets.

(b) The failure of a foreign corporation to obtain authority to transact business in this State does not impair the validity of any contract or act of the corporation, and does not prevent the corporation from defending any action in any court of this State.

(c) A foreign corporation that transacts business in this State without authority is liable to this State, for the years or parts thereof during which it transacted business in this State without authority, in an amount equal to all fees, franchise taxes, penalties and other charges that would have been imposed by this Act upon the corporation had it duly applied for and received authority to transact business in this State as required by this Act, but failed to pay the franchise taxes that would have been computed thereon, and thereafter filed all reports required by this Act; and, if a corporation fails to file an application for authority within 60 days after it commences business in this State, in addition thereto it is liable for a penalty of either 10% of the filing fee, license fee and franchise taxes or \$200 plus \$5.00 for each month or fraction thereof in which it has continued to transact business in this State without authority therefor, whichever penalty is greater. The Attorney General shall bring proceedings to recover all amounts due this State under this Section.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/13.75)

Sec. 13.75. Activities that do not constitute transacting business.

Without excluding other activities that may not constitute doing business in this State, a foreign corporation shall not be considered to be transacting business in this State, for purposes of this Article 13, by reason of carrying on in this State any one or more of the following activities:

- (1) maintaining, defending, or settling any proceeding;

- (2) holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
- (5) selling through independent contractors;
- (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if orders require acceptance outside this State before they become contracts;
- (7) (blank);
- (8) (blank);
- (9) owning, without more, real or personal property;
- (10) conducting an isolated transaction that is completed within 120 days and that is not one in the course of repeated transactions of a like nature; or
- (11) having a corporate officer or director who is a resident of this State.

(Source: P.A. 93-59, eff. 7-1-03.)

ARTICLE 14. REPORTS

(805 ILCS 5/14.01)

Sec. 14.01. Statement of election to establish an extended filing month.

(a) Each domestic corporation and each foreign corporation authorized to transact business in this State, having reported on its last annual report, or articles of incorporation in the case of a domestic corporation, or application for certificate of authority in the case of a foreign corporation, an amount less than 100% of its paid-in capital represented in Illinois, may make an irrevocable, one time election to establish an extended filing month for the purpose of filing annual reports for all subsequent taxable years by filing pursuant to Section 1.10 within the time prescribed by subsection (c) of this Section, a statement setting forth:

- (1) The name of the corporation.
- (2) The file number of the corporation as assigned by the Secretary of State.
- (3) The state or country under whose laws it was organized, the date of incorporation or the date of the issuance of its certificate of authority, if a foreign corporation.
- (4) The date of the fiscal year end immediately preceding this election.
- (5) The extended filing month, which month may be any month in 1991 or a subsequent year which is one of the 9 months consecutively following the end of the corporation's fiscal year, except that such month may not be one of the 2 months immediately preceding the corporation's anniversary month.

Notwithstanding the foregoing, a corporation whose fiscal year ends within the 2 months immediately preceding its anniversary month may not elect an extended filing month.

(b) The statement of election shall be accompanied by an interim annual report which shall set forth, as of the date of filing of the statement, all of the information required pursuant to Section 14.05 of this Act to be included in the annual report except that the information required by subparagraph (h) of Section 14.05 shall be the amounts represented in this State as disclosed by the preceding annual report or if no annual report is on file, from information contained in the

articles of incorporation of a domestic corporation or the application for certificate of authority in the case of a foreign corporation.

(c) The statement of election and interim annual report referred to in this Section, together with all fees, taxes and charges as prescribed by this Act and prorated in accordance with Section 15.45 or 15.75, shall be delivered to the Secretary of State within 60 days immediately preceding the first day of the anniversary month of the corporation in 1991 or any subsequent year. Proof to the satisfaction of the Secretary of State that prior to the first day of the anniversary month of the corporation such statement of election and interim annual report together with all fees, taxes and charges as prescribed by this Act, were deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the Secretary of State finds that such statement and reports conform to the requirements of this Act, he or she shall file the same. If he or she finds that they do not so conform, he or she shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply if such statement, if applicable, and report are corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days of the date the report was returned for corrections.

(d) Subsequent to the filing of the statement of election and the interim annual report, the corporation shall file within 60 days prior to the extended filing month a final transition annual report reflecting the factual information required by Section 14.05, and must pay the appropriate fees and franchise taxes due, if any, or set forth the amount of any overpayment to be credited against any other taxes applicable under this Act which may thereafter be payable, in each case based on any difference which may exist between its interim annual report and its final transition annual report. Compliance with this Section establishes a new reporting period for documents required under Article 14 of this Act.

(Source: P.A. 86-985.)

(805 ILCS 5/14.05)

Sec. 14.05. Annual report of domestic or foreign corporation.

Each domestic corporation organized under any general law or special act of this State authorizing the corporation to issue shares, other than homestead associations, building and loan associations, banks and insurance companies (which includes a syndicate or limited syndicate regulated under Article V 1/2 of the Illinois Insurance Code or member of a group of underwriters regulated under Article V of that Code), and each foreign corporation (except members of a group of underwriters regulated under Article V of the Illinois Insurance Code) authorized to transact business in this State, shall file, within the time prescribed by this Act, an annual report setting forth:

- (a) The name of the corporation.
- (b) The address, including street and number, or rural route number, of its registered office in this State, and the name of its registered agent at that address.
- (c) The address, including street and number, or rural route number, of its principal office.
- (d) The names and respective addresses, including street and number, or rural route number, of its directors and officers.
- (e) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class.
- (f) A statement of the aggregate number of issued shares, itemized by classes, and series, if any, within a class.

(g) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as defined in this Act.

(h) Either a statement that (1) all the property of the corporation is located in this State and all of its business is transacted at or from places of business in this State, or the corporation elects to pay the annual franchise tax on the basis of its entire paid-in capital, or (2) a statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property located within this State, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation and the gross amount thereof transacted by the corporation at or from places of business in this State as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the anniversary month or in the case of a corporation which has established an extended filing month, as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the extended filing month; however, in the case of a domestic corporation that has not completed its first fiscal year, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of incorporation and the last day of the third month preceding the anniversary month. In the case of a foreign corporation that has not been authorized to transact business in this State for a period of 12 months and has not commenced transacting business prior to obtaining authority, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of its authorization to transact business in this State and the last day of the third month preceding the anniversary month. If the data referenced in item (2) of this subsection is not completed, the franchise tax provided for in this Act shall be computed on the basis of the entire paid-in capital.

(i) A statement, including the basis therefor, of status as a "minority owned business" or as a "female owned business" as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(j) Additional information as may be necessary or appropriate in order to enable the Secretary of State to administer this Act and to verify the proper amount of fees and franchise taxes payable by the corporation.

The annual report shall be made on forms prescribed and furnished by the Secretary of State, and the information therein required by paragraphs (a) through (d), both inclusive, of this Section, shall be given as of the date of the execution of the annual report and the information therein required by paragraphs (e), (f) and (g) of this Section shall be given as of the last day of the third month preceding the anniversary month, except that the information required by paragraphs (e), (f) and (g) shall, in the case of a corporation which has established an extended filing month, be given in its final transition annual report and each subsequent annual report as of the close of its fiscal year immediately preceding its extended filing month. It shall be executed by the corporation by its president, a vice-president, secretary, assistant secretary, treasurer or other officer duly authorized by the board of directors of the corporation to execute those reports, and verified by him or her, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by the receiver or trustee.

(Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59, 7-1-03.)

(805 ILCS 5/14.10)

Sec. 14.10. Filing of annual report of domestic or foreign corporation.

Such annual report together with all fees, taxes and charges as prescribed by this Act, shall be delivered to the Secretary of State within 60 days immediately preceding the first day of the

anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the corporation each year. Proof to the satisfaction of the Secretary of State that prior to the first day of the anniversary month or the extended filing month of the corporation such report together with all fees, taxes and charges as prescribed by this Act, was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the Secretary of State finds that such report conforms to the requirements of this Act, he or she shall file the same. If he or she finds that it does not so conform, he or she shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days of the date the report was returned for corrections.

(Source: P.A. 86-985.)

(805 ILCS 5/14.15)

Sec. 14.15. First report of issuance of shares.

The articles of incorporation of each domestic corporation shall be deemed to be the first report of the issuance of shares of such corporation. For the purpose of determining the initial franchise tax of such corporation, and for the purpose of determining the annual franchise tax thereafter until the basis therefor is changed in a manner provided in this Act, but for no other purpose, the shares which the articles of incorporation state the corporation proposes to issue without further report to the Secretary of State shall be deemed to be issued at the date of the filing of such articles of incorporation. For such purposes, but for no other purpose, the consideration which the articles of incorporation state is to be received by the corporation therefor shall be deemed to have been received by the corporation for such shares.

(Source: P.A. 86-985.)

(805 ILCS 5/14.20)

Sec. 14.20. Reports of issuance of shares and increases in paid-in capital.

