CHAPTER 181

NONSTOCK CORPORATIONS

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SUBCHAPTER I

GENERAL PROVISIONS

181.0103 Definitions. In this chapter:

(1) "Articles of incorporation" includes amended and restated articles of incorporation and articles of domestication.

(2) "Board" means the group of persons vested with the management of the affairs of the corporation, irrespective of the name by which such group is designated.

(3) "Bylaws" means the code of rules, other than the articles of incorporation, adopted under this chapter for the regulation or management of the affairs of a corporation, by whatever name designated.

(4) "Class" means a group of memberships having the same rights, whether those rights are identical or are determined by a formula applied uniformly, with respect to voting, dissolution of a corporation, and redemption and transfer of memberships.

(5) "Corporation" or "domestic corporation" means, except as used in subs. (13) and (18), a nonstock corporation, including a nonprofit corporation, that is subject to the provisions of this chapter, except a foreign corporation.

(6) "Delegates" means those persons elected or appointed to vote in a representative assembly for the election of a director or on other matters.

(7) "Deliver" means deliver by hand, mail, commercial delivery service, electronic transmission, or any other method of delivery used in conventional commercial practice.

(8) "Department" means the department of financial institutions.

(9) "Director" means an individual, designated in the articles of incorporation or bylaws or elected by the incorporators, and the individuals' successors, and an individual elected or appointed by any other name or title to act as a member of the board.

(10) "Distribution" means the payment of a dividend or any part of the assets, income or profit of a corporation to its members, directors or officers, but does not include the payment of reasonable compensation, benefits, pensions, incentive compensation or the reimbursement of expenses.

(10m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10p) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a writing and executed or adopted by a person with intent to authenticate the writing.

(11) "Employee" does not include an officer or director who is not otherwise employed by the corporation.

(12) "Entity" means any person other than a natural person.

(13) "Foreign corporation" means a nonstock corporation organized under a law other than the law of this state.

(14) "Individual" means a natural person. Except in ss. 181.0802 and 181.0840, "individual" includes the estate of an individual adjudicated incompetent or a deceased natural person.

(15) "Member" means a person who has membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(16) "Membership" means the rights and obligations that a member has under a corporation's articles of incorporation and bylaws and this chapter.

(17) "Nonprofit corporation" means a corporation that does not make distributions, except as authorized under s. 181.1302 (1), (2) and (3).

(18) "Nonstock corporation" means a corporation without capital stock.

(19) "Principal office" means the office, whether in or outside this state, of a domestic corporation or foreign corporation in which are located its principal executive offices and, if the domestic corporation or foreign corporation has filed an annual report under s. 181.1622, that is designated as the principal office in its most recent annual report.

(20) "Proceeding" includes a civil suit and criminal, administrative and investigatory action.

(21) "Record date" means the date established under s. 181.0707 on which a corporation determines the identity of its members for the purposes of this chapter.

(22) "Secretary" means the corporate officer to whom the board has delegated responsibility under s. 181.0840 (1) for custody of the minutes of the board's meetings and members' meetings and for authenticating the records of the corporation.

(23) "Sign" means to execute or adopt a manual, facsimile, conformed, or electronic signature or any symbol with intent to authenticate a writing.

(24) "Stock corporation" means a corporation with capital stock.

(25) "Vote" includes authorization by written ballot and written consent.

History: 1997 a. 79; 2001 a. 44; 2005 a. 387.

The New Nonstock Corporation Law. Seehawer. Wis. Law. Oct. 1998.

181.0120 Filing requirements. (1) GENERAL REQUIREMENTS. Except as provided in sub. (4), a document required or permitted to be filed under this chapter with the department must satisfy all of the following requirements to be filed under s. 181.0125 (2) (a):

(a) Contain the information required by this chapter, although it may also contain other information.

(c) Be in the English language, except that:

1. A corporate name need not be in English if it is written in English letters or Arabic or Roman numerals.

2. The certificate of status, or similar document, required of a foreign corporation need not be in English if accompanied by a reasonably authenticated English translation.

(d) Contain the name of the drafter, if required by s. 182.01 (3).

(e) Be executed in accordance with sub. (3).

(f) Be on the form prescribed by the department if the document is described in s. 181.0121 (1).

(g) Be delivered to the department for filing and be accompanied by one exact or conformed copy and the filing fee required by s. 181.0122.

(2) FILING BY DEPARTMENT. The department shall file photocopies or other reproduced copies of typewritten or printed documents if the copies are signed and satisfy this section.

(3) EXECUTION REQUIREMENTS. (a) Any of the following persons may execute a document described in s. 181.0122 (1) (a), (b), (g) to (j), (m) to (s) and (u) to (z):

1. An officer of the domestic corporation or foreign corporation.

2. If directors have not been selected or the corporation has not been formed, an incorporator.

3. If the domestic corporation or foreign corporation is in the hands of a receiver, trustee or other court−appointed fiduciary, the fiduciary.

(c) The person executing a document shall sign it and, beneath or opposite the signature, state his or her name and the capacity in which he or she signs. The document may but need not contain any of the following:

1. The corporate seal.

2. An attestation by the secretary or an assistant secretary of the domestic corporation or foreign corporation.

3. An acknowledgment, verification or proof.

(4) WAIVER. The department may waive any of the requirements of subs. (1) to (3) if it appears from the face of the document that the document's failure to satisfy the requirement is immaterial.

History: 1997 a. 79.

181.0121 Forms. (1) REQUIRED FORMS. (a) The department shall prescribe and furnish on request forms for all of the following documents:

1. A foreign corporation's application for a certificate of authority to transact business in this state under s. 181.1503.

2. A foreign corporation's application for a certificate of withdrawal under s. 181.1520.

3. A domestic corporation's or foreign corporation's annual report under s. 181.1622.

4. An application for a certificate of conversion under s. 181.1161 (5).

(b) The forms prescribed by the department under par. (a) 1. and 2. shall require disclosure of only the information required under ss. 181.1503, 181.1520 and 181.1622, respectively.

(c) Use of a form prescribed under par. (a) is mandatory.

(2) PERMISSIVE FORMS. The department may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter, but use of these forms is not mandatory.

History: 1997 a. 79; 2001 a. 44; 2005 a. 476; 2015 a. 295.

181.0122 Filing and service fees. (1) FILING FEE SCHEDULE. Except as provided under sub. (5), the department shall collect the following fees when the documents described in this subsection are delivered to the department for filing or, under pars. (e) and (f), when the telephone applications are made:

(a) Articles of incorporation, $35.

(b) Application for use of an indistinguishable name, $10.

(c) Written application for a reserved name, $10.

(d) Written application for renewal of a reserved name, $10.

(e) Telephone application for a reserved name, $20.

(f) Telephone application for renewal of a reserved name, $20.

(g) Application for a registered name, $25.

(h) Application for renewal of a registered name, $25.

(i) Notice of transfer of a reserved name or of a registered name, $10.

(j) Subject to sub. (3) (e), domestic corporation's or foreign corporation's statement of change of a registered office, $10.

(k) Agent's statement of change of a registered office, $10 for each affected domestic corporation or foreign corporation, except that if simultaneous filings are made the fee is reduced to $1 for each affected domestic corporation or foreign corporation in excess of 200.

(L) Agent's statement of resignation, $10.

(m) Amendment of articles of incorporation, $25.

(n) Restatement of articles of incorporation, with or without amendments, $25.

(o) Articles of merger, $150.

(om) Articles of domestication, $35.

(p) Articles of dissolution, $10.

(q) Articles of revocation of dissolution, $10.

(r) Application for reinstatement following an administrative dissolution, $35.

(s) Certificate of reinstatement, $10.

(t) Certificate of judicial dissolution, $10.

(u) Application for a certificate of authority, $45.

(v) Application for an amended certificate of authority, $30.

(w) Application for a certificate of withdrawal, $30.

(x) Annual report of a domestic corporation, $10.

(y) Annual report of a foreign corporation, $15.

(yr) A certificate of conversion, $150.

(z) Articles of correction, $10.

(zm) Request for certificate or statement of status, the fee established under s. 182.01 (4) (b).

(2) PROCESS FEE. The department shall collect the fee established under s. 182.01 (4) (c) each time process is served on the department under this chapter. The party to a civil, criminal, administrative or investigatory proceeding who is causing service of process may recover this fee as costs if the party prevails in the proceeding.

(3) PROHIBITED FEES. The department may not collect a fee for any of the following:

(a) Filing a certificate of administrative dissolution or a certificate of revocation of authority to transact business.

(b) Providing a confirmation of status by telephone.

(c) Filing a director or principal officer statement under s. 181.0860 (1).

(d) Filing a director or principal officer resignation statement under s. 181.0860 (2).

(e) Filing a domestic corporation's or a foreign corporation's statement of change of registered office if the only change is a change to the address and if all of the following apply:

1. The new address is the result of a change in the way a county, city, village or town or the U. S. postal service describes the physical location of the registered office.

2. A copy of the notice indicating the new address is submitted with the statement.

3. The physical location of the registered office has not changed.

(4) EXPEDITED SERVICE FEE. In addition to the fees required under sub. (1), the department shall collect the expedited service fee established under s. 182.01 (4) (d) for processing, in an expeditious manner, a document required or permitted to be filed under this chapter and shall collect the fee established under s. 182.01 (4) (f) for preparing, in an expeditious manner, a certificate of status under s. 181.0128 (2) or a statement of status under s. 181.0128 (4).

(5) The department, by rule, may specify a larger fee for filing documents described in sub. (1) in paper format.

History: 1997 a. 79; 2001 a. 16, 44.

181.0123 Effective date and time of document. (1) IN GENERAL. (a) Except as provided in sub. (2) or s. 181.0124 (3) or 181.1622 (5), a document filed by the department under this chapter is effective on the date that it is received by the department for filing and at any of the following times on that date:

1. The time of day specified in the document as its effective time.

2. If no effective time is specified, at the close of business.

(b) The date that a document is received by the department is determined by the department's endorsement on the original document under s. 181.0125 (1).

(2) DELAYED EFFECTIVE DATE AND TIME. A document may specify a delayed effective date and time, except that the effective date may not be more than 90 days after the date that it is received for filing. If a document specifies a delayed effective date and time in accordance with this subsection, the document is effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date.

History: 1997 a. 79.

181.0124 Correcting filed document. (1) WHEN A DOCUMENT MAY BE CORRECTED. A domestic corporation or foreign corporation may correct a document that is filed by the department before, on or after January 1, 1999, if the document contains a statement that was incorrect at the time of filing or was defectively executed, including defects in any attestation, seal, verification or acknowledgment.

(2) HOW DOCUMENT CORRECTED. To correct a document under sub. (1), a domestic corporation or foreign corporation shall prepare and deliver to the department for filing articles of correction that satisfy all of the following:

(a) Describe the document, including its filing date, or include a copy of the document.

(b) Specify the incorrect statement and the reason that it is incorrect, or specify the manner in which the execution was defective, whichever is applicable.

(c) Correct the incorrect statement or defective execution.

(3) EFFECTIVE DATE. (a) Except as provided in par. (b), articles of correction are effective on the effective date of the document that they correct.

(b) With respect to persons relying on the uncorrected document and adversely affected by the correction, the articles of correction are effective when filed.

History: 1997 a. 79.

181.0125 Filing duty of department. (1) DATE OF RECEIPT. Upon receipt of a document by the department for filing, the department shall stamp or otherwise endorse the date of receipt on the original, the document copy and, upon request, any additional document copy received. The department shall return any additional document copy to the person delivering it, as confirmation of the date of receipt.

(2) REQUIRED ENDORSEMENT. (a) Except as provided in par. (b), if a document satisfies s. 181.0120 and the terms of the document satisfy, if applicable, s. 181.0401 (1) and (2) or 181.1506 (1) and (2), the department shall file the document by stamping or otherwise endorsing "Filed", together with the department name, on both the original and the document copy. After filing a document, the department shall deliver the document copy to the domestic corporation or foreign corporation, or its representative.

(b) If a domestic corporation or foreign corporation is in default in the payment of any fee required under s. 181.0122 (1) (a) to (j) and (m) to (z), the department shall refuse to file any document relating to the domestic corporation or foreign corporation until all delinquent fees are paid by the domestic corporation or foreign corporation.

(3) REFUSAL TO FILE. (a) If the department refuses to file a document, the department shall return it to the domestic corporation or foreign corporation, or its representative, within 5 business days after the document was received by the department for filing, together with a brief, written explanation of the reason for the refusal.

(b) The department's failure to either file or return a document within 5 business days after it was received constitutes a refusal to file the document.

(bm) Paragraphs (a) and (b) do not apply to an annual report submitted for filing under s. 181.1622.

(c) Except as provided in s. 181.0124 (3), if a document that had been refused for filing by the department is resubmitted and filed by the department, the effective date of the filed document under s. 181.0123 is the date that the resubmitted document is received by the department for filing or a delayed effective date specified in the resubmitted document in accordance with s. 181.0123 (2). The effective time of the resubmitted document shall be determined under s. 181.0123 (1) or (2), whichever is applicable.

(4) EFFECT OF REFUSAL. Except as provided in s. 181.0203 (2), the department's filing of a document or refusal to file a document does not do any of the following:

(a) Affect the validity or invalidity of the document in whole or part.

(b) Relate to the correctness or incorrectness of information contained in the document.

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

History: 1997 a. 79.

181.0126 Appeal from department's refusal to file document. (1) HOW APPEALED. If the department refuses to file a document received by its office for filing, the domestic corporation or foreign corporation may appeal the refusal by filing a petition in circuit court to compel the department to file the document. The domestic corporation or foreign corporation shall file the petition in the circuit court for the county where the domestic corporation's or foreign corporation's principal office or, if none in this state, its registered office is or will be located. The domestic corporation or foreign corporation shall attach to the petition the document and any explanation by the department of the reasons for the refusal to file.

(2) FILING DEADLINES. The domestic corporation or foreign corporation shall file the petition under sub. (1) within 30 days after the department returns the document under s. 181.0125 (3)

(a). If the department does not return the document within the period specified in s. 181.0125 (3) (b), the domestic corporation or foreign corporation shall file the petition within 30 days after the period specified in s. 181.0125 (3) (b) expires.

(3) REMEDIES. The court may summarily order the department to file the document or take other action that the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.

History: 1997 a. 79.

181.0127 Evidentiary effect of copy of filed document. A certified copy of a document filed by the department is conclusive evidence that the original document is on file with the department.

History: 1997 a. 79.

181.0128 Confirmation of status. (1) WHO MAY REQUEST. Any person may obtain from the department, upon request, a certificate of status for a domestic corporation or foreign corporation.

(2) REQUIRED CONTENT OF CERTIFICATE OF STATUS. A certificate of status shall include all of the following information:

(a) The domestic corporation's corporate name or the foreign corporation's corporate name and fictitious name, if any, used in this state.

(b) Whether each of the following is true:

1. The domestic corporation is incorporated under the laws of this state, or the foreign corporation is authorized to transact business in this state.

3. The domestic corporation or foreign corporation has, during its most recently completed report year, filed with the department an annual report required by s. 181.1622.

4. The domestic corporation has not filed articles of dissolution.

5. The foreign corporation has not applied for a certificate of withdrawal under s. 181.1520 and is not the subject of a proceeding under s. 181.1531 to revoke its certificate of authority.

(c) The domestic corporation's date of incorporation and the period of its duration if less than perpetual.

(3) OTHER CONTENT OF CERTIFICATE OF STATUS. The certificate of status may include other facts of record in the department that are requested.

(4) STATEMENT OF STATUS. Upon request, the department shall issue, by telegraph, teletype, facsimile or other form of wire or wireless communication, a statement of status, which shall contain the information required in a certificate of status under sub. (2) and may contain any other information permitted under sub. (3).

(5) EVIDENTIAL EFFECT. Subject to any qualification stated in a certificate or statement of status issued by the department, the certificate or statement is conclusive evidence that the domestic corporation or foreign corporation is in existence or is authorized to transact business in this state.

(6) CONFIRMATION OF INFORMATION BY TELEPHONE. Upon request by telephone or otherwise, the department shall confirm, by telephone, any of the information required in a certificate of status under sub. (2) and may confirm any other information permitted under sub. (3).

History: 1997 a. 79.

181.0129 Penalty for false document. (1) SIGNING FALSE DOCUMENT. A person may not sign a document with intent that it be delivered to the department for filing or deliver, or cause to be delivered, a document to the department for filing, if the person knows that the document is false in any material respect at the time of its delivery.

(2) PENALTY. Whoever violates this section is guilty of a Class I felony.

History: 1997 a. 79, 283; 2001 a. 109.

181.0141 Notice. (1) APPLICABILITY. This section applies to notice that is required under this chapter and that is made subject to this section by express reference to this section.

(2) WHEN NOTICE MUST BE WRITTEN. (a) A person shall give notice in writing, except as provided in par. (b).

(b) A person may give oral notice if oral notice is permitted by the articles of incorporation or bylaws and not otherwise prohibited by this chapter.

(3) METHOD OF COMMUNICATION. Unless otherwise provided in the articles of incorporation or bylaws, notice may be communicated in person, by telephone, telegraph, teletype, facsimile or other form of wire or wireless communication, or by mail or private carrier, and, if these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.

(4) ADDRESS TO BE USED. Written notice to a domestic corporation or a foreign corporation authorized to transact business in this state may be addressed to its registered agent at its registered office or to the domestic corporation or foreign corporation at its principal office. With respect to a foreign corporation that has not yet filed an annual report under s. 181.1622, the address of the foreign corporation's principal office may be determined from its application for a certificate of authority.

(5) WHEN NOTICE EFFECTIVE. (a) Except as provided in par. (b) and ss. 181.0807 (2) and 181.0843 (1), written notice is effective at the earliest of the following:

1. When received.

2. Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

3. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

4. On the effective date specified in the articles of incorporation or bylaws.

(b) Written notice by a domestic corporation or foreign corporation to its member is effective when mailed and may be addressed to the member's address shown in the domestic corporation's or foreign corporation's current record of members.

(c) Oral notice is effective when communicated.

History: 1997 a. 79.

181.0160 Judicial relief. (1) WHEN COURT MAY ORDER MEETING OR BALLOT. If the requirements of this subsection are met, the circuit court for the county where a corporation's principal office is located, or if a corporation's principal office is not located in this state the circuit court for the county where the corporation's registered office is located, may order a corporation to hold a meeting of members, delegates or directors or may order a corporation to authorize a written ballot for obtaining the vote of members, delegates or directors. The court may enter an order under this subsection only if at least one of the following conditions is met:

(a) Upon the petition of the attorney general or a director, officer, delegate or member of the corporation, the court determines that it is impractical or impossible for the corporation to call or conduct a meeting of its members, delegates or directors, or to otherwise obtain their consent, in the manner described in this chapter or the corporation's articles of incorporation or bylaws.

(b) Upon the petition of a member or another person entitled to participate in an annual member meeting, the court determines that the annual meeting was not held within 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting.

(c) Upon the petition of a member or another person entitled to participate in a regular meeting, the court determines that the regular meeting is not held within 40 days after the date by which it was required to be held.

(d) Upon the petition of a member who signed a valid demand under s. 181.0702 for a special meeting or upon the petition of another person entitled to call a special meeting, the court determines that notice of the special meeting was not given within 30 days after the date on which the demand was delivered to a corporate officer or that the special meeting was not held in accordance with the notice.

(2) NOTICE. The court shall, in an order issued under this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held under the articles of incorporation, the bylaws and this chapter, whether or not the method results in actual notice to all such persons or conforms to s. 181.0141. In a proceeding under this section the court may determine who the members, delegates or directors are.

(3) VOTING REQUIREMENTS. In an order issued under this section, the court may dispense with any requirement relating to the holding of or voting at meetings or to obtaining votes, including any quorum requirement or any requirement as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles of incorporation or bylaws or this chapter. The court may fix alternate quorum or voting requirements and enter other orders necessary to accomplish the purpose of the meeting.

(4) SUBJECT MATTER. (a) Whenever practical, any order issued under this section shall limit the subject matter of meetings or other forms of consent authorized to those items, including amendments to the articles of incorporation or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section.

(b) Notwithstanding par. (a), an order under this section may authorize the obtaining of whatever votes and approvals are necessary for dissolution, merger or the sale of assets.

(5) EFFECT OF MEETING OR BALLOT. Any meeting or other method of obtaining the vote of members, delegates or directors conducted under an order issued under this section and that complies with all of the provisions of the order is for all purposes a valid meeting or vote and shall have the same effect as if it complied with every requirement imposed by the articles of incorporation, the bylaws and this chapter.

History: 1997 a. 79.

SUBCHAPTER II

INCORPORATION

181.0201 Incorporators. One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the department for filing.

History: 1997 a. 79.

181.0202 Articles of incorporation. (1) REQUIRED CONTENT. The articles of incorporation shall include all of the following information:

(a) A statement that the corporation is incorporated under this chapter.

(b) A corporate name for the corporation that satisfies s. 181.0401.

(c) The mailing address of the initial principal office of the corporation.

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that office.

(e) The name and address of each incorporator.

(f) Whether or not the corporation will have members.

(g) If the corporation is authorized to make distributions under s. 181.1302 (4), a statement to that effect.

(2) PERMISSIBLE CONTENT. The articles of incorporation may set forth other information, including any of the following:

(a) The names and addresses of the natural persons who will serve as the initial directors.

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized.

2. Managing the business and regulating the affairs of the corporation.

3. Distributing assets on dissolution.

4. Defining, limiting and regulating the powers of the corporation, its board of directors and its members.

(c) Any provision that, under this chapter, is required or permitted to be set forth in the bylaws.

(3) POWERS ENUMERATED IN CHAPTER. The articles of incorporation need not include any of the corporate powers enumerated in this chapter.

(4) ARTICLES SUPERSEDE BYLAWS. If a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation controls.

History: 1997 a. 79.

181.0203 Incorporation. (1) WHEN CORPORATE EXISTENCE BEGINS. The corporate existence begins when the articles of incorporation become effective under s. 181.0123.

(2) CONCLUSIVE PROOF OF INCORPORATION. The department's filing of the articles of incorporation or articles of domestication is conclusive proof that the corporation is incorporated under this chapter, except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

(3) NOTIFICATION OF REPORTING REQUIREMENTS. Upon filing articles of incorporation of a corporation, the department shall inform the corporation of the reporting requirements under s. 202.12 for charitable organizations that solicit contributions.

History: 1997 a. 79; 2013 a. 20.