(a) Each domestic corporation, and each foreign corporation authorized to transact business in this State, after: the issuance of any share not previously reported to the Secretary of State as having been issued; an increase in the amount of its paid-in capital without the issuance of shares; an exchange or reclassification of its shares resulting in an increase in the amount of its paid-in capital; or the issuance of any shares of the acquiring corporation in a share exchange, shall execute and file in accordance with Section 1.10 of this Act, a report setting forth:

- (1) The name of the corporation and the state or country under the laws of which it is organized.
- (2) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, and series, if any, within a class.
- (3) A statement of the aggregate number of issued shares as last reported to the Secretary of State in any document required by this Act to be filed, other than an annual report, itemized by classes and series, if any, within a class.
- (4) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as last reported to the Secretary of State in any document required by this Act to be filed, other than an annual report.

(5) A statement of the aggregate number of shares issued by the corporation not theretofore reported to the Secretary of State as having been issued, together with the date or dates of the issuance thereof, and a statement, expressed in dollars, of the value of the entire consideration received, less expenses, including commissions, paid or incurred in connection with the issuance, for, or on account of, the issuance of the shares, the statement to be itemized by classes, and series, if any, within a class; and in the case of shares issued as a share dividend, the amount added or transferred to the paid-in capital of the corporation for, or on account of, the issuance of the shares.

(6) A statement, expressed in dollars, of the amount added or transferred to paid-in capital of the corporation without the issuance of shares, together with the date or dates on which the addition or transfer was made.

(7) In case of an exchange or reclassification of issued shares resulting in an increase in the amount of paid-in capital a statement of the date or dates on which the exchange or reclassification was made and the manner in which it was effected, and a statement, expressed in dollars, of the amount added or transferred to the paid-in capital of the corporation as a result thereof, except any portion thereof reported under any other paragraph of this subsection as a part of the consideration received by the corporation for, or on account of, its issued shares.

(8) If the consideration received for the issuance of any shares not theretofore reported as having been issued consists of labor or services performed or of property, other than cash, then a statement, expressed in dollars, of the value of that consideration as fixed by the board of directors.

(9) A statement of the aggregate number of issued shares itemized by classes and series, if any, within a class, after giving effect to the changes reported.

(10) A statement, expressed in dollars, of the amount of paid-in capital of the corporation after giving effect to the changes reported.

(b) In the case of issuances of shares or increases in paid-in capital that occur either prior to January 1, 1991 or on or prior to the last day of the third month immediately preceding the corporation's anniversary month in 1991, the report shall be filed within 60 days after the issuance or increase. In the case of issuances of shares or increases that occur after both December 31, 1990 and the last day of such third month, the issuances or increases shall be reported under Section 14.30 at the time required by that Section.

(c) No additional license fees or franchise taxes shall be payable upon the filing of the report to the extent that license fees or franchise taxes shall have been previously paid by the corporation in respect of shares previously issued which are being exchanged for the shares the issuance of which is being reported, provided those facts are shown in the report.

(d) The report shall be made on forms prescribed and furnished by the Secretary of State.

(Source: P.A. 86-985; 86-1217.)

(805 ILCS 5/14.25)

Sec. 14.25. Report following merger or cancellation of shares/reduction in paid-in capital.

(a) Each domestic corporation and each foreign corporation authorized to transact business in this State that is a party to a statutory merger and is the surviving corporation, or that effects the cancellation of its shares, or that effects a reduction in its paid-in capital in connection with the cancellation of its shares, as permitted by this Act, and does not report that event to the Secretary of State by any other report required by this Act to be filed; and each domestic corporation that is the new corporation in a consolidation, shall execute and file, in accordance with Section 1.10 of this Act, a report setting forth:

(1) The name of the corporation and the state or country under the laws of which it is organized.

(2) A statement of the event.

(3) A statement of the aggregate number of issued shares of the corporation as last reported to the Secretary of State in any document required to be filed by this Act, other than an annual report, itemized by classes and series, if any, within a class.

(4) A statement of the aggregate number of issued shares of the corporation after giving effect to the change, itemized by classes, and series, if any, within a class.

(5) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as last reported to the Secretary of State in any document required to be filed by this Act, other than an annual report, interim annual report or final transition annual report.

(6) A statement, expressed in dollars, of the amount of paid-in capital of the corporation after giving effect to the change.

(7) In case of a statutory merger, an estimate, expressed in dollars, of the value of all property to be owned by it for the following year, wherever located, and an estimate of the value of the property to be located within this State during that year, and an estimate, expressed in dollars, of the gross amount of business which will be transacted by it during that year and an estimate of the gross amount thereof which will be transacted by it at or from places of business in this State during that year.

(b) In the case of a statutory merger, consolidation, cancellation of shares, or reduction in paid-in capital that occurs either prior to January 1, 1991 or on or prior to the last day of the third month immediately preceding the corporation's anniversary month in 1991, the report shall be filed within 60 days after that event. In the case of a cancellation of shares or reduction in paid-in capital that occurs after both December 31, 1990 and the last day of the third month immediately preceding the corporation's anniversary month in 1991, the event shall be reported under Section 14.30 at the time required by that Section and not under this Section. In the case of a statutory merger or consolidation that occurs after both December 31, 1990 and the last day of the third month immediately preceding the corporation's anniversary month in 1991, the event shall be reported under Section 14.35 at the time required by that Section and not under this Section.

(c) The report shall be made on forms prescribed and furnished by the Secretary of State.

(d) Until the report shall have been filed in the office of the Secretary of State, the basis of the annual franchise tax payable by the corporation shall not be reduced; provided, however, in no event shall the annual franchise tax for any taxable year be reduced if the report is not filed prior to the first day of the anniversary month or the extended filing month of the corporation of that taxable year and before payment of its annual franchise tax.

(Source: P.A. 86-985; 86-1217.)

(805 ILCS 5/14.30)

Sec. 14.30. Cumulative report of changes in issued shares or paid-in capital.

(a) Each domestic corporation and each foreign corporation authorized to transact business in this State that effects any change in the number of issued shares or the amount of paid-in capital that has not theretofore been reported in any report other than an annual report, interim annual report, or final transition annual report, shall execute and file, in accordance with Section 1.10 of this Act, a report with respect to the changes in its issued shares or paid-in capital:

(1) that have occurred subsequent to the last day of the third month preceding its anniversary month in the preceding year and prior to the first day of the second month immediately preceding its anniversary month in the current year; or

(2) in the case of a corporation that has established an extended filing month, that have occurred during its fiscal year; or

(3) in the case of a statutory merger or consolidation or an amendment to the corporation's articles of incorporation that affects the number of issued shares or the amount of paid-in capital, that have occurred between the last day of the third month immediately preceding its anniversary month and the date of the merger, consolidation, or amendment or, in the case of a corporation that has established an extended filing month, that have occurred between the first day of its fiscal year and the date of the merger, consolidation, or amendment; or

(4) in the case of a statutory merger or consolidation or an amendment to the corporation's articles of incorporation that affects the number of issued shares or the amount of paid-in capital, that have occurred between the date of the merger, consolidation, or amendment (but not including the merger, consolidation, or amendment) and the first day of the second month immediately preceding its anniversary month in the current year, or in the case of a corporation that has established an extended filing month, that have occurred between the date of the merger, consolidation or amendment (but not including the merger, consolidation or amendment) and the last day of its fiscal year.

(b) The corporation shall file the report required under subsection (a) not later than (i) the time its annual report is required to be filed in 1992 and in each subsequent year and (ii) not later than the time of filing the articles of merger, consolidation, or amendment to the articles of incorporation that affects the number of issued shares or the amount of paid-in capital of a domestic corporation or the certified copy of merger of a foreign corporation.

(c) The report shall net decreases against increases that occur during the same taxable period. The report shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is organized.

(2) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class.

(3) A statement of the aggregate number of issued shares as last reported to the Secretary of State in any document required or permitted by this Act to be filed, other than an annual report, interim annual report or final transition annual report, itemized by classes and series, if any, within a class.

(4) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as last reported to the Secretary of State in any document required or permitted by this Act to be filed, other than an annual report, interim annual report or final transition annual report.

(5) A statement, if applicable, of the aggregate number of shares issued by the corporation not theretofore reported to the Secretary of State as having been issued, and a statement, expressed in dollars, of the value of the entire consideration received, less expenses, including commissions, paid or incurred in connection with the issuance, for, or on account of, the issuance of the shares, itemized by classes, and series, if any, within a class; and in the case of shares issued as a share dividend, the amount added or transferred to the paid-in capital of the corporation for, or on account of, the issuance of the shares; provided, however, that the report shall also include the date of each issuance made prior to the current reporting period, and the number of issued shares and consideration received in each case.

(6) A statement, if applicable, expressed in dollars, of the amount added or transferred to paid-in capital of the corporation without the issuance of shares; provided, however, that the report shall also include the date of each increase made prior to the current reporting period, and the consideration received in each case.

(7) In case of an exchange or reclassification of issued shares resulting in an increase in the amount of paid-in capital, a statement of the manner in which it was effected, and a statement, expressed in dollars, of the amount added or transferred to the paid-in capital of the corporation as a result thereof, except any portion thereof reported under any other subsection of this Section as a part of the consideration received by the corporation for, or on account of, its issued shares; provided, however, that the report shall also include the date of each exchange or reclassification made prior to the current reporting period and the consideration received in each case.

(8) If the consideration received for the issuance of any shares not theretofore reported as having been issued consists of labor or services performed or of property, other than cash, then a statement, expressed in dollars, of the value of that consideration as fixed by the board of directors.

(9) In the case of a cancellation of shares or a reduction in paid-in capital made pursuant to Section 9.20, the aggregate reduction in paid-in capital; provided, however, that the report shall also include the date of each reduction made prior to the current reporting period.

(10) A statement of the aggregate number of issued shares itemized by classes and series, if any, within a class, after giving effect to the changes reported.

(11) A statement, expressed in dollars, of the amount of paid-in capital of the corporation after giving effect to the changes reported.

(d) No additional license fees or franchise taxes shall be payable upon the filing of the report to the extent that license fees or franchise taxes shall have been previously paid by the corporation in respect of shares previously issued which are being exchanged for the shares the issuance of which is being reported, provided those facts are shown in the report.

(e) The report shall be made on forms prescribed and furnished by the Secretary of State.

(f) Until the report under this Section or a report under Section 14.25 shall have been filed in the Office of the Secretary of State showing a reduction in paid-in capital, the basis of the annual franchise tax payable by the corporation shall not be reduced, provided, however, in no event shall the annual franchise tax for any taxable year be reduced if the report is not filed prior to the first day of the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the corporation of that taxable year and before payment of its annual franchise tax.

(Source: P.A. 90-421, eff. 1-1-98.)

(805 ILCS 5/14.35)

Sec. 14.35. Report following merger or consolidation.

(a) Whenever a domestic corporation or a foreign corporation authorized to transact business in this State is the surviving corporation in a statutory merger or whenever a domestic corporation is the new corporation in a consolidation, it shall, within 60 days after the effective date of the event, if the effective date occurs after both December 31, 1990 and the last day of the third month immediately preceding its anniversary month in 1991, execute and file in accordance with Section 1.10 of this Act, a report setting forth:

(1) The name of the corporation and the state or country under the laws of which it is organized.

(2) A description of the merger or consolidation.

(3) A statement itemized by classes and series, if any, within a class of the aggregate number of issued shares of the corporation as last reported to the Secretary of State in any

document required to be filed by this Act, other than an annual report, interim annual report, or final transition annual report.

(4) A statement itemized by classes and series, if any, within a class of the aggregate number of issued shares of the corporation after giving effect to the change.

(5) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as last reported to the Secretary of State in any document required to be filed by this Act, other than an annual report, interim annual report, or final transition annual report.

(6) A statement, expressed in dollars, of the amount of paid-in capital of the corporation after giving effect to the merger or consolidation, which amount, except as provided in subsection (f) of Section 9.20 of this Act, must be at least equal to the sum of the paid-in capital amounts of the merged or consolidated corporations before the event.

(7) Additional information concerning each of the constituent corporations that was a party to a merger or consolidation as may be necessary or appropriate to verify the proper amount of fees and franchise taxes payable by the corporation.

(b) The report shall be made on forms prescribed and furnished by the Secretary of State.

(Source: P.A. 91-464, eff. 1-1-00; 92-33, eff. 7-1-01.)

ARTICLE 15. FEES, FRANCHISE TAXES AND CHARGES

(805 ILCS 5/15.05)

Sec. 15.05. Fees, franchise taxes, and charges to be collected by Secretary of State.

The Secretary of State shall charge and collect in accordance with the provisions of this Act:

- (a) Fees for filing documents.
- (b) License fees.
- (c) Franchise taxes.
- (d) Miscellaneous charges.
- (e) Fees for filing annual reports.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/15.10)

(Text of Section from P.A. 93-32)

Sec. 15.10. Fees for filing documents.

The Secretary of State shall charge and collect for:

- (a) Filing articles of incorporation, \$150.
- (b) Filing articles of amendment, \$50, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be \$150.
- (c) Filing articles of merger or consolidation, \$100, but if the merger or consolidation involves more than 2 corporations, \$50 for each additional corporation.
- (d) Filing articles of share exchange, \$100.
- (e) Filing articles of dissolution, \$5.
- (f) Filing application to reserve a corporate name, \$25.

- (g) Filing a notice of transfer of a reserved corporate name, \$25.
- (h) Filing statement of change of address of registered office or change of registered agent, or both, if other than on an annual report, \$25.
- (i) Filing statement of the establishment of a series of shares, \$25.
- (j) Filing an application of a foreign corporation for authority to transact business in this State, \$150.
- (k) Filing an application of a foreign corporation for amended authority to transact business in this State, \$25.
- (l) Filing a copy of amendment to the articles of incorporation of a foreign corporation holding authority to transact business in this State, \$50, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be \$150.
- (m) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this State, \$100, but if the merger involves more than 2 corporations, \$50 for each additional corporation.
- (n) Filing an application for withdrawal and final report or a copy of articles of dissolution of a foreign corporation, \$25.
- (o) Filing an annual report, interim annual report, or final transition annual report of a domestic or foreign corporation, \$75.
- (p) Filing an application for reinstatement of a domestic or a foreign corporation, \$200.
- (q) Filing an application for use of an assumed corporate name, \$150 for each year or part thereof ending in 0 or 5, \$120 for each year or part thereof ending in 1 or 6, \$90 for each year or part thereof ending in 2 or 7, \$60 for each year or part thereof ending in 3 or 8, \$30 for each year or part thereof ending in 4 or 9, between the date of filing the application and the date of the renewal of the assumed corporate name; and a renewal fee for each assumed corporate name, \$150.
- (r) To change an assumed corporate name for the period remaining until the renewal date of the original assumed name, \$25.
- (s) Filing an application for cancellation of an assumed corporate name, \$5.
- (t) Filing an application to register the corporate name of a foreign corporation, \$50; and an annual renewal fee for the registered name, \$50.
- (u) Filing an application for cancellation of a registered name of a foreign corporation, \$25.
- (v) Filing a statement of correction, \$50.
- (w) Filing a petition for refund or adjustment, \$5.
- (x) Filing a statement of election of an extended filing month, \$25.
- (y) Filing any other statement or report, \$5.

(Source: P.A. 92-33, eff. 7-1-01; 93-32, eff. 12-1-03.)

(Text of Section from P.A. 93-59)

Sec. 15.10. Fees for filing documents.

The Secretary of State shall charge and collect for:

- (a) Filing articles of incorporation, \$75.
- (b) Filing articles of amendment, \$25, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be \$100.

- (c) Filing articles of merger or consolidation, \$100, but if the merger or consolidation involves more than 2 corporations, \$50 for each additional corporation.
- (d) Filing articles of share exchange, \$100.
- (e) Filing articles of dissolution, \$5.
- (f) Filing application to reserve a corporate name, \$25.
- (g) Filing a notice of transfer of a reserved corporate name, \$25.
- (h) Filing statement of change of address of registered office or change of registered agent, or both, \$5.
- (i) Filing statement of the establishment of a series of shares, \$25.
- (j) Filing an application of a foreign corporation for authority to transact business in this State, \$75.
- (k) Filing an application of a foreign corporation for amended authority to transact business in this State, \$25.
- (l) Filing a copy of amendment to the articles of incorporation of a foreign corporation holding authority to transact business in this State, \$25, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be \$100.
- (m) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this State, \$100, but if the merger involves more than 2 corporations, \$50 for each additional corporation.
- (n) Filing an application for withdrawal and final report or a copy of articles of dissolution of a foreign corporation, \$25.
- (o) Filing an annual report, interim annual report, or final transition annual report of a domestic or foreign corporation, \$25.
- (p) Filing an application for reinstatement of a domestic or a foreign corporation, \$100.
- (q) Filing an application for use of an assumed corporate name, \$150 for each year or part thereof ending in 0 or 5, \$120 for each year or part thereof ending in 1 or 6, \$90 for each year or part thereof ending in 2 or 7, \$60 for each year or part thereof ending in 3 or 8, \$30 for each year or part thereof ending in 4 or 9, between the date of filing the application and the date of the renewal of the assumed corporate name; and a renewal fee for each assumed corporate name, \$150.
- (r) To change an assumed corporate name for the period remaining until the renewal date of the original assumed name, \$25.
- (s) Filing an application for cancellation of an assumed corporate name, \$5.
- (t) Filing an application to register the corporate name of a foreign corporation, \$50; and an annual renewal fee for the registered name, \$50.
- (u) Filing an application for cancellation of a registered name of a foreign corporation, \$25.
- (v) Filing a statement of correction, \$25.
- (w) Filing a petition for refund or adjustment, \$5.
- (x) Filing a statement of election of an extended filing month, \$25.
- (y) Filing any other statement or report, \$5.

(Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/15.12)

Sec. 15.12. Disposition of fees.

Of the total money collected for the filing of an annual report under this Act, \$15 of the filing fee shall be paid into the Secretary of State Special Services Fund. The remaining \$60 shall be deposited into the General Revenue Fund in the State Treasury.

(Source: P.A. 93-32, eff. 12-1-03.)

(805 ILCS 5/15.15)

Sec. 15.15. Miscellaneous charges.

The Secretary of State shall charge and collect;

(a) For furnishing a copy or certified copy of any document, instrument, or paper relating to a corporation, or for a certificate, \$25.

(b) At the time of any service of process, notice or demand on him or her as resident agent of a corporation, \$10, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

(Source: P.A. 93-32, eff. 12-1-03.)

(805 ILCS 5/15.20)

Sec. 15.20. License fees payable by domestic corporations.

For the privilege of exercising its franchises in this State, the Secretary of State shall charge and collect from each domestic corporation the following license fees, computed on the basis and at the rates prescribed in this Act:

(a) Except as otherwise provided in paragraph (c) of this Section, an additional license fee at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) an amendment to the articles of incorporation or a report of cumulative changes in paid-in capital or of an exchange or reclassification of shares, whenever any amendment or report discloses an increase in its paid-in capital over the amount thereof last reported in any document, other than an annual report, interim annual report, or final transition annual report, required by this Act to be filed in the office of the Secretary of State.

(b) Except as otherwise provided in paragraph (c) of this Section, an additional license fee at the time of filing a report of paid-in capital following a merger or consolidation that discloses that the paid-in capital of the surviving or new corporation immediately after the merger or consolidation is greater than the sum of the paid-in capital of all of the merged or consolidated corporations as last reported by them in any documents, other than annual reports, required by this Act to be filed in the office of the Secretary of State.

(c) The additional license fees referred to in paragraphs (a) and (b) of this Section shall not be payable with respect to issuances of shares or increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month of a corporation in 1991.

(Source: P.A. 86-985; 86-1217.)

(805 ILCS 5/15.25)

Sec. 15.25. Basis of computation of license fees payable by domestic corporations.

(a) Except as otherwise provided in subsection (c) of this Section, the basis for each additional license fee payable by a domestic corporation, except in the case of a statutory merger or consolidation, shall be the amount, expressed in dollars, of the increase in its paid-in capital over the amount thereof last reported in any document, other than an annual report, required by this Act to be filed in the office of the Secretary of State.

(b) Except as otherwise provided in subsection (c) of this Section, the basis for an additional license fee payable by the surviving or new corporation, in case of a statutory merger or consolidation of domestic corporations shall be the amount, expressed in dollars, of the increase in the paid-in capital of the surviving or new corporation immediately after the merger or consolidation over the sum of the paid-in capital of all of the merged or consolidated corporations, as last reported by them in any document, other than annual reports, required by this Act to be filed in the office of the Secretary of State.

(c) The additional license fees referred to in subsections (a) and (b) of this Section shall not be payable with respect to issuances of shares or increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month of the corporation in 1991.

(d) No basis under this Section may consist of any redeemable preference shares sold to the United States Secretary of Transportation under Sections 505 and 506 of Public Law 94-210.

(Source: P.A. 86-985; 86-1217.)

(805 ILCS 5/15.30)

Sec. 15.30. Rate of license fees payable by domestic corporations.

The license fees payable by each domestic corporation shall be computed at the rate of one-twentieth of one per cent of the basis prescribed in this Act for the computation thereof.

(Source: P.A. 86-985.)

(805 ILCS 5/15.35)

Sec. 15.35. Franchise taxes payable by domestic corporations.

For the privilege of exercising its franchises in this State, each domestic corporation shall pay to the Secretary of State the following franchise taxes, computed on the basis, at the rates and for the periods prescribed in this Act:

(a) An initial franchise tax at the time of filing its first report of issuance of shares.

(b) An additional franchise tax at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) an amendment to the articles of incorporation or a report of cumulative changes in paid-in capital, whenever any amendment or such report discloses an increase in its paid-in capital over the amount thereof last reported in any document, other than an annual report, interim annual report or final transition annual report required by this Act to be filed in the office of the Secretary of State.

(c) An additional franchise tax at the time of filing a report of paid-in capital following a statutory merger or consolidation, which discloses that the paid-in capital of the surviving or new corporation immediately after the merger or consolidation is greater than the sum of the paid-in capital of all of the merged or consolidated corporations as last reported by them in any documents, other than annual reports, required by this Act to be filed in the office of the Secretary

of State; and in addition, the surviving or new corporation shall be liable for a further additional franchise tax on the paid-in capital of each of the merged or consolidated corporations as last reported by them in any document, other than an annual report, required by this Act to be filed with the Secretary of State from their taxable year end to the next succeeding anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation the tax will be computed to the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation in the next succeeding calendar year.

(d) An annual franchise tax payable each year with the annual report which the corporation is required by this Act to file.

(Source: P.A. 86-985.)

(805 ILCS 5/15.40)

Sec. 15.40. Basis for computation of franchise taxes payable by domestic corporations.

(a) The basis for the initial franchise tax payable by a domestic corporation shall be the amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital as disclosed by its first report of the issuance of shares.

(b) The basis for an additional franchise tax payable by a domestic corporation, except in the case of a statutory merger or consolidation, shall be the increased amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital as disclosed by any report of issuance of additional shares, or of an increase in paid-in capital without the issuance of shares, or of an exchange or reclassification of shares, or of cumulative changes in paid-in capital.

(c) In the case of a statutory merger or consolidation of domestic corporations, the basis for an additional franchise tax payable by the surviving or new corporation shall be the increased amount represented in this State, determined in accordance with the provisions of this Section of the paid-in capital of the surviving or new corporation immediately after the merger or consolidation over the aggregate of the amounts represented in this State of the paid-in capital of the merged or consolidated corporations disclosed by the latest reports filed by those corporations, respectively, with the Secretary of State as required by this Act; provided, however, the basis for a further additional franchise tax payable by the surviving or new corporation shall be determined in accordance with the provisions of this Section, on the paid-in capital of each of the merged or consolidated corporations as last reported by it in any document, other than an annual report, required by this Act to be filed with the Secretary of State, from its taxable year end to the next succeeding anniversary month or, in the case of a corporation that has established an extended filing month, the next succeeding extended filing month of the surviving or new corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or, in the case of a corporation that has established an extended filing month, the next succeeding extended filing month of the surviving or new corporation the tax shall be computed to the anniversary month or, in the case of a corporation that has established an extended filing month, the next succeeding extended filing month of the surviving or new corporation in the next succeeding calendar year.

(d) The basis for the annual franchise tax payable by a domestic corporation shall be the amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital on the last day of the third month preceding the anniversary month or, in the

case of a corporation that has established an extended filing month, on the last day of the corporation's fiscal year preceding the extended filing month.

(e) For the purpose of determining the amount represented in this State of the paid-in capital of a domestic corporation, the amount represented in this State shall be that proportion of its paid-in capital that the sum of (1) the value of its property located in this State and (2) the gross amount of business transacted by it at or from places of business in this State bears to the sum of (1) the value of all of its property, wherever located, and (2) the gross amount of its business, wherever transacted, except as follows:

(1) If the corporation elects in its annual report in any year to pay its franchise tax upon its entire paid-in capital, all franchise taxes accruing against the corporation for that taxable year shall be computed accordingly until the corporation elects otherwise in an annual report for a subsequent year.

(2) If the corporation fails to file its annual report or final transition annual report in any year within the time prescribed by this Act, the proportion of its paid-in capital represented in this State shall be deemed to be its entire paid-in capital unless its annual report is thereafter filed and its franchise taxes are thereafter adjusted by the Secretary of State in accordance with the provisions of this Act, in which case the proportion shall likewise be adjusted to the same proportion that would have prevailed if the corporation had filed its annual report within the time prescribed by this Act.

(3) In the case of a statutory merger or consolidation that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month preceding the corporation's anniversary month in 1991, the amount of the paid-in capital represented in this State of the surviving or new corporation immediately after the merger or consolidation, until the filing of the next annual report of such corporation, shall be deemed to be that proportion of the paid-in capital of the surviving or new corporation that the aggregate amounts represented in this State of the sum of the paid-in capital of the merged or consolidated corporations, separately determined, bore to the total of the sum of the paid-in capital of all of the merged or consolidated corporations immediately prior to the merger or consolidation.