181.0205 Organization of corporation. (1) ORGANIZATIONAL MEETING REQUIRED. (a) After incorporation, if initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws and carrying on any other business brought before the meeting.

(b) After incorporation, if initial directors are not named in the articles of incorporation, the incorporator or incorporators shall hold an organizational meeting, at the call of a majority of the incorporators, to do any of the following:

1. Elect directors and complete the organization of the corporation.

2. Elect a board that will complete the organization of the corporation.

(2) WRITTEN CONSENTS. Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(3) LOCATION OF ORGANIZATIONAL MEETING. An organizational meeting may be held in or outside of this state.

History: 1997 a. 79.

181.0206 Bylaws. (1) INITIAL BYLAWS. The incorporators, members or board of a corporation shall adopt the initial bylaws for the corporation.

(2) SUBSEQUENT ADOPTION, AMENDMENT AND REPEAL. After the adoption of the initial bylaws under sub. (1), bylaws may be adopted either by the members or the board, but no bylaw adopted by the members shall be amended or repealed by the directors, unless the bylaws adopted by the members shall have conferred such authority upon the directors. Any bylaw adopted by the board is subject to amendment or repeal by the members as well as by the directors.

(3) CONTENT OF BYLAWS. The bylaws of a corporation may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with its articles of incorporation or with the laws of this state.

History: 1997 a. 79.

181.0207 Emergency bylaws. (1) DEFINITION. In this section, "emergency" means a catastrophic event that prevents a quorum of the corporation's directors or members from being readily assembled.

(2) ADOPTION OF EMERGENCY BYLAWS. Unless the articles of incorporation provide otherwise, the board of a corporation may adopt bylaws that are effective only in an emergency. Emergency bylaws are subject to amendment or repeal by the board or by the members, if any. Emergency bylaws may provide special procedures necessary for managing the corporation during the emergency, including any of the following:

(a) Procedures for calling a meeting of the board.

(b) Quorum requirements for the meeting.

(c) Designation of additional or substitute directors.

(3) EFFECTIVENESS. Provisions of the regular bylaws that are consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(4) ACTION TAKEN UNDER EMERGENCY BYLAWS. Notwithstanding ss. 181.0831 and 181.0833, corporate action taken in good faith in accordance with the emergency bylaws binds the corporation and may not be used to impose liability on a corporate director, officer, member, employee or agent.

History: 1997 a. 79.

SUBCHAPTER III

PURPOSES AND POWERS

181.0301 Purposes. (1) PERMITTED PURPOSES. A corporation incorporated under this chapter has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation.

(2) EFFECT OF OTHER REGULATION. A corporation engaging in an activity that is subject to regulation under another statute of this state may incorporate under this chapter only if incorporation under this chapter is not prohibited by the other statute. The corporation shall be subject to all limitations of the other statute.

History: 1997 a. 79.

181.0302 General powers. Unless its articles of incorporation provide otherwise, a corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs, including the power to do all of the following:

(1) LEGAL ACTIONS. Sue and be sued, complain and defend in its corporate name.

(2) CORPORATE SEAL. Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it.

(3) BYLAWS. Make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this state, for regulating and managing the affairs of the corporation.

(4) PROPERTY ACQUISITION. Purchase, receive, lease or otherwise acquire, and own, hold, improve, use and otherwise deal with, property or any legal or equitable interest in property, wherever located.

(5) DISPOSITION OF PROPERTY. Sell, convey, mortgage, pledge, lease, exchange and otherwise dispose of all or any part of its property.

(6) INTERESTS IN OTHER ENTITIES. Purchase, receive, subscribe for or otherwise acquire, and own, hold, vote, use, sell, mortgage, lend, pledge or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of, any other entity.

(7) CONTRACTS AND LIABILITIES. Make contracts and guarantees; incur liabilities; borrow money; issue notes, bonds and other obligations; and secure any of its obligations by mortgage or pledge of any of its property, franchises or income.

(8) LOANS. Lend money, invest and reinvest its funds and receive and hold property as security for repayment, except as limited by s. 181.0832.

(9) PARTICIPATION IN OTHER ENTITIES. Be a promoter, partner, member, associate or manager of any entity.

(10) EXERCISE OF POWERS. Conduct its activities, locate offices and exercise the powers granted by this chapter in or outside this state.

(11) DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS. Elect or appoint directors, officers, employees and agents of the corporation, define their duties and fix their compensation.

(12) PENSION AND INCENTIVE PLANS. Pay pensions and establish pension plans, pension trusts and other benefit and incentive plans for any of its current or former directors, officers, employees and agents of the corporation, its subsidiaries or its affiliates.

(13) BENEFIT PLANS. Provide benefits or payments to directors, officers and employees of the corporation, its subsidiaries or its affiliates, and to their estates, families, dependents or beneficiaries, in recognition of the past services of the directors, officers and employees to the corporation, its subsidiaries or its affiliates.

(14) COMPENSATION. Establish reasonable compensation for all directors for services to the corporation as directors, officers or otherwise. Unless otherwise provided in the articles of incorporation or bylaws, 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, may establish reasonable compensation for all directors for such services or delegate this authority to an appropriate committee.

(15) DONATIONS. Make donations and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic or religious purposes.

(16) DUES. Impose dues, assessments, admission and transfer fees upon its members.

(17) ADMISSION OF MEMBERS. Establish conditions for admission of members, admit members and issue memberships.

(18) BUSINESSES. Carry on a business.

(19) OTHER. Do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

History: 1997 a. 79.

181.0303 Emergency powers. (1) DEFINITION. In this section, "emergency" has the meaning given in s. 181.0207 (1).

(2) POWERS. In anticipation of or during an emergency, the board or members of a corporation may do all of the following:

(a) Modify lines of succession to accommodate the incapacity of a director, officer, employee or agent.

(b) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(3) MEETINGS. Unless emergency bylaws adopted under s. 181.0207 provide otherwise, all of the following apply to a meeting of the board during an emergency:

(a) The corporation need give notice of a meeting of the board only to those directors whom it is practicable to reach and the corporation may give notice in any practicable manner, including by publication and radio.

(b) One or more officers of the corporation present at a meeting of the board may be considered to be a director for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(4) ACTION TAKEN DURING EMERGENCY. Corporate action taken in good faith during an emergency under this section to fur-

ther the ordinary affairs of the corporation binds the corporation and may not be used to impose liability on a corporate director, officer, member, employee or agent.

History: 1997 a. 79.

181.0304 Effect of unauthorized corporate acts. 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, except that lack of capacity or power may be asserted in all of the following cases:

(1) PROCEEDINGS BY MEMBERS OR DIRECTORS. A proceeding by a member or director against the corporation to enjoin the doing of any act or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined is being, or is 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 the court considers the same to be equitable, set aside and enjoin the performance of the contract. The court may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them as a result of the action of the court in setting aside and enjoining the performance of the contract. Anticipated profits to be derived from the performance of the contract may not be awarded by the court as a loss or damage sustained.

(2) PROCEEDINGS BY THE CORPORATION. A proceeding by the corporation, whether acting directly or through a receiver, trustee or other legal representative, or through members in a representative suit, against the incumbent or former officers or directors of the corporation.

(3) PROCEEDINGS BY THE ATTORNEY GENERAL. A proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts.

History: 1997 a. 79.

181.0320 Private foundations. (1) PROHIBITED ACTS. A private foundation, as defined in section 509 (a) of the Internal Revenue Code, may not do any of the following:

(a) Engage in any act of self−dealing, as defined in section 4941 (d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941 (a) of the Internal Revenue Code.

(b) Retain any excess business holdings, as defined in section 4943 (c) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943 (a) of the Internal Revenue Code.

(c) Make any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944 (a) of the Internal Revenue Code.

(d) Make any taxable expenditures, as defined in section 4945 (d) of the Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945 (a) of the Internal Revenue Code.

(2) REQUIRED DISTRIBUTIONS. Each corporation that is a private foundation, as defined in section 509 of the Internal Revenue Code, shall distribute, for the purposes specified in its articles of organization, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942 (a) of the Internal Revenue Code.

(3) EXCEPTIONS. Subsections (1) and (2) do not apply to any corporation to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the articles of organization or other instrument governing such corporation or governing the administration of charitable funds held by it and that the same may not properly be changed to conform to such subsections.

(4) POWERS OF COURTS AND ATTORNEY GENERAL. This section does not impair the rights and powers of the courts or the attorney general of this state with respect to any corporation.

History: 1997 a. 79.

181.0330 Offer and sale of securities. A corporation or a foreign corporation may not offer or sell any of its securities in this state, unless the securities are registered under ch. 551 or unless the securities or the offer or sale of the securities is exempt from registration under ch. 551.

History: 1997 a. 79.

SUBCHAPTER IV

NAME

181.0401 Corporate name. (1) GENERAL REQUIREMENTS. (a) The corporate name of a corporation:

1. Shall contain the word "corporation", "incorporated", "company" or "limited" or the abbreviation "corp.", "inc.", "co." or "ltd." or words or abbreviations of like import in another language, except as provided in par. (b).

2. May not contain language stating or implying that the corporation is organized for a purpose other than that permitted by s. 181.0301 and its articles of incorporation.

(b) A corporation in existence on January 1, 1999, need not change its name to comply with par. (a) 1.

(2) DISTINGUISHABILITY. (a) Except as provided in subs. (3) and (4), the corporate name of a domestic corporation must be distinguishable upon the records of the department from all of the following names:

1. The corporate name of a domestic corporation or a foreign corporation authorized to transact business in this state.

2. The corporate name of a stock corporation or a foreign stock corporation authorized to transact business in this state.

3. A name reserved or registered under this chapter or ch. 178, 179, 180, 183, 185, or 193.

4. The corporate name of a dissolved corporation or stock corporation that has retained the exclusive use of its name under s. 181.1405 (3) or under s. 180.1405 (3), respectively.

5. The fictitious name adopted by a foreign corporation or a foreign stock corporation authorized to transact business in this state.

6. The name of a limited partnership formed under the laws of, or registered in, this state.

7. The name of a cooperative association or an unincorporated cooperative association incorporated or authorized to transact business in this state.

8. The name of a limited liability company organized under the laws of, or registered in, this state.

9. The name of a limited liability partnership formed under the laws of, or registered in, this state.

(b) The corporate name of a corporation is not distinguishable from a name referred to in par. (a) 1. to 9. if the only difference between it and the other name is the inclusion or absence of a word or words referred to in sub. (1) (a) 1. or of the words "limited partnership", "limited liability partnership", "cooperative" or "limited liability company" or an abbreviation of these words.

(3) APPLICATION TO USE NONDISTINGUISHABLE NAME. A corporation may apply to the department for authorization to use a name that is not distinguishable upon the records of the department from one or more of the names described in sub. (2). The department shall authorize use of the name applied for if any of the following occurs:

(a) The other corporation or the foreign corporation, limited liability company, stock corporation, limited partnership, limited liability partnership, cooperative association, or unincorporated cooperative association consents to the use in writing and submits an undertaking in a form satisfactory to the department to change

its name to a name that is distinguishable upon the records of the department from the name of the applicant.

(b) The applicant delivers to the department a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) CORPORATE REORGANIZATIONS. A corporation may use the name, including the fictitious name, that is used in this state by another domestic or foreign corporation or stock corporation authorized to transact business in this state if the corporation proposing to use the name has done any of the following:

(a) Merged with the other domestic or foreign corporation or stock corporation.