(f) For increases in paid-in capital that occur either prior to January 1, 1991 or on or prior to the last day of the third month preceding the corporation's anniversary month in 1991, the proportion corporation on file on the date represented in this State of the paid-in capital of a domestic corporation shall be determined from information contained in the latest annual report of the corporation on file on the date the particular increase in paid-in capital is shown to have been made, or, if no annual report was on file on the date of the increase, from information contained in its articles of incorporation, or, in case of a merger or consolidation that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month preceding the corporation's anniversary month in 1991, from information contained in the report of the surviving or new corporation of the amount of its paid-in capital following the merger or consolidation. For increases in paid-in capital that occur after both December 31, 1990 and the last day of such third month, the proportion represented in this State of the paid-in capital of a domestic corporation shall be determined from information contained in the latest annual report of the corporation for the taxable period in which the particular increase in paid-in capital is shown to have been made or, if no annual report was on file on the date of the increase, from information contained in its articles of incorporation.

(g) No basis under this Section may consist of any redeemable preference shares sold to the United States Secretary of Transportation under Sections 505 and 506 of Public Law 94-210.

(Source: P.A. 91-464, eff. 1-1-00.)

Sec. 15.45. Rate of franchise taxes payable by domestic corporations.

(a) The annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof for the period commencing on the first day of July 1983 to the first day of the anniversary month in 1984, but in no event shall the amount of the annual franchise tax be less than \$2.08333 per month assessed on a minimum of \$25 per annum or more than \$83,333.333333 per month; commencing on January 1, 1984 to the first day of the anniversary month in 2004, the annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$1,000,000 per annum; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$2,000,000 per annum.

(b) The annual franchise tax payable by each domestic corporation at the time of filing a statement of election and interim annual report in connection with an anniversary month prior to January, 2004 shall be computed at the rate of 1/10 of 1% for the 12 month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$1,000,000 per annum; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable by each domestic corporation at the time of filing a statement of election and interim annual report shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$2,000,000 per annum.

(c) The annual franchise tax payable at the time of filing the final transition annual report in connection with an anniversary month prior to January, 2004 shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than \$2.08333 per month assessed on a minimum of \$25 per annum or more than \$83,333.333333 per month; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable at the time of filing the final transition annual report shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than \$2.08333 per month assessed on a minimum of \$25 per annum or more than \$166,666.666666 per month.

(d) The initial franchise tax payable after January 1, 1983, but prior to January 1, 1991, by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12 months' period commencing on the first day of the anniversary month in which the certificate of incorporation is issued to the corporation under Section 2.10 of this Act, but in no event shall the franchise tax be

less than \$25 nor more than \$1,000,000 per annum. The initial franchise tax payable on or after January 1, 1991, but prior to January 1, 2004, by each domestic corporation shall be computed at the rate of 15/100 of 1% for the 12 month period commencing on the first day of the anniversary month in which the articles of incorporation are filed in accordance with Section 2.10 of this Act, but in no event shall the initial franchise tax be less than \$25 nor more than \$1,000,000 per annum plus 1/20th of 1% of the basis therefor. The initial franchise tax payable on or after January 1, 2004, by each domestic corporation shall be computed at the rate of 15/100 of 1% for the 12-month period commencing on the first day of the anniversary month in which the articles of incorporation are filed in accordance with Section 2.10 of this Act, but in no event shall the initial franchise tax be less than \$25 nor more than \$2,000,000 per annum plus 1/10th of 1% of the basis therefor.

(e) Each additional franchise tax payable by each domestic corporation for the period beginning January 1, 1983 through December 31, 1983 shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof, between the date of each respective increase in its paid-in capital and its anniversary month in 1984; thereafter until the last day of the month that is both after December 31, 1990 and the third month immediately preceding the anniversary month in 1991, each additional franchise tax payable by each domestic corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month, or fraction thereof, between the date of each respective increase in its paid-in capital and its next anniversary month; however, if the increase occurs within the 2 month period immediately preceding the anniversary month, the tax shall be computed to the anniversary month of the next succeeding calendar year. Commencing with increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month in 1991, the additional franchise tax payable by a domestic corporation shall be computed at the rate of 15/100 of 1%.

(Source: P.A. 93-32, eff. 12-1-03.)

(805 ILCS 5/15.50)

Sec. 15.50. License fees payable by foreign corporations.

For the privilege of exercising its authority to transact business in this State as set out in its application therefor or any amendment thereto, the Secretary of State shall charge and collect from each foreign corporation the following license fees, computed on the basis and at the rates prescribed in this Act:

(a) An initial license fee at the time of filing its application for authority to transact business in this State whenever the application indicates the corporation commenced transacting business prior to January 1, 1991.

(b) Except as otherwise provided in paragraph (e) of this Section, an additional license fee at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) a report of cumulative changes in paid-in capital or of an exchange or reclassification of shares, whenever the report discloses an increase in the amount represented in this State of its paid-in capital over the greatest amount thereof theretofore reported in any document required by this Act to be filed in the office of the Secretary of State.

(c) Except as otherwise provided in paragraph (e) of this Section, whenever the corporation shall be a party to a statutory merger and shall be the surviving corporation, an additional license fee at the time of filing its report following merger, if the report discloses that the amount represented in this State of its paid-in capital immediately after the merger is greater than the aggregate of the amounts represented in this State of the paid-in capital of all of the merged corporations.

(d) Except as otherwise provided in paragraph (e) of this Section, an additional license fee payable with the annual franchise tax each year in which the corporation is required by this Act to file an annual report whenever the report discloses an increase in the amount represented in this State of its paid-in capital over the amount previously determined to be represented in this State in accordance with the provisions of this Act.

(e) The additional license fee referred to in paragraphs (b), (c) and (d) of this Section shall not be payable with respect to issuances of shares or increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month of a foreign corporation in 1991 or to an increase in the amount represented in this State of its paid-in capital over the amount previously determined to be represented in this State in accordance with the provisions of this Act.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/15.55)

Sec. 15.55. Basis of computation of license fee payable by foreign corporations.

(a) The basis for the initial license fee payable by a foreign corporation shall be the amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital whenever the application for authority indicates the corporation commenced transacting business in this State prior to January 1, 1991.

(b) The basis for an additional license fee payable by a foreign corporation, except in the case of a statutory merger, shall be the increased amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital as disclosed by the annual report, by any report of issuance of additional shares, or of an increase in paid-in capital without the issuance of shares, or of an exchange or reclassification of shares, or of cumulative changes in paid-in capital, but the basis shall not include any increases in its paid-in capital represented in this State that occur after both December 31, 1990 and the last day of the third month immediately preceding its anniversary month in 1991.

(c) Whenever a foreign corporation shall be a party to a statutory merger that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month immediately preceding the surviving corporation's anniversary month in 1991 and shall be the surviving corporation, the basis for an additional license fee shall be the increased amount represented in this State, determined in accordance with the provisions of this Section, of the paid-in capital of the surviving corporation immediately after the merger over the aggregate of the amounts represented in this State of the paid-in capital of the merged corporations.

(d) For the purpose of determining the amount represented in this State of the paid-in capital of a foreign corporation that shall be a party to a statutory merger that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month immediately preceding the surviving corporation's anniversary month in 1991, the amount represented in this State shall be that proportion of its paid-in capital that the sum of (1) the value of its property located in this State and (2) the gross amount of business transacted by it at or from places of business in this State bears to the sum of (1) the value of all of its property, wherever located, and (2) the gross amount of its business, wherever transacted.

(e) The proportion represented in this State of the paid-in capital of a foreign corporation shall be determined from information contained in the latest annual report of the corporation on file on the date the particular increase in paid-in capital is shown to have been made, or, if no annual report was on file on the date of the increase, from information contained in the application of the corporation for authority to transact business in this State, or, in case of a merger that becomes effective either prior to January 1, 1991 or on or prior to the last day of the

third month immediately preceding the surviving corporation's anniversary month in 1991, from information contained in the report of the surviving corporation of the amount of its paid-in capital following the merger.

(f) No basis under this Section may consist of any redeemable preference shares sold to the United States Secretary of Transportation under Sections 505 and 506 of Public Law 94-210.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/15.60)

Sec. 15.60. Rate of license fees payable by foreign corporations.

The initial license fee and all additional license fees payable by a foreign corporation shall be computed at the rate of one-twentieth of one per cent of the basis prescribed in this Act for the computation of the initial license fee and additional license fees, respectively, but the initial license fee shall not be less than 50 cents.

(Source: P.A. 83-1025.)

(805 ILCS 5/15.65)

Sec. 15.65. Franchise taxes payable by foreign corporations.

For the privilege of exercising its authority to transact such business in this State as set out in its application therefor or any amendment thereto, each foreign corporation shall pay to the Secretary of State the following franchise taxes, computed on the basis, at the rates and for the periods prescribed in this Act:

(a) An initial franchise tax at the time of filing its application for authority to transact business in this State.