(b) Been formed by reorganization of the other domestic or foreign corporation or stock corporation.

(c) Acquired all or substantially all of the assets, including the corporate name, of the other domestic or foreign corporation or stock corporation.

History: 1997 a. 79; 2005 a. 441.

181.0402 Reserved name. (1) RESERVATION OF NAMES. A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the department for filing or by making a telephone application. The application shall include the name and address of the applicant and the name proposed to be reserved. If the department finds that the corporate name applied for under this subsection is available, the department shall reserve the name for the applicant's exclusive use for a 120−day period, which may be renewed by the applicant or a transferee under sub. (2) from time to time.

(2) TRANSFER OF RESERVED NAME. A person who has the right to exclusive use of a reserved corporate name under sub. (1) may transfer the reservation to another person by delivering to the department a written and signed notice of the transfer that states the name and address of the transferee.

History: 1997 a. 79; 2001 a. 44.

181.0403 Registered name. (1) BY FOREIGN CORPORATION. (a) A foreign corporation may register its corporate name if the name is distinguishable upon the records of the department from the names described in s. 181.1506 (2) and if the foreign corporation delivers to the department for filing an application complying with par. (b).

(b) A foreign corporation's application to register a corporate name shall be accompanied by a certificate of status or similar document from the state or country of incorporation and shall include all of the following information:

1. The foreign corporation's corporate name.
2. The state or country and the date of its incorporation.
3. The street address of its principal office.

(c) The registration expires December 31. The foreign corporation may renew its registration by delivering to the department for filing a renewal application, which complies with par. (b), between October 1 and December 31 of each year that the registration is in effect. The renewal application when filed renews the registration for the next year.

(2) MERGER, NAME CHANGE OR DISSOLUTION. (a) A corporation may, upon merger, change of name or dissolution, register its corporate name for no more than 10 years by delivering to the department for filing an application, executed by the corporation, simultaneously with the delivery for filing of the articles of merger, the articles of dissolution, or the articles of amendment or the restated articles of incorporation that change the corporate name.

(b) A foreign corporation may, upon change of name, register its corporate name for no more than 10 years by delivering to the department for filing an application, executed by the foreign corporation, simultaneously with the delivery for filing of an application for an amended certificate of authority that changes the corporate name.

(3) EFFECTIVE DATE. A corporate name is registered under sub. (1) or (2) for the applicant's exclusive use on the effective date of the application.

(3m) TRANSFER OF REGISTERED NAME. A person who has the right to exclusive use of a registered name under sub. (1) or (2) may transfer the registration to another person by delivering to the department a written and signed notice of the transfer that states the name and address of the transferee.

(4) TERMINATION OF REGISTERED NAME. (a) A foreign corporation whose registration is effective under sub. (1) may thereafter apply for a certificate of authority under the registered name or consent in writing to the use of that name by a domestic corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation obtains a certificate of authority or consents to another foreign corporation obtaining a certificate of authority under the registered name.

(b) The holder of a registration effective under sub. (2) may thereafter incorporate as a domestic corporation or obtain a certificate of authority under the registered name or consent in writing to use of that name by a domestic corporation thereafter incorporated under this chapter or by a foreign corporation thereafter authorized to transact business in this state. The registration terminates when any of the following occurs:

1. The holder incorporates as a domestic corporation or obtains a certificate of authority under the registered name.

2. The domestic corporation that has consent to use the registered name is incorporated.

3. The holder consents to another foreign corporation obtaining a certificate of authority under the registered name.

History: 1997 a. 79.

SUBCHAPTER V

OFFICE AND AGENT

181.0501 Registered office and registered agent. Each corporation shall continuously maintain in this state a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business. The registered agent shall be any of the following:

(1) INDIVIDUALS. An individual who resides in this state and whose business office is identical with the registered office.

(2) DOMESTIC ENTITIES. A domestic corporation, stock corporation, limited partnership, limited liability partnership, or limited liability company, incorporated or organized in this state or that has in effect a statement of qualification under s. 178.0901, whose business office is identical with the registered office.

(3) FOREIGN ENTITIES. A foreign corporation, stock corporation, limited partnership, registered limited liability partnership, or limited liability company, authorized to transact business in this state, whose business office is identical with the registered office.

History: 1997 a. 79; 2001 a. 44; 2015 a. 295.

181.0502 Change of registered office or registered agent. (1) METHODS OF CHANGING OFFICE OR AGENT. A corporation may change its registered office or registered agent, or both, by doing any of the following:

(a) Delivering to the department for filing a statement of change.

(b) Including the name of its registered agent and the street address of its registered office, as changed, in articles of amendment to its articles of incorporation, in a restatement of its articles of incorporation or in articles of merger.

(c) If a domestic corporation, including the name of its registered agent and the street address of its registered office, as changed, in its annual report under s. 181.1622. A change under this paragraph is effective on the date on which the annual report is filed by the department.

(2) CONTENTS OF STATEMENT OF CHANGE. Except as provided in sub. (3), a statement of change shall include all of the following information:

(a) The name of the corporation and, if applicable, a statement that the corporation is incorporated under this chapter.

(b) The name of its registered agent, as changed.

(c) The street address of its registered agent, as changed.

(d) A statement that after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(3) REGISTERED AGENT CHANGE OF ADDRESS. If the name of a registered agent changes or if the street address of a registered agent's business office changes, the registered agent may change the name of the registered agent or street address of the registered office of any corporation for which he, she, or it is the registered agent. To make a change under this subsection, the registered agent shall notify the corporation in writing of the change and deliver to the department for filing a signed statement that complies with sub. (2) and recites that the corporation has been notified of the change.

History: 1997 a. 79; 2005 a. 476.

181.0503 Resignation of registered agent. (1) STATEMENT OF RESIGNATION. The registered agent of a corporation may resign by signing and delivering to the department for filing a statement of resignation that includes all of the following information:

(a) The name of the corporation for which the registered agent is acting.

(b) The name of the registered agent.

(c) The street address of the corporation's current registered office and its principal office.

(d) A statement that the registered agent resigns.

(e) If applicable, a statement that the registered office is also discontinued.

(2) NOTICE TO CORPORATION. After filing the statement, the department shall mail a copy to the corporation at its principal office.

(3) EFFECTIVE DATE. The resignation is effective and, if applicable, the registered office is discontinued on the earlier of the following:

(a) Sixty days after the department receives the statement of resignation for filing.

(b) The date on which the appointment of a successor registered agent is effective.

History: 1997 a. 79.

181.0504 Service on corporation. (1) REGISTERED AGENT. A corporation's registered agent is the corporation's agent for service of process, notice or demand required or permitted by law to be served on the corporation.

(2) BY MAIL. Except as provided in sub. (3), if a corporation has no registered agent or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the corporation at its principal office. Service is perfected under this subsection at the earliest of the following:

(a) The date on which the corporation receives the mail.

(b) The date shown on the return receipt, if signed on behalf of the corporation.

(c) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

(3) BY PUBLICATION. Except as provided in s. 181.1421 (2) (b), if the address of the corporation's principal office cannot be determined from the records held by the department, the corporation may be served by publishing a class 3 notice, under ch. 985, in the community where the corporation's principal office or registered office, as most recently designated in the records of the department, is located.

(4) OTHER METHODS OF SERVICE. This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served on a corporation in any other manner permitted by law.

History: 1997 a. 79; 2011 a. 234.

SUBCHAPTER VI

MEMBERS AND MEMBERSHIPS

181.0601 Admission. (1) CRITERIA AND PROCEDURES. The articles of incorporation or bylaws may establish criteria or procedures for admission of members.

(2) CONSENT REQUIRED. A person may not be admitted as a member without the person's consent.

History: 1997 a. 79.

181.0602 Consideration and certificates. Except as provided in its articles of incorporation or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board. A corporation may issue certificates evidencing membership in the corporation.

History: 1997 a. 79.

181.0603 No requirement of members. A corporation is not required to have members.

History: 1997 a. 79.

181.0610 Differences in rights and obligations of members. All members shall have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the articles of incorporation or bylaws establish classes of membership with different rights or obligations. All members shall have the same rights and obligations with respect to any other matters, except as set forth in or authorized by the articles of incorporation or bylaws.

History: 1997 a. 79.

181.0611 Transfers. (1) WHEN AUTHORIZED. Except as set forth in or authorized by the articles of incorporation or bylaws, a member of a corporation may not transfer a membership or any right arising from a membership.

(2) ADOPTION OF RESTRICTIONS. If transfer rights have been provided, no restriction on them shall be binding with respect to a member holding a membership issued before the adoption of the restriction unless the restriction is approved by the members and the affected member.

History: 1997 a. 79.

181.0612 Member's liability to 3rd parties. A member of a corporation is not, as a member, personally liable for the acts, debts, liabilities or obligations of the corporation.

History: 1997 a. 79.

181.0613 Member's liability for dues, assessments and fees. A member may become liable to the corporation for dues, assessments or fees. An article of incorporation or bylaw provision or a resolution adopted by the board authorizing or imposing dues, assessments or fees does not, of itself, create liability.

History: 1997 a. 79.

181.0614 Creditor's action against member. (1) FINAL JUDGMENT REQUIRED. A proceeding may not be brought by a creditor to reach the liability, if any, of a member under s. 181.0613 to

the corporation unless final judgment has been rendered in favor of the creditor against the corporation.

(2) INTERVENTION AND JOINDER. A creditor of the corporation, with or without reducing the creditor's claim to judgment, may intervene in a creditor's proceeding brought under sub. (1) to reach and apply unpaid amounts due the corporation. Any member who owes an amount to the corporation may be joined in the proceeding.

History: 1997 a. 79.

181.0620 Termination, expulsion and suspension. (1) TERMINATION OF MEMBERSHIP. Unless otherwise provided in the articles of incorporation, membership shall be terminated by death, voluntary withdrawal or expulsion, and thereafter all of the rights of the member in the corporation or in its property shall cease.

(2) EXPULSION AND SUSPENSION. Members may be suspended or expelled in the manner provided in the articles of incorporation, or in the bylaws, if the articles so provide. If no provision is made in the articles of incorporation, a member may be expelled, or suspended for a specific period of time, by an affirmative vote of two−thirds of the members entitled to vote, or of two−thirds of the directors if there are no members entitled to vote.

(3) LIABILITY. A member who has been expelled or suspended may be liable to the corporation for dues, assessments or fees because of obligations incurred or commitments made before expulsion or suspension.

History: 1997 a. 79.

181.0622 Purchase of memberships. A corporation may purchase the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles of incorporation or bylaws. A corporation may not make a payment under this section that violates s. 181.1302 (1).

History: 1997 a. 79.

181.0640 Delegates. (1) ROLE OF DELEGATES. A corporation may provide in its articles of incorporation or bylaws that delegates have some or all of the authority of members.

(2) PERMISSIBLE PROVISIONS. The articles of incorporation or bylaws may include provisions relating to all of the following:

(a) Dividing the membership into geographical or other districts or units.

(b) Determining the number of delegates to be elected in each district or unit. This determination may be made from time to time by the board of directors.

(c) The characteristics, qualifications, rights, limitations and obligations of delegates, including their selection and removal.

(d) Calling, noticing, holding and conducting meetings of delegates.

(e) Carrying on corporate activities during and between meetings of delegates.

(f) Providing for the election or appointment of district or unit committees and officers.

History: 1997 a. 79.

181.0670 Limited liability of volunteers. (1) DEFINITION. In this section, "volunteer" means an individual, other than an employee of the corporation, who provides services to or on behalf of the corporation without compensation.

(2) LIMITED LIABILITY. Except as provided in sub. (3), a volunteer is not liable to any person for damages, settlements, fees, fines, penalties or other monetary liabilities arising from any act or omission as a volunteer, unless the person asserting liability proves that the act or omission constitutes any of the following:

(a) A violation of criminal law, unless the volunteer had reasonable cause to believe that his or her conduct was lawful or had no reasonable cause to believe that his or her conduct was unlawful.

(b) Willful misconduct.

(c) If the volunteer is a director or officer of the corporation, an act or omission within the scope of the volunteer's duties as a director or officer.

(d) An act or omission for which the volunteer received compensation or any thing of substantial value instead of compensation.

(e) Negligence in the practice of a profession, trade or occupation that requires a credential, as defined in s. 440.01 (2) (a), or other license, registration, certification, permit or approval, if the volunteer did not have the required credential, license, registration, certificate, permit or approval at the time of the negligent act or omission.

(3) APPLICABILITY. (a) Except as provided in par. (b), this section does not apply to any of the following:

1. A civil or criminal proceeding brought by or on behalf of any governmental unit, authority or agency.

2. A proceeding brought by any person for a violation of state or federal law if the proceeding is brought under an express private right of action created by state or federal statute.

3. Claims arising from the negligent operation by a volunteer of an automobile, truck, train, airplane or other vehicle for which an operator's permit, license or insurance is required.

(b) Paragraph (a) 1. and 2. does not apply to a proceeding brought by or on behalf of a governmental unit, authority or agency in its capacity as a contractor.

History: 1997 a. 79.

SUBCHAPTER VII

MEMBER MEETINGS AND VOTING

181.0701 Annual and regular meetings. (1) ANNUAL MEETINGS. A corporation with members shall hold annual meetings of members at a time stated in or fixed in accordance with the bylaws.

(2) MEMBERSHIP MEETINGS. A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(3) PLACE OF MEETINGS. Annual and regular membership meetings may be held in or outside of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, the corporation shall hold annual and regular meetings at the corporation's principal office.

(4) MATTERS CONSIDERED AT ANNUAL MEETINGS. At the annual meeting, an officer shall report on the activities and financial condition of the corporation and the members shall consider and act upon such other matters as may be raised consistent with the requirements of s. 181.0705.

(5) MATTERS CONSIDERED AT REGULAR MEETINGS. At regular meetings the members shall consider and act upon such matters as may be raised consistent with the requirements of s. 181.0705.

(6) FAILURE TO HOLD MEETING. The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

History: 1997 a. 79.

181.0702 Special meeting. (1) WHEN HELD. A corporation with members shall hold a special meeting of members if any of the following occurs:

(a) A special meeting is called by the board or any person authorized by the articles of incorporation or bylaws to call a special meeting.

(b) Members holding at least 5 percent of the voting power of a corporation, or such other percentage specified in the articles of incorporation or bylaws, sign, date and deliver to any corporate officer one or more written demands for the meeting describing one or more purposes for which it is to be held.

(2) RECORD DATE. The close of business on the 30th day before delivery of the demand for a special meeting to any corporate officer is the record date for determining if the percentage requirement of sub. (1) (b) has been met.

(3) IF NOTICE NOT GIVEN. Notwithstanding sub. (4), if a notice for a special meeting demanded under sub. (1) (b) is not given under s. 181.0705 within 30 days after the date on which the written demand is delivered to a corporate officer, a person signing the demand may set the time, and, subject to sub. (4), the place, of the meeting. The person signing the demand shall give notice under s. 181.0705.

(4) PLACE OF MEETING. A corporation may hold a special meeting of members in or outside of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, a corporation shall hold a special meeting at the corporation's principal office.

(5) SCOPE OF MEETING. Only those matters that are within the purpose described in the meeting notice required by s. 181.0705 may be conducted at a special meeting of members.

History: 1997 a. 79.

181.0704 Action by written consent. (1m) DEFINITIONS. In this section:

(a) "In writing" or "written" includes a communication that is transmitted or received by electronic means.

(b) "Sign" includes executing an electronic signature.

(1r) WHEN PERMITTED. Unless limited or otherwise provided in the articles of incorporation or bylaws, action required or permitted by this chapter to be approved by the members may be approved without a meeting of members if the action is approved by members holding at least 80 percent of the voting power, or a different percentage, not less than 50 percent, specified in the articles of incorporation or bylaws. The action must be evidenced by one or more written consents describing the action taken, signed by the required number of members, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. All signatures on the written consent shall be dated and, in determining whether the required number of members have signed the consent, only those signatures dated after the date of the most recent meeting of the members may be counted.

(2) RECORD DATE. If not otherwise determined under s. 181.0160 or 181.0707, the record date for determining members entitled to take action without a meeting is the date on which the first member signs the consent under sub. (1r).

(3) EFFECT OF CONSENT. A consent signed under this section has the effect of a meeting vote and may be described as such in any document filed with the department.

(4) NOTICE REQUIREMENTS. Written notice of member approval under this section shall be given to all members who have not signed the written consent. If written notice is required, member approval under this section shall be effective 10 days after such written notice is given.

History: 1997 a. 79; 2003 a. 259.

181.0705 Notice of meeting. (1) WHEN REQUIRED. A corporation shall give notice of meetings of members as provided in its bylaws or, if the bylaws are silent, in a manner that is fair and reasonable.

(2) IN GENERAL. Any notice that conforms to the requirements of sub. (3) is fair and reasonable. Except for matters referred to in sub. (3) (b), other means of giving notice may also be fair and reasonable when all of the circumstances are considered. Section 181.0141 applies to notices provided under this section.

(3) NOTICE SAFE HARBOR. Notice is fair and reasonable if all of the following conditions exist:

(a) The corporation notifies its members of the place, date and time of each annual, regular and special meeting of members not more than 60 days and not less than 10 days, or, if notice is mailed by other than first class or registered mail, 30 days, before the meeting date.

(b) Notice of an annual or regular meeting includes a description of any matter or matters that must be approved by the members under s. 181.0723 (2), 181.0831, 181.0873 (4), 181.1003, 181.1021, 181.1105, 181.1202 or 181.1401.

(c) Notice of a special meeting includes a description of the matter or matters for which the meeting is called.

(4) ADJOURNED MEETINGS. Unless the bylaws require otherwise, if an annual, regular or special meeting of members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under s. 181.0707, notice of the adjourned meeting must be given under this section to the members of record as of the new record date.

(5) NOTICE OF ISSUES RAISED BY MEMBERS. When giving notice of an annual, regular or special meeting of members, a corporation shall give notice of a matter that a member intends to raise at the meeting if requested in writing to do so by a person entitled to call a special meeting and the request is received by the secretary or president of the corporation at least 10 days before the corporation gives notice of the meeting.

History: 1997 a. 79.

181.0706 Waiver of notice. (1) WAIVER REQUIREMENTS. A member may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) EFFECT OF ATTENDANCE. A member's attendance at a meeting waives objection to all of the following:

(a) Lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(b) Consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

History: 1997 a. 79.

181.0707 Record date; determining members entitled to notice and vote. (1) RECORD DATE FOR NOTICE. The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members at the close of business on the business day preceding the day on which notice is given are entitled to notice of the meeting. However, if a meeting is held without notice, the determination of who is entitled to waive notice is made as of the close of business on the business day preceding the day on which the meeting is held.

(2) RECORD DATE FOR VOTING. The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

(3) RECORD DATE FOR EXERCISE OF OTHER RIGHTS. The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board may fix in advance such a record date. If no such record date is fixed, members at the close of business on the day on which the board

adopts the resolution relating thereto, or the 60th day before the date of such other action, whichever is later, are entitled to exercise such rights.

(4) LIMITATIONS ON RECORD DATES. Unless the bylaws of a corporation provide otherwise, a record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of members occurs.

(5) ADJOURNED MEETINGS. A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than 70 days after the record date for determining members entitled to notice of the original meeting.

(6) COURT–ORDERED ADJOURNMENT. If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting.

History: 1997 a. 79.

181.0708 Action by written ballot. (1m) DEFINITION. In this section, "written ballot" includes a ballot transmitted or received by electronic means.

(1r) WHEN PERMITTED. If permitted by the articles of incorporation or bylaws, any action that may be taken at an annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(2) BALLOT REQUIREMENTS. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(3) VOTING REQUIREMENTS. Approval by written ballot under this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(4) SOLICITATION REQUIREMENTS. A solicitation for votes by written ballot shall include all of the following:

(a) The number of responses needed to meet the quorum requirements.

(b) The percentage of approvals necessary to approve each matter other than election of directors.

(c) The time by which a ballot must be received by the corporation in order to be counted.

(5) REVOCATION. Except as otherwise provided in the articles of incorporation or bylaws, a written ballot may not be revoked.

History: 1997 a. 79; 2003 a. 259.

181.0720 Members' list for meeting. (1) LIST OF MEMBERS. After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all of its members who are entitled to notice of the meeting. The list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis as and be part of the list of members.

(2) INSPECTION BEFORE MEETING. The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning 2 business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent or a member's attorney is entitled on written demand to inspect and, subject to ss. 181.1602 (3) and 181.1605, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

(3) INSPECTION AT MEETING. The corporation shall make the list of members available at the meeting, and any member, a member's agent or a member's attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(4) REFUSAL TO ALLOW INSPECTION. If the corporation refuses to allow a member, a member's agent or a member's attorney to inspect the list of members before or at the meeting or to copy the list as permitted under sub. (2), the circuit court for the county where a corporation's principal office, or if none in this state, its registered office, is located, on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs, including reasonable attorney fees, incurred to obtain the order.

(5) EFFECT OF NONCOMPLIANCE. Refusal or failure to prepare or make available the list of members does not affect the validity of action taken at the meeting.

History: 1997 a. 79.

181.0721 Voting entitlement generally. (1) IN GENERAL. Unless the articles of incorporation or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members.

(2) MEMBERSHIP IN THE NAME OF MULTIPLE PERSONS. Unless the articles of incorporation or bylaws provide otherwise, if a membership stands of record in the names of 2 or more persons, their acts with respect to voting shall have the following effect:

(a) If only one votes, such act binds all.

(b) If more than one votes, the vote shall be divided on a prorated basis.

History: 1997 a. 79.

181.0722 Quorum requirements. (1) IN GENERAL. Unless this chapter, the articles of incorporation, or bylaws provide for a higher or lower quorum, 10 percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

(2) BYLAW AMENDMENT TO DECREASE QUORUM REQUIREMENTS. A bylaw amendment to decrease the quorum for any member action may be approved by the members or, unless prohibited by the bylaws, by the board.

(3) BYLAW AMENDMENT TO INCREASE QUORUM REQUIREMENTS. A bylaw amendment to increase the quorum required for any member action must be approved by the members.

(4) QUORUM TO TAKE UP ADDITIONAL MATTERS. The only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice, unless at least one of the following conditions is met:

(a) One−third or more of the voting power of the membership is present in person or by proxy.

(b) The meeting notice contains a general statement that matters other than those specifically described in the notice may be considered at the meeting.

History: 1997 a. 79.