(b) An additional franchise tax at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) a report of cumulative changes in paid-in capital or a report of an exchange or reclassification of shares, whenever any such report discloses an increase in its paid-in capital over the amount thereof last reported in any document, other than an annual report, interim annual report or final transition annual report, required by this Act to be filed in the office of the Secretary of State.

(c) Whenever the corporation shall be a party to a statutory merger and shall be the surviving corporation, an additional franchise tax at the time of filing its report following merger, if such report discloses that the amount represented in this State of its paid-in capital immediately after the merger is greater than the aggregate of the amounts represented in this State of the paid-in capital of such of the merged corporations as were authorized to transact business in this State at the time of the merger, as last reported by them in any documents, other than annual reports, required by this Act to be filed in the office of the Secretary of State; and in addition, the surviving corporation shall be liable for a further additional franchise tax on the paid-in capital of each of the merged corporations as last reported by them in any document, other than an annual report, required by this Act to be filed with the Secretary of State, from their taxable year end to the next succeeding anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or the extended filing month of the surviving corporation, the tax will be computed to the anniversary or, extended filing month of the surviving corporation in the next succeeding calendar year.

(d) An annual franchise tax payable each year with any annual report which the corporation is required by this Act to file.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/15.70)

Sec. 15.70. Basis for computation of franchise taxes payable by foreign corporations.

(a) The basis for the initial franchise tax payable by a foreign corporation shall be the amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital as disclosed by its application for authority to transact business in this State.

(b) The basis for an additional franchise tax payable by a corporation, except in the case of a statutory merger, shall be the increased amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital as disclosed by any report of issuance of additional shares, or of an increase in paid-in capital without the issuance of shares, or of an exchange or reclassification of shares, or of cumulative changes in paid-in capital.

(c) Whenever a foreign corporation shall be a party to a statutory merger and shall be the surviving corporation, the basis for an additional franchise tax shall be the increased amount represented in this State, determined in accordance with the provisions of this Section, of the paid-in capital of the surviving corporation immediately after the merger over the aggregate of the amounts represented in this State of the paid-in capital of the merged corporations; provided, however, the basis for a further additional franchise tax payable by the surviving corporation shall be determined in accordance with the provisions of this Section, on the paid-in capital of each of the merged corporations from its taxable year end to the next succeeding anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the surviving corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the surviving corporation, the tax shall be computed to the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the surviving corporation in the next succeeding calendar year.

(d) The basis for the annual franchise tax payable by a foreign corporation shall be the amount represented in this State, determined in accordance with the provisions of this Section, of its paid-in capital on the last day of the third month preceding the anniversary month or, in the case of a corporation that has established an extended filing month, on the last day of the corporation's fiscal year preceding the extended filing month.

(e) The amount represented in this State of the paid-in capital of a foreign corporation shall be that proportion of its paid-in capital that the sum of (1) the value of its property located in this State and (2) the gross amount of business transacted by it at or from places of business in this State bears to the sum of (1) the value of all of its property, wherever located, and (2) the gross amount of its business, wherever transacted, except as follows:

(1) If the corporation elects in its annual report in any year to pay its franchise tax upon its entire paid-in capital, all franchise taxes accruing against the corporation for that taxable year shall be computed accordingly until the corporation elects otherwise in an annual report for a subsequent year.

(2) If the corporation fails to file its annual report in any year within the time prescribed by this Act, the proportion of its paid-in capital represented in this State shall be deemed to be its entire paid-in capital, unless its annual report is thereafter filed and its franchise taxes are thereafter adjusted by the Secretary of State in accordance with the provisions of this Act, in which case the proportion shall likewise be adjusted to the same proportion that would have prevailed if the corporation had filed its annual report within the time prescribed by this Act.

(3) In the case of a statutory merger that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month preceding the corporation's anniversary month in 1991, the amount of the paid-in capital represented in this State of the surviving corporation immediately after the merger, until the filing of the next annual report of such corporation, shall be deemed to be that proportion of the paid-in capital of the surviving corporation that the aggregate amounts represented in this State of the sum of the paid-in capital of the merged corporations, separately determined, bore to the total of the sum of the paid-in capital of all of the merged corporations immediately prior to the merger.

(f) For increases in paid-in capital that occur either prior to January 1, 1991 or on or prior to the last day of the third month preceding the corporation's anniversary month in 1991, the proportion represented in this State of the paid-in capital of a foreign corporation shall be determined from information contained in the latest annual report of the corporation on file on the date the particular increase in paid-in capital is shown to have been made, or, if no annual report was on file on the date of the increase, from information contained in its application for authority to transact business in this State, or, in case of a merger that becomes effective either prior to January 1, 1991 or on or prior to the last day of the third month preceding the surviving corporation's anniversary month in 1991, from information contained in the report of the surviving corporation of the amount of its paid-in capital following the merger. For changes in paid-in capital that occur after both December 31, 1990 and the last day of such third month, the proportion represented in this State of the paid-in capital of a corporation shall be determined from information contained in the latest annual report of the corporation for the taxable period in which the particular increase in paid-in capital is shown to have been made or, if no annual report was on file on the date of the increase, from information contained in its application for authority to transact business in Illinois.

(g) No basis under this Section may consist of any redeemable preference shares sold to the United States Secretary of Transportation under Sections 505 and 506 of Public Law 94-210.

(Source: P.A. 91-464, eff. 1-1-00; 92-33, eff. 7-1-01.)

(805 ILCS 5/15.75)

Sec. 15.75. Rate of franchise taxes payable by foreign corporations.

(a) The annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof for the period commencing on the first day of July 1983 to the first day of the anniversary month in 1984, but in no event shall the amount of the annual franchise tax be less than \$2.083333 per month based on a minimum of \$25 per annum or more than \$83,333.333333 per month; commencing on January 1, 1984 to the first day of the anniversary month in 2004, the annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$1,000,000 per annum; commencing on January 1, 2004, the annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than \$25 nor more then \$2,000,000 per annum.

(b) The annual franchise tax payable by each foreign corporation at the time of filing a statement of election and interim annual report in connection with an anniversary month prior to January, 2004 shall be computed at the rate of 1/10 of 1% for the 12 month period commencing on the first day of the anniversary month of the corporation next following the filing, but in no

event shall the amount of the annual franchise tax be less than \$25 nor more than \$1,000,000 per annum; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable by each foreign corporation at the time of filing a statement of election and interim annual report shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than \$25 nor more than \$2,000,000 per annum.

(c) The annual franchise tax payable at the time of filing the final transition annual report in connection with an anniversary month prior to January, 2004 shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than \$2.083333 per month based on a minimum of \$25 per annum or more than \$83,333.333333 per month; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable at the time of filing the final transition annual report shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than \$2.083333 per month based on a minimum of \$25 per annum or more than \$166,666.666666 per month.

(d) The initial franchise tax payable after January 1, 1983, but prior to January 1, 1991, by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12 months' period commencing on the first day of the anniversary month in which the application for authority is filed by the corporation under Section 13.15 of this Act, but in no event shall the franchise tax be less than \$25 nor more than \$1,000,000 per annum. Except in the case of a foreign corporation that has begun transacting business in Illinois prior to January 1, 1991, the initial franchise tax payable on or after January 1, 1991, by each foreign corporation, shall be computed at the rate of 15/100 of 1% for the 12-month period commencing on the first day of the anniversary month in which the application for authority is filed by the corporation under Section 13.15 of this Act, but in no event shall the franchise tax for a taxable year commencing prior to January 1, 2004 be less than \$25 nor more than \$1,000,000 per annum plus 1/20 of 1% of the basis therefor and in no event shall the franchise tax for a taxable year commencing on or after January 1, 2004 be less than \$25 or more than \$2,000,000 per annum plus 1/20 of 1% of the basis therefor.

(e) Whenever the application for authority indicates that the corporation commenced transacting business:

- (1) prior to January 1, 1991, the initial franchise tax shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month; or
- (2) after December 31, 1990, the initial franchise tax shall be computed at the rate of 1/12 of 15/100 of 1% for each calendar month.

(f) Each additional franchise tax payable by each foreign corporation for the period beginning January 1, 1983 through December 31, 1983 shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof between the date of each respective increase in its paid-in capital and its anniversary month in 1984; thereafter until the last day of the month that is both after December 31, 1990 and the third month immediately preceding the anniversary month in 1991, each additional franchise tax payable by each foreign corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month, or fraction thereof, between the date of

each respective increase in its paid-in capital and its next anniversary month; however, if the increase occurs within the 2 month period immediately preceding the anniversary month, the tax shall be computed to the anniversary month of the next succeeding calendar year. Commencing with increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month in 1991, the additional franchise tax payable by a foreign corporation shall be computed at the rate of 15/100 of 1%.

(Source: P.A. 92-33, eff. 7-1-01; 93-32, eff. 12-1-03.)