181.0723 Voting requirements. (1) IN GENERAL. A majority of the votes entitled to be cast by the members present in person or represented by proxy at a meeting at which a quorum is present shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by this chapter, the articles of incorporation or the bylaws.

(2) AMENDMENT TO CHANGE VOTING REQUIREMENTS. A bylaw amendment to increase or decrease the vote required for any member action must be approved by the members.

(3) VOTES BY CORPORATIONS AND LIMITED LIABILITY COMPANIES. A corporate member's vote may be cast by the president

of the member corporation, or by any other officer or proxy appointed by the president of such corporation, in the absence of express notice of the designation of some other person by the board of directors or bylaws of the member corporation. A limited liability company member's vote may be cast by a manager of the member limited liability company.

History: 1997 a. 79.

181.0724 Proxies. (1) RIGHT TO VOTE BY PROXY. Unless the articles of incorporation or bylaws prohibit or limit proxy voting, a member may appoint a proxy to vote or otherwise act for the member by signing an appointment form either personally or by an attorney−in−fact.

(2) WHEN EFFECTIVE. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for 11 months unless a different period is expressly provided in the appointment form.

(3) EFFECT OF DEATH OR INCAPACITY. The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(4) REVOCABILITY. An appointment of a proxy is revocable by the member unless the appointment form conspicuously states that it is irrevocable.

(5) METHODS OF REVOCATION. Appointment of a proxy is revoked by the person appointing the proxy in any of the following ways:

(a) Attending any meeting and voting in person.

(b) Signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

(6) ACCEPTANCE BY CORPORATION. Subject to s. 181.0727 and any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

History: 1997 a. 79.

181.0725 Cumulative voting for directors. (1) IN GENERAL. If the articles of incorporation or bylaws provide for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and cast the product for a single candidate or distribute the product among 2 or more candidates.

(2) WHEN NOT AUTHORIZED. Cumulative voting is not authorized at a particular meeting unless any of the following occurs:

(a) The meeting notice or statement accompanying the notice states that cumulative voting will take place.

(b) A member gives notice during the meeting and before the vote is taken of the member's intent to cumulate votes, and if one member gives this notice all other members participating in the election are entitled to cumulate their votes without giving further notice.

(3) REMOVAL OF DIRECTORS. A director elected by cumulative voting may be removed by the members without cause if the requirements of s. 181.0808 are met unless the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast, or, if such action is taken by written ballot, all memberships entitled to vote were voted, and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(4) IDENTICAL MEMBERSHIP AND DIRECTORS. Members may not cumulatively vote if the directors and members are identical.

History: 1997 a. 79.

181.0726 Other methods of electing directors. A corporation may provide in its articles of incorporation or bylaws for election of directors by members or delegates on the basis of chapter or other organizational unit; by region or other geographic unit; by preferential voting; or by any other reasonable method.

History: 1997 a. 79.

181.0727 Acceptance of instruments showing member action. (1) WHEN NAME CORRESPONDS TO MEMBER. If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

(2) WHEN NAME DOES NOT CORRESPOND TO MEMBER. If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following conditions exists:

(a) The member is an entity and the name signed purports to be that of an officer or agent of the entity.

(b) The name signed purports to be that of an attorney−in−fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment.

(c) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all of the coholders.

(3) WHEN CORPORATION IS ENTITLED TO REJECT. The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(4) LIABILITY. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.

(5) VALIDITY OF ACTION. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

History: 1997 a. 79.

181.0730 Voting agreements. (1) PERMISSIBLE AGREEMENTS. Unless prohibited by a corporation's articles of incorporation or bylaws, two or more members may provide for the manner in which they will vote by signing an agreement for that purpose.

(2) ENFORCEABILITY. A voting agreement created under this section is specifically enforceable.

History: 1997 a. 79.

181.0735 Voting power. Voting power is determined by taking the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote which is contingent upon the happening of a condition or event that has not occurred at the time. Where a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

History: 1997 a. 79.

181.0740 Derivative proceedings; definition. In ss. 181.0740 to 181.0747, "derivative proceeding" means a civil suit in the right of a corporation or, to the extent provided in ss.

181.0741, 181.0743 and 181.0745 to 181.0747, in the right of a foreign corporation.

History: 1997 a. 79.

181.0741 Derivative proceedings; standing. A derivative proceeding may be brought in the right of a corporation or foreign corporation to procure a judgment in its favor by one or more members having 5 percent or more of the voting power or by 50 members, whichever is less, if each of these members meets all of the following conditions:

(1) MEMBERSHIP. The member was a member of the corporation at the time of the act or omission complained of or became a member through transfer by operation of law from a person who was a member at that time.

(2) REPRESENTING CORPORATION'S INTERESTS. The member fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

History: 1997 a. 79.

The purpose of the derivative action statute is to allow members, under certain conditions, to bring a claim they could not otherwise bring at all because the cause of action belongs to the association and not to them. Neither the statute nor the case law suggests an intent to limit the right a member has to bring a cause of action that belongs to him or her as an individual. Ewer v. Lake Arrowhead Association, Inc. 2012 WI App 64, 342 Wis. 2d 194, 817 N.W.2d 465, 11−0113.

181.0742 Derivative proceedings; demand. No member may commence a derivative proceeding until all of the following occur:

(1) WRITTEN DEMAND. A written demand is made upon the corporation to take suitable action.

(2) EXPIRATION OF 90−DAY PERIOD. Ninety days expire from the date on which a demand under sub. (1) was made, unless the member is notified before the expiration of the 90 days that the corporation has rejected the demand or unless irreparable injury to the corporation would result by waiting for the expiration of the 90−day period.

History: 1997 a. 79.

181.0743 Derivative proceedings; stay of proceedings. If the corporation or foreign corporation commences an inquiry into the allegations made in the demand under s. 181.0742 (1) or in the complaint, the court may stay any derivative proceeding for the period that the court considers appropriate.

History: 1997 a. 79.

181.0744 Derivative proceedings; dismissal. (1) WHEN DISMISSAL REQUIRED. The court shall dismiss a derivative proceeding on motion by the corporation if the court finds, subject to the burden of proof assigned under sub. (5) or (6), that one of the groups specified in sub. (2) or (6) has determined, acting in good faith after conducting a reasonable inquiry upon which its conclusions are based, that maintenance of the derivative proceeding is not in the best interests of the corporation.

(2) INDEPENDENT DIRECTOR DETERMINATION. Unless a panel is appointed under sub. (6), the determination in sub. (1) shall be made by any of the following:

(a) A majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a quorum.

(b) A majority vote of a committee consisting of 2 or more independent directors appointed by a majority vote of the independent directors present at a meeting of the board of directors, whether or not the voting independent directors constitute a quorum.

(3) WHO IS CONSIDERED AN INDEPENDENT DIRECTOR. Whether a director is independent for purposes of this section may not be determined solely on the basis of any one or more of the following factors:

(a) The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded.

(b) The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded.

(c) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

(4) PLEADINGS WHEN DEMAND REJECTED. If a derivative proceeding is commenced after a determination was made rejecting a demand by a member, the complaint shall allege with particularity facts establishing any of the following:

(a) That a majority of the board of directors did not consist of independent directors at the time that the determination was made.

(b) That the requirements of sub. (1) have not been met.

(5) BURDEN OF PROOF. If a majority of the board of directors did not consist of independent directors at the time that the determination rejecting a demand was made, the corporation shall have the burden of proving that the requirements of sub. (1) have been met. If a majority of the board of directors consisted of independent directors at the time that the determination was made, the members shall have the burden of proving that the requirements of sub. (1) have not been met.

(6) COURT−APPOINTED PANEL. Upon motion by the corporation, the court may appoint a panel of one or more independent persons to determine whether maintenance of the derivative proceeding is in the best interests of the corporation. If a panel is appointed under this subsection, the members shall have the burden of proving that the requirements of sub. (1) have not been met.

History: 1997 a. 79.

181.0745 Derivative proceedings; discontinuance or settlement. A derivative proceeding may not be discontinued or settled without the court's approval.

History: 1997 a. 79.

181.0746 Derivative proceedings; payment of expenses. (1) AUTHORITY OF COURT. On termination of the derivative proceeding, the court may do any of the following:

(a) Notwithstanding s. 814.04 (1), order the domestic corporation or foreign corporation to pay the plaintiff's reasonable expenses, including attorney fees, incurred in the derivative proceeding by the members who commenced or maintained the derivative proceeding if the court finds that the derivative proceeding has resulted in a substantial benefit to the domestic corporation or foreign corporation.

(b) Order the members who commenced or maintained the derivative proceeding to pay any defendant's reasonable expenses, including attorney fees, notwithstanding s. 814.04 (1), incurred in defending the derivative proceeding if the court finds that the derivative proceeding was commenced or maintained without reasonable cause or for an improper purpose.

(2) SECURITY FOR EXPENSES. In any action brought in the right of any corporation by fewer than 3 percent of the members, the defendants shall be entitled, upon application to the court, to require the plaintiffs to give security for the reasonable expenses, including attorney fees. The amount of the security may be increased or decreased by the court having jurisdiction over the action upon a showing that the security has or may become inadequate or excessive.

History: 1997 a. 79.

181.0747 Derivative proceedings; applicability. (1) TO FOREIGN CORPORATIONS. In any derivative proceeding in the right of a foreign corporation, the matters covered by ss. 181.0741, 181.0742 and 181.0744 shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation.

(2) TO CORPORATIONS WITHOUT MEMBERS. Unless the articles of incorporation or bylaws provided otherwise at the time of the act or omission complained of, ss. 181.0741 to 181.0746 apply to corporations without members, except that all references to "member" shall be read as "director".

History: 1997 a. 79.

SUBCHAPTER VIII

DIRECTORS AND OFFICERS

181.0801 Requirement for and duties of board. (1) BOARD REQUIRED. A corporation shall have a board.

(2) POWERS OF BOARD. Except as provided in this chapter or sub. (3), all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board.

(3) DELEGATION. (a) The articles of incorporation or bylaws approved by the members, if any, may authorize a person to exercise some or all of the powers which would otherwise be exercised by a board. To the extent so authorized such a person shall have the duties and responsibilities of the board, and the directors shall be relieved to that extent from such duties and responsibilities.

(b) A person is not a member of the board solely because of powers delegated to that person under par. (a).

History: 1997 a. 79.

181.0802 Qualifications of directors. A director shall be an individual. The articles of incorporation or bylaws may prescribe other qualifications for directors. A director need not be a resident of this state or a member of the corporation unless the articles of incorporation or bylaws so prescribe.

History: 1997 a. 79.

181.0803 Number of directors. (1) MINIMUM NUMBER. A board shall consist of 3 or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) CHANGES IN BOARD SIZE. The number of directors may be increased or, subject to sub. (1), decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or bylaws.

History: 1997 a. 79.

181.0804 Election, designation and appointment of directors. (1) CORPORATION WITH MEMBERS. If the corporation has members, all of the directors except the initial directors shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles of incorporation or bylaws provide some other time or method of election, or provide that some of the directors are appointed by some other person or are designated.

(2) CORPORATION WITHOUT MEMBERS. If the corporation does not have members, all of the directors except the initial directors shall be elected, appointed or designated as provided in the articles of incorporation or bylaws. If no method of designation or appointment is set forth in the articles of incorporation or bylaws, the directors other than the initial directors shall be elected by the board.

History: 1997 a. 79.