(805 ILCS 5/15.80)

Sec. 15.80. Computation and collection of annual franchise taxes - proceeding for dissolution or revocation if not paid.

(a) It shall be the duty of the Secretary of State to collect all annual franchise taxes, penalties, and interest imposed by or payable in accordance with this Act.

(b) During the calendar year 1983, each corporation must pay its annual franchise tax within 60 days preceding July 1, 1983, for the taxable year beginning July 1, 1983 to each corporation's anniversary month in 1984; thereafter, within 60 days prior to the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month each year the Secretary of State shall collect from each corporation, domestic or foreign, required to file an annual report in such year, the franchise tax payable by it for the 12 months' period commencing on the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month of such year or, in the case of a corporation which has filed a statement of election of an extended filing date, the interim period resulting therefrom in accordance with the foregoing provisions; and, if it has failed to file its annual report and pay its franchise tax within the time prescribed by this Act, the penalties and interest will be imposed pursuant to this Act upon such corporation for its failure so to do; and the Secretary of State shall mail a written notice to each corporation against which such tax is payable, addressed to such corporation at its registered office in this State, notifying the corporation: (1) of the amount of franchise tax payable for the taxable year and the amount of penalties and interest due for failure to file its annual report and pay its franchise tax; and (2) that such tax and penalties and interest shall be payable to the Secretary of State. Failure to receive such notice shall not relieve the corporation of its obligation to pay the tax and any penalties and any interest due or invalidate the validity thereof.

(c) All annual franchise taxes for the taxable year commencing on July 1, 1983 to the anniversary month of each corporation in 1984 shall be due and payable by July 1, 1983. Beginning with January 1984, all annual reports, fees, and franchise taxes shall be due and payable prior to the first day of the anniversary month or, in the case of a corporation which has established an extended filing month subsequent to January 1, 1991, the extended filing month of each corporation each year. If the annual franchise tax due from any corporation subject to the provisions of this Act together with all penalties and interest imposed thereon, shall not be paid to the Secretary of State before the date of the year in which such tax is due and payable, the Secretary of State shall proceed under Section 12.40 of this Act for the dissolution of a domestic corporation or under Section 13.55 for revocation of a foreign corporation.

(d) For the purpose of enforcing collection, all annual franchise taxes payable in accordance with this Act, and all penalties due thereon and all interest and costs that shall accrue in connection with the collection thereof, shall be a prior and first lien on the real and personal property of the corporation from and including the date of the year when such franchise taxes become due and payable until such taxes, penalties, interest, and costs shall have been paid.

(Source: P.A. 93-59, eff. 7-1-03.)

(805 ILCS 5/15.85)

Sec. 15.85. Effect of nonpayment of fees or taxes.

(a) The Secretary of State shall not file any articles, statements, certificates, reports, applications, notices, or other papers relating to any corporation, domestic or foreign, organized under or subject to the provisions of this Act until all fees, franchise taxes, and charges provided to be paid in connection therewith shall have been paid to him or her, or while the corporation is in default in the payment of any fees, franchise taxes, charges, penalties, or interest herein provided to be paid by or assessed against it, or when the Illinois Department of Revenue has given notice that the corporation is in default in the filing of a return or the payment of any final assessment of tax, penalty or interest as required by any tax Act administered by the Department.

(b) The Secretary of State shall not file, with respect to any domestic or foreign corporation, any document required or permitted to be filed by this Act, which has an effective date other than the date of filing until there has been paid by such corporation to the Secretary of State all fees, taxes and charges due and payable on or before said effective date.

(c) No corporation required to pay a franchise tax, license fee, penalty, or interest under this Act shall maintain any civil action until all such franchise taxes, license fees, penalties, and interest have been paid in full.

(d) The Secretary of State shall, from information received from the Illinois Commerce Commission, compile and keep a list of all domestic and foreign corporations which are regulated pursuant to the provisions of "An Act concerning public utilities", approved June 29, 1921, and Chapter 18 of "The Illinois Vehicle Code", approved September 29, 1969, and which hold, as a prerequisite for doing business in this State, any franchise, license, permit or right to engage in any business regulated by such Acts.

(e) Within 10 days after any such corporation fails to pay a franchise tax, license fee, penalty, or interest required under this Act, the Secretary shall, by written notice, so advise the Secretary of the Illinois Commerce Commission.

(Source: P.A. 91-464, eff. 1-1-00.)

(805 ILCS 5/15.90)

Sec. 15.90. Statute of limitations.

(a) Except as otherwise provided in this Section and notwithstanding anything to the contrary contained in any other Section of this Act, no domestic corporation or foreign corporation shall be obligated to pay any annual franchise tax, fee, or penalty or interest thereon imposed under this Act, nor shall any administrative or judicial sanction (including dissolution) be imposed or enforced nor access to the courts of this State be denied based upon nonpayment thereof more than 7 years after the date of filing the annual report with respect to the period during which the obligation for the tax, fee, penalty or interest arose, unless (1) within that 7 year period the Secretary of State sends a written notice to the corporation to the effect that (A) administrative or judicial action to dissolve the corporation or revoke its certificate of authority for nonpayment of a tax, fee, penalty or interest has been commenced; or (B) the corporation has submitted a report but has failed to pay a tax, fee, penalty or interest required to be paid therewith; or (C) a report with respect to an event or action giving rise to an obligation to pay a tax, fee, penalty or interest is required but has not been filed, or has been filed and is in error or incomplete; or (2) the annual report by the corporation was filed with fraudulent intent to evade taxes payable under this Act. A corporation nonetheless shall be required to pay all taxes that would have been payable during the most recent 7 year period due to a previously unreported increase in paid-in capital that occurred prior to that 7 year period and interest and penalties thereon for that period.

(b) If within 2 years following a change in control of a corporation the corporation voluntarily pays in good faith all known obligations of the corporation imposed by this Article 15 with respect to reports that were required to have been filed since the beginning of the 7 year period ending on the effective date of the change in control, no action shall be taken to enforce or collect obligations of that corporation imposed by this Article 15 with respect to reports that were required to have been filed prior to that 7 year period regardless of whether the limitation period set forth in subsection (a) is otherwise applicable. For purposes of this subsection (b), a change in control means a transaction, or a series of transactions consummated within a period of 180 consecutive days, as a result of which a person which owned less than 10% of the shares having the power to elect directors of the corporation acquires shares such that the person becomes the holder of 80% or more of the shares having such power. For purposes of this subsection (b) a person means any natural person, corporation, partnership, trust or other entity together with all other persons controlled by, controlling or under common control with such person.

(c) Except as otherwise provided in this Section and notwithstanding anything to the contrary contained in any other Section of this Act, no foreign corporation that has not previously obtained a certificate of authority under this Act shall, upon voluntary application for a certificate of authority filed with the Secretary of State prior to January 1, 2001, be obligated to pay any tax, fee, penalty, or interest imposed under this Act, nor shall any administrative or judicial sanction be imposed or enforced based upon nonpayment thereof with respect to a period during which the obligation arose that is prior to January 1, 1993 unless (1) prior to receipt of the application for a certificate of authority the Secretary of State had sent written notice to the corporation regarding its failure to obtain a certificate of authority, (2) the corporation had submitted an application for a certificate of authority previously but had failed to pay any tax, fee, penalty or interest to be paid therewith, or (3) the application for a certificate of authority was submitted by the corporation with fraudulent intent to evade taxes payable under this Act. A corporation nonetheless shall be required to pay all taxes and fees due under this Act that would have been payable since January 1, 1993 as a result of commencing the transaction of its business in this State and interest thereon for that period.

(Source: P.A. 90-421, eff. 1-1-98.)

(805 ILCS 5/15.95)

(Text of Section from P.A. 93-32)

Sec. 15.95. Department of Business Services Special Operations Fund.

(a) A special fund in the State treasury known as the Division of Corporations Special Operations Fund is renamed the Department of Business Services Special Operations Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Department of Business Services of the Office of the Secretary of State, hereinafter "Department", to create and maintain the capability to perform expedited services in response to special requests made by the public for same day or 24 hour service. Moneys deposited into the Fund shall be used for, but not limited to, expenditures for personal services, retirement, social security, contractual services, equipment, electronic data processing, and telecommunications.

(b) The balance in the Fund at the end of any fiscal year shall not exceed \$600,000 and any amount in excess thereof shall be transferred to the General Revenue Fund.

(c) All fees payable to the Secretary of State under this Section shall be deposited into the Fund. No other fees or taxes collected under this Act shall be deposited into the Fund.

(d) "Expedited services" means services rendered within the same day, or within 24 hours from the time, the request therefor is submitted by the filer, law firm, service company, or messenger physically in person or, at the Secretary of State's discretion, by electronic means, to

the Department's Springfield Office and includes requests for certified copies, photocopies, and certificates of good standing or fact made to the Department's Springfield Office in person or by telephone, or requests for certificates of good standing or fact made in person or by telephone to the Department's Chicago Office.