181.0805 Terms of directors generally. (1) IN GENERAL. The articles of incorporation or bylaws shall specify the term of a director. In the absence of any term specified in the articles of incorporation or bylaws, the term of a director shall be one year. Directors may be elected for successive terms.

(2) EFFECT OF CHANGES ON INCUMBENT. A decrease in the number of directors or term of office does not shorten an incumbent director's term.

(3) VACANCIES. Except as provided in the articles of incorporation or bylaws, the term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members and the term of a director filling any other vacancy expires at the end of the unexpired term that the director is filling.

(4) SERVICE AFTER EXPIRATION OF TERM. Except as provided in the articles of incorporation or bylaws, despite the expiration of a director's term, the director continues to serve, subject to ss. 181.0807 to 181.0810, until the director's successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors.

History: 1997 a. 79.

181.0806 Staggered terms for directors. Directors may be divided into classes and the terms of office of the several classes need not be uniform.

History: 1997 a. 79.

181.0807 Resignation of directors. (1) NOTICE. A director may resign at any time by delivering written notice to the presiding officer of the board or to the president or secretary.

(2) WHEN EFFECTIVE. A resignation is effective when the notice is received unless the notice specifies a later effective date. If a resignation is made effective at a later date, the board may make the effective date earlier and fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

History: 1997 a. 79.

181.0808 Removal of directors elected by members or directors. Except as otherwise provided in the articles of incorporation or bylaws of a corporation, all of the following apply:

(1) REMOVAL IN GENERAL. The members may remove, with or without cause, one or more directors elected by them.

(2) REMOVAL OF DIRECTORS ELECTED BY GROUP. If a director is elected by a class, chapter or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit or grouping.

(3) NUMBER OF VOTES NEEDED TO REMOVE. Except as provided in sub. (8), a director may be removed under sub. (1) or (2) only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

(4) CUMULATIVE VOTING. If cumulative voting is authorized, a director may not be removed if the number of votes, or if the director was elected by a class, chapter, unit or grouping of members, the number of votes of that class, chapter, unit or grouping, sufficient to elect the director under cumulative voting is voted against the director's removal.

(5) MEETING. A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

(6) ENTIRE BOARD. An entire board may be removed under subs. (1) to (5).

(7) BOARD–ELECTED DIRECTORS. A director elected by the board may be removed without cause by the vote of a majority of the directors then in office or such other number as is set forth in the articles of incorporation or bylaws. However, a director elected by the board to fill the vacancy of a director elected by the members may be removed without cause by the members, but not the board.

(8) FAILURE TO ATTEND MEETINGS. If, at the beginning of a director's term on the board, the articles of incorporation or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings.

History: 1997 a. 79.

181.0809 Removal of designated or appointed directors. (1) DESIGNATED DIRECTORS. A designated director may be removed by an amendment to the articles of incorporation or bylaws deleting or changing the designation. The removal shall be effective on the effective date of the amendment to the articles of incorporation or bylaws, unless the amendment specifies a different date.

(2) APPOINTED DIRECTORS. (a) Except as otherwise provided in the articles of incorporation or bylaws, an appointed director may be removed without cause by the person appointing the director.

(b) The person removing an appointed director shall do so by giving written notice of the removal to the appointed director and either the presiding officer of the board or the corporation's president or secretary.

(c) A removal under this subsection is effective when the notice under par. (b) is effective under s. 181.0141 unless the notice specifies a future effective date.

History: 1997 a. 79.

181.0810 Removal of directors by judicial proceeding. (1) GROUNDS FOR REMOVAL. The circuit court for the county where a corporation's principal office is located may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its members holding at least 10 percent of the voting power of any class, if the court finds all of the following:

(a) That the director engaged in fraudulent or dishonest conduct, or gross abuse of authority or a final judgment has been entered finding that the director has violated a fiduciary duty or a duty under ss. 181.0831 to 181.0833.

(b) That removal is in the best interest of the corporation.

(2) BAR FROM SERVING. A court that removes a director may bar the director from serving on the board for a period prescribed by the court.

(3) CORPORATION AS DEFENDANT. If members commence a proceeding under sub. (1), the corporation shall be made a party defendant.

History: 1997 a. 79.

181.0811 Vacancies. (1) FILLING OF VACANCIES. Unless otherwise provided in the articles of incorporation or bylaws, any vacancy occurring on the board, including a vacancy created by an increase in the number of directors, may be filled until the next succeeding annual election by the affirmative vote of a majority of the directors then in office, although less than a quorum. In the event that the board ceases to exist, and there are no members having voting rights, the members without voting rights have the power to elect a new board.

(2) APPOINTED DIRECTORS. Unless the articles of incorporation or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

(3) DESIGNATED DIRECTORS. If a vacant office was held by a designated director, the vacancy shall be filled as provided in the articles of incorporation or bylaws. In the absence of an applicable article of incorporation or bylaw provision, the vacancy may not be filled by the board.

(4) WHEN VACANCY FILLED. A vacancy that will occur at a specific later date, because of a resignation effective at a later date under s. 181.0807 (2) or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

History: 1997 a. 79.

181.0820 Regular and special meetings. (1) IN GENERAL. If the time and place of a board meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(2) LOCATION. A board may hold regular or special meetings in or outside of this state.

(3) METHODS OF CONDUCTING MEETING. (a) Unless the articles of incorporation or bylaws provide otherwise, the board may permit any or all directors to participate in a regular or special meeting or in a committee meeting of the board by, or to conduct the meeting through the use of, any means of communication by which any of the following occurs:

1. All participating directors may simultaneously hear or read each other's communications during the meeting.

2. All communication during the meeting is immediately transmitted to each participating director, and each participating director is able to immediately send messages to all other participating directors.

(b) If a meeting will be conducted through the use of any means described in par. (a), all participating directors shall be informed that a meeting is taking place at which official business may be transacted. A director participating in a meeting by any means described in par. (a) is considered to be present in person at the meeting. If requested by a director, minutes of the meeting shall be prepared and distributed to each director.

History: 1997 a. 79; 2003 a. 259.

181.0821 Action without meeting. (1m) DEFINITIONS. In this section:

(a) "In writing" or "written" includes a communication that is transmitted or received by electronic means.

(b) "Sign" includes executing an electronic signature.

(1r) METHOD. An action required or permitted to be taken at a board meeting may be taken without a meeting if a consent in writing setting forth the action is signed by all of the directors then in office. If the articles of incorporation or bylaws so provide, an action required or permitted to be taken at a board meeting may be taken by written action signed by two−thirds of the directors then in office.

(2) EFFECTIVENESS. A consent under this section has the same force and effect as a vote of the board of directors taken at a meeting and may be described as such in any articles or document filed with the department under this chapter. The written action is effective when signed by the required number of directors, unless a different effective date and time are specified in the written consent. If written notice is required under sub. (3), the written action shall be effective on the date specified in the written consent or on the 10th day after the date on which written notice under sub. (3) is given, whichever is later.

(3) NOTICE; LIABILITY. If written action is permitted to be taken by less than all directors, all directors must be noticed immediately of the text of the written consent and of its effective date and time. Failure to provide notice under this section does not invalidate the action taken by written consent under this section. A director who does not sign or consent to the action taken by written consent is not liable for the action.

History: 1997 a. 79; 2003 a. 259.

181.0822 Call and notice of meetings. (1) REGULAR MEETINGS. Unless the articles of incorporation, bylaws or sub. (3) provides otherwise, regular meetings of the board may be held without notice.

(2) SPECIAL MEETINGS. Unless the articles of incorporation, bylaws or sub. (3) provides otherwise, special meetings of the board must be preceded by at least 2 days' notice to each director of the date, time and place, but not the purpose, of the meeting.

(3) CORPORATIONS WITHOUT MEMBERS. In corporations without members, any board action to remove a director or to approve a matter that would require approval by the members if the corporation had members, shall not be valid unless each director is given at least 7 days' written notice that the matter will be voted upon at a board meeting or unless notice is waived under s. 181.0823.

(4) METHOD OF GIVING NOTICE. Unless the articles of incorporation or bylaws provide otherwise, the presiding officer of the board, the president or 20 percent of the directors then in office may call and give notice of a meeting of the board.

History: 1997 a. 79.

181.0823 Waiver of notice. (1) WRITTEN WAIVERS. A director may waive any notice required by this chapter, the articles of incorporation or the bylaws before or after the date and time stated in the notice. Except as provided in sub. (2), the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

(2) EFFECT OF ATTENDANCE OR PARTICIPATION. A director's attendance at or participation in a meeting waives any required

notice of the meeting unless the director upon arriving at the meeting or before the vote on a matter not noticed in conformity with this chapter, the articles of incorporation or the bylaws objects to lack of notice and does not thereafter vote for or assent to the objected to action.

History: 1997 a. 79.

181.0824 Quorum and voting. (1) QUORUM. Except as otherwise provided in this chapter, the articles of incorporation or the bylaws, a quorum of a board consists of a majority of the directors in office immediately before a meeting begins.

(2) VOTING. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless this chapter, the articles of incorporation or the bylaws require the vote of a greater number of directors.

History: 1997 a. 79.

181.0825 Committees of the board. If the articles of incorporation or bylaws so provide, the board may adopt a resolution designating one or more committees. Each committee shall consist of 3 or more directors elected by the board of directors. To the extent provided by the resolution or in the articles of incorporation or in the bylaws, the committee may exercise the powers of the board with respect to the management of the affairs of the corporation, when the board is not meeting, except for electing officers or the filling of vacancies on the board or on committees created under this section. The board may elect one or more of its members as alternate members of a committee created under this section, who may take the place of absent members at any meeting of the committee. The designation of a committee and the delegation of authority to it does not relieve the board or any director of any responsibility imposed upon the board or director by law.

History: 1997 a. 79.

181.0831 Director conflict of interest. (1) WHEN CONTRACT OR TRANSACTION IS NOT VOID OR VOIDABLE. No contract or other transaction between a corporation and a director, or any entity in which a director is a director or officer or has a material financial interest, is void or voidable because of the relationship or interest or because the director is present at the meeting of the board or a committee that authorizes, approves or ratifies the contract or transaction or because the director's vote is counted for that purpose, if any of the following applies:

(a) The relationship or interest is disclosed or known to the board or committee that authorizes, approves or ratifies the contract or transaction and the contract or transaction was authorized, approved or ratified by a vote or consent sufficient for the purpose without counting the votes or consents of interested directors.

(b) The fact of such relationship or interest is disclosed or known to the members entitled to vote and they authorize, approve or ratify that contract or transaction by vote or written consent.

(c) The contract or transaction is fair and reasonable to the corporation.

(2) QUORUM REQUIREMENTS. Common and interested directors may be counted in determining the presence of a quorum at a meeting of the board or a committee that authorizes, approves or ratifies a contract or transaction under sub. (1).

(3) ADDITIONAL REQUIREMENTS. The articles of incorporation, the bylaws or a resolution of the board may impose additional requirements on conflict of interest transactions.

History: 1997 a. 79.

181.0832 Loans to directors and officers. (1) REQUIREMENTS FOR LOAN OR GUARANTEE. Except as provided in sub. (3), a corporation may not lend money to or guarantee the obligation of a director or officer of the corporation unless any of the following occurs:

(a) The particular loan or guarantee is approved by the members.

(b) The corporation's board determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees.

(2) EFFECT OF VIOLATIONS. A violation of this section does not affect the borrower's liability on the loan.