(e) Fees for expedited services shall be as follows:

Restatement of articles, \$200;

Merger, consolidation or exchange, \$200;

Articles of incorporation, \$100;

Articles of amendment, \$100;

Revocation of dissolution, \$100;

Reinstatement, \$100;

Application for authority, \$100;

Cumulative report of changes in issued shares or paid-in capital, \$100;

Report following merger or consolidation, \$100;

Certificate of good standing or fact, \$20;

All other filings, copies of documents, annual reports for the 3 preceding years, and copies of documents of dissolved or revoked corporations having a file number over 5199, \$50.

(f) Expedited services shall not be available for a statement of correction, a petition for refund or adjustment, or a request involving more than 3 year's annual reports or involving dissolved corporations with a file number below 5200.

(Source: P.A. 91-463, eff. 1-1-00; 92-33, eff. 7-1-01; 93-32, eff. 9-1-03.)

(Text of Section from P.A. 93-59)

Sec. 15.95. Department of Business Services Special Operations Fund.

(a) A special fund in the State treasury known as the Division of Corporations Special Operations Fund is renamed the Department of Business Services Special Operations Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Department of Business Services of the Office of the Secretary of State, hereinafter "Department", to create and maintain the capability to perform expedited services in response to special requests made by the public for same day or 24 hour service. Moneys deposited into the Fund shall be used for, but not limited to, expenditures for personal services, retirement, social security, contractual services, equipment, electronic data processing, and telecommunications.

(b) The balance in the Fund at the end of any fiscal year shall not exceed \$400,000 and any amount in excess thereof shall be transferred to the General Revenue Fund.

(c) All fees payable to the Secretary of State under this Section shall be deposited into the Fund. No other fees or taxes collected under this Act shall be deposited into the Fund.

(d) "Expedited services" means services rendered within the same day, or within 24 hours from the time, the request therefor is submitted by the filer, law firm, service company, or messenger physically in person or, at the Secretary of State's discretion, by electronic means, to the Department's Springfield Office and includes requests for certified copies, photocopies, and certificates of good standing or fact made to the Department's Springfield Office in person or by telephone, or requests for certificates of good standing or fact made in person or by telephone to the Department's Chicago Office.

(e) Fees for expedited services shall be as follows:

Restatement of articles, \$100;
Merger, consolidation or exchange, \$100;
Articles of incorporation, \$50;
Articles of amendment, \$50;
Revocation of dissolution, \$50;
Reinstatement, \$50;
Application for authority, \$50;
Cumulative report of changes in issued shares or paid-in capital, \$50;
Report following merger or consolidation, \$50;
Certificate of good standing or fact, \$10;

All other filings, copies of documents, annual reports filed on or after January 1, 1984, and copies of documents of dissolved or revoked corporations having a file number over 5199, \$25.

(f) Expedited services shall not be available for a statement of correction, a petition for refund or adjustment, or a request involving annual reports filed before January 1, 1984 or involving dissolved corporations with a file number below 5200.

(Source: P.A. 91-463, eff. 1-1-00; 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

(805 ILCS 5/15.97)

Sec. 15.97. Corporate Franchise Tax Refund Fund.

(a) Beginning July 1, 1993, a percentage of the amounts collected under Sections 15.35, 15.45, 15.65, and 15.75 of this Act shall be deposited into the Corporate Franchise Tax Refund Fund, a special Fund hereby created in the State treasury. From July 1, 1993, until December 31, 1994, there shall be deposited into the Fund 3% of the amounts received under those Sections. Beginning January 1, 1995, and for each fiscal year beginning thereafter, 2% of the amounts collected under those Sections during the preceding fiscal year shall be deposited into the Fund.

(b) Beginning July 1, 1993, moneys in the Fund shall be expended exclusively for the purpose of paying refunds payable because of overpayment of franchise taxes, penalties, or interest under Sections 13.70, 15.35, 15.45, 15.65, 15.75, and 16.05 of this Act and making transfers authorized under this Section. Refunds in accordance with the provisions of subsections (f) and (g) of Section 1.15 and Section 1.17 of this Act may be made from the Fund only to the extent that amounts collected under Sections 15.35, 15.45, 15.65, and 15.75 of this Act have been deposited in the Fund and remain available. Within a reasonable time after the 30th day of June of each year, the Secretary of State shall direct and the Comptroller shall order transferred to the General Revenue Fund all amounts in excess of \$100,000 remaining in the fund as of June 30.

(c) This Act shall constitute an irrevocable and continuing appropriation from the Corporate Franchise Tax Refund Fund for the purpose of paying refunds upon the order of the Secretary of State in accordance with the provisions of this Section.

(Source: P.A. 93-59, eff. 7-1-03.)

ARTICLE 16. PENALTIES

Sec. 16.05. Penalties and interest imposed upon corporations.

(a) Each corporation, domestic or foreign, that fails or refuses to file any annual report or report of cumulative changes in paid-in capital and pay any franchise tax due pursuant to the report prior to the first day of its anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the corporation shall pay a penalty of 10% of the amount of any delinquent franchise tax due for the report.

(b) Each corporation, domestic or foreign, that fails or refuses to file a report of issuance of shares or increase in paid-in capital within the time prescribed by this Act is subject to a penalty on any obligation occurring prior to January 1, 1991, and interest on those obligations on or after January 1, 1991, for each calendar month or part of month that it is delinquent in the amount of 1% of the amount of license fees and franchise taxes provided by this Act to be paid on account of the issuance of shares or increase in paid-in capital.

(c) Each corporation, domestic or foreign, that fails or refuses to file a report of cumulative changes in paid-in capital or report following merger within the time prescribed by this Act is subject to interest on or after January 1, 1992, for each calendar month or part of month that it is delinquent, in the amount of 1% of the amount of franchise taxes provided by this Act to be paid on account of the issuance of shares or increase in paid-in capital disclosed on the report of cumulative changes in paid-in capital or report following merger, or \$1, whichever is greater.

(d) If the annual franchise tax, or the supplemental annual franchise tax for any 12-month period commencing July 1, 1968, or July 1 of any subsequent year through June 30, 1983, assessed in accordance with this Act, is not paid by July 31, it is delinquent, and there is added a penalty prior to January 1, 1991, and interest on and after January 1, 1991, of 1% for each month or part of month that it is delinquent commencing with the month of August, or \$1, whichever is greater.

(e) If the supplemental annual franchise tax assessed in accordance with the provisions of this Act for the 12-month period commencing July 1, 1967, is not paid by September 30, 1967, it is delinquent, and there is added a penalty prior to January 1, 1991, and interest on and after January 1, 1991, of 1% for each month or part of month that it is delinquent commencing with the month of October, 1967.

(f) If any annual franchise tax for any period beginning on or after July 1, 1983, is not paid by the time period herein prescribed, it is delinquent and there is added a penalty prior to January 1, 1991, and interest on and after January 1, 1991, of 1% for each month or part of a month that it is delinquent commencing with the anniversary month or in the case of a corporation that has established an extended filing month, the extended filing month, or \$1, whichever is greater.

(g) Any corporation, domestic or foreign, failing to pay the prescribed fee for assumed corporate name renewal when due and payable shall be given notice of nonpayment by the Secretary of State by regular mail; and if the fee together with a penalty fee of \$5 is not paid within 90 days after the notice is mailed, the right to use the assumed name shall cease.

(h) Any corporation which (i) puts forth any sign or advertisement, assuming any name other than that by which it is incorporated or otherwise authorized by law to act or (ii) violates Section 3.25, shall be guilty of a Class C misdemeanor and shall be deemed guilty of an additional offense for each day it shall continue to so offend.

(i) Each corporation, domestic or foreign, that fails or refuses (1) to file in the office of the recorder within the time prescribed by this Act any document required by this Act to be so filed, or (2) to answer truthfully and fully within the time prescribed by this Act interrogatories propounded by the Secretary of State in accordance with this Act, or (3) to perform any other act required by this Act to be performed by the corporation, is guilty of a Class C misdemeanor.

(j) Each corporation that fails or refuses to file articles of revocation of dissolution within the time prescribed by this Act is subject to a penalty for each calendar month or part of the month that it is delinquent in the amount of \$50.

(Source: P.A. 91-464, eff. 1-1-00; 91-906, eff. 1-1-01.)

(805 ILCS 5/16.10)

Sec. 16.10. Penalties imposed upon officers and directors.

Each officer and director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this Act to answer truthfully and fully interrogatories propounded to him or her by the Secretary of State in accordance with the provisions of this Act, or who signs any report or statement filed with the Secretary of State which is known to such officer or director to be false in any material statement or representation, commits a Class C misdemeanor.

(Source: P.A. 84-924.)

ARTICLE 17. REPEALER

(805 ILCS 5/17.05)

Sec. 17.05.

"The Business Corporation Act", filed July 13, 1933, as amended, is repealed.

(Source: P.A. 83-1025.)