(3) LIMITED APPLICABILITY. This section does not apply to an advance to a director or officer that is permitted by s. 181.0874 or 181.0877 (3) or that is made to defray expenses incurred by the director or officer in the ordinary course of the corporation's business.

History: 1997 a. 79.

181.0833 Liability for unlawful distributions. (1) WHEN LIABLE. Except as provided in sub. (3), a director who votes for or assents to a distribution made in violation of subch. XIII or the articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating subch. XIII or the articles of incorporation, if it is established that the director's vote or assent constitutes conduct described by s. 181.0855 (1) (a), (b), (c) or (d). In any proceeding brought under this section, a director has all of the defenses ordinarily available to a director.

(2) RIGHT TO CONTRIBUTION. A director who is liable under sub. (1) for an unlawful distribution is entitled to contribution from all of the following persons:

(a) Every other director who could be held liable under sub. (1) for the unlawful distribution.

(b) Each member, for the amount that the member accepted knowing that the distribution was made in violation of subch. XIII or the articles of incorporation.

(3) WHEN PROCEEDING BARRED. A proceeding under this section is barred unless it is brought within 2 years after the date on which the distribution was made.

History: 1997 a. 79.

181.0840 Officers. (1) PRINCIPAL OFFICERS. Unless otherwise provided in the articles of incorporation or bylaws, a corporation shall have a president, a secretary, a treasurer and such other officers as are appointed by the board.

(2) ASSISTANT OFFICERS. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board.

(3) MULTIPLE OFFICES. The same individual may simultaneously hold more than one office in a corporation.

History: 1997 a. 79.

181.0841 Duties and authority of officers and agents. Each officer or agent has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed in a resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers.

History: 1997 a. 79.

181.0843 Resignation and removal of officers. (1) RESIGNATION. An officer may resign at any time by delivering notice to the corporation that complies with s. 181.0141. The resignation is effective when the notice is delivered, unless the notice specifies a later effective date and the corporation accepts the later effective date. If a resignation is effective at a later date, the board, or the officer authorized by the bylaws or the board to appoint the resigning officer, may fill the pending vacancy before the effective date if the appointment provides that the successor may not take office until the effective date.

(2) REMOVAL. The board may remove any officer and, unless restricted by the bylaws or by the board, an officer may remove any officer or assistant officer appointed by that officer under s. 181.0840 (2), at any time, with or without cause and notwithstanding the contract rights, if any, of the officer removed.

History: 1997 a. 79.

181.0844 Contract rights of officers. (1) EFFECT OF APPOINTMENT. The appointment of an officer does not itself create contract rights.

(2) EFFECT OF REMOVAL OR RESIGNATION. Except as provided in s. 181.0843 (2), an officer's resignation or removal is subject to any remedies provided by any contract between the officer and the corporation or otherwise provided by law.

History: 1997 a. 79.

181.0850 Reliance by directors or officers. Unless the director or officer has knowledge that makes reliance unwarranted, a director or officer, in discharging his or her duties to the corporation, may rely on information, opinions, reports or statements, any of which may be written or oral, formal or informal, including financial statements and other financial data, if prepared or presented by any of the following:

(1) OFFICERS AND EMPLOYEES. An officer or employee of the corporation whom the director or officer believes in good faith to be reliable and competent in the matters presented.

(2) PROFESSIONALS AND EXPERTS. Legal counsel, certified public accountants licensed or certified under ch. 442, or other persons as to matters the director or officer believes in good faith are within the person's professional or expert competence.

(3) COMMITTEES. In the case of reliance by a director, a committee of the board of directors of which the director is not a member if the director believes in good faith that the committee merits confidence.

History: 1997 a. 79; 2001 a. 16.

181.0853 Consideration of interests in addition to members' interests. In discharging his or her duties to the corporation and in determining what he or she believes to be in the best interests of the corporation, a director or officer may, in addition to considering the effects of any action on members, consider the following:

(1) EMPLOYEES, SUPPLIERS AND CUSTOMERS. The effects of the action on employees, suppliers and customers of the corporation.

(2) COMMUNITIES. The effects of the action on communities in which the corporation operates.

(3) OTHER. Any other factors that the director or officer considers pertinent.

History: 1997 a. 79.

181.0855 Limited liability of directors and officers. (1) IN GENERAL. Except as provided in subs. (2) and (3), a director or officer is not liable to the corporation, its members or creditors, or any person asserting rights on behalf of the corporation, its members or creditors, or any other person, for damages, settlements, fees, fines, penalties or other monetary liabilities arising from a breach of, or failure to perform, any duty resulting solely from his or her status as a director or officer, unless the person asserting liability proves that the breach or failure to perform constitutes any of the following:

(a) A willful failure to deal fairly with the corporation or its members in connection with a matter in which the director or officer has a material conflict of interest.

(b) A violation of criminal law, unless the director or officer had reasonable cause to believe that his or her conduct was lawful or no reasonable cause to believe that his or her conduct was unlawful.

(c) A transaction from which the director or officer derived an improper personal profit or benefit.

(d) Willful misconduct.

(2) EXCEPTIONS. Except as provided in sub. (3), this section does not apply to any of the following:

(a) A civil, criminal, administrative or investigatory proceeding brought by or on behalf of any governmental unit, authority or agency.

(b) A proceeding brought by any person for a violation of state or federal law where the proceeding is brought pursuant to an express private right of action created by state or federal statute.

(c) The liability of a director under ss. 181.0832 and 181.0833.

(3) GOVERNMENTAL ENTITY ACTING IN CAPACITY AS PRIVATE PARTY. Subsection (2) (a) and (b) does not apply to a proceeding brought by a governmental unit, authority or agency in its capacity as a private party or contractor.

History: 1997 a. 79.

181.0860 Statements of changes in directors or principal officers. (1) CHANGES IN DIRECTORS OR PRINCIPAL OFFICERS. Whenever initial directors and principal officers are selected, or changes are made in the directors or principal officers of a corporation, the corporation may file with the department a statement that includes the names and addresses of all of the directors or principal officers, or both if there have been changes in both. The information in the statement shall be current as of the date on which the statement is signed on behalf of the corporation.

(2) RESIGNATION NOTICES. A director who resigns under s. 181.0807 or a principal officer who resigns under s. 181.0843 (1) may file a copy of the resignation notice with the department.

History: 1997 a. 79.

181.0871 Definitions applicable to indemnification and insurance provisions. In ss. 181.0871 to 181.0889:

(1) "Corporation" means a domestic corporation and any domestic or foreign predecessor of a domestic corporation where the predecessor corporation's existence ceased upon the consummation of a merger or other transaction.

(2) "Director or officer" means any of the following:

(a) An individual who is or was a director or officer of a corporation.

(b) An individual who, while a director or officer of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, member of any governing or decision−making committee, manager, employee or agent of another corporation or foreign corporation, limited liability company, partnership, joint venture, trust or other enterprise.

(c) An individual who, while a director or officer of a corporation, is or was serving an employee benefit plan because his or her duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan.

(d) Unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) "Expenses" include fees, costs, charges, disbursements, attorney fees and any other expenses incurred in connection with a proceeding.

(4) "Liability" includes the obligation to pay a judgment, settlement, forfeiture, or fine, including any excise tax assessed with respect to an employee benefit plan, plus costs, fees, and surcharges imposed under ch. 814, and reasonable expenses.

(5) "Party" includes an individual who was or is, or who is threatened to be made, a named defendant or respondent in a proceeding.

(6) "Proceeding" means any threatened, pending or completed civil, criminal, administrative or investigative action, suit, arbitration or other proceeding, whether formal or informal, which involves foreign, federal, state or local law and which is brought by or in the right of the corporation or by any other person.

History: 1997 a. 79; 2003 a. 139.

181.0872 Mandatory indemnification. (1) IN GENERAL. A corporation shall indemnify a director or officer, to the extent that he or she has been successful on the merits or otherwise in the defense of a proceeding, for all reasonable expenses incurred in the proceeding if the director or officer was a party because he or she is a director or officer of the corporation.

(2) EXCEPTIONS. (a) In cases not included under sub. (1), a corporation shall indemnify a director or officer against liability incurred by the director or officer in a proceeding to which the director or officer was a party because he or she is a director or officer of the corporation, unless liability was incurred because the director or officer breached or failed to perform a duty that he or she owes to the corporation and the breach or failure to perform constitutes any of the following:

1. A willful failure to deal fairly with the corporation or its members in connection with a matter in which the director or officer has a material conflict of interest.

2. A violation of the criminal law, unless the director or officer had reasonable cause to believe that his or her conduct was lawful or no reasonable cause to believe that his or her conduct was unlawful.

3. A transaction from which the director or officer derived an improper personal profit or benefit.

4. Willful misconduct.

(b) Determination of whether indemnification is required under this subsection shall be made under s. 181.0873.

(c) The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create a presumption that indemnification of the director or officer is not required under this subsection.

(3) WRITTEN REQUEST REQUIRED. A director or officer who seeks indemnification under this section shall make a written request to the corporation.

(4) LIMITATION BY ARTICLES OF INCORPORATION. (a) Indemnification under this section is not required to the extent limited by the articles of incorporation under s. 181.0875.

(b) Indemnification under this section is not required if the director or officer has previously received indemnification, reimbursement or allowance of expenses from any person, including the corporation, in connection with the same proceeding.

History: 1997 a. 79.

181.0873 Determination of right to indemnification. Unless otherwise provided by the articles of incorporation or bylaws or by written agreement between the director or officer and the corporation, the director or officer seeking indemnification under s. 181.0872 (2) shall select one of the following means for determining his or her right to indemnification:

(1) BOARD OF DIRECTOR VOTE. By a majority vote of a quorum of the board of directors consisting of directors who are not at the time parties to the same or related proceedings. If a quorum of disinterested directors cannot be obtained, by a majority vote of a committee duly appointed by the board of directors and consisting solely of 2 or more directors who are not at the time parties to the same or related proceedings. Directors who are parties to the same or related proceedings may participate in the designation of members of the committee.

(2) INDEPENDENT LEGAL COUNSEL. By independent legal counsel selected by a quorum of the board of directors or its committee in the manner prescribed in sub. (1) or, if unable to obtain such a quorum or committee, by a majority vote of the full board of directors, including directors who are parties to the same or related proceedings.

(3) ARBITRATORS. By a panel of 3 arbitrators consisting of one arbitrator selected by those directors entitled under sub. (2) to select independent legal counsel, one arbitrator selected by the director or officer seeking indemnification and one arbitrator selected by the 2 arbitrators previously selected.

(4) MEMBERS. By an affirmative vote of members with voting rights, if any. Membership rights owned by, or voted under the control of, persons who are at the time parties to the same or related proceedings, whether as plaintiffs or defendants or in any other capacity, may not be voted in making the determination.

(5) COURT. By a court under s. 181.0879.

(6) OTHER METHODS. By any other method provided for in any additional right to indemnification permitted under s. 181.0877.

History: 1997 a. 79.

181.0874 Allowance of expenses as incurred. Upon written request by a director or officer who is a party to a proceeding, a corporation may pay or reimburse his or her reasonable expenses as incurred if the director or officer provides the corporation with all of the following:

(1) WRITTEN AFFIRMATION. A written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the corporation.

(2) REPAYMENT UNDERTAKING. A written undertaking, executed personally or on his or her behalf, to repay the allowance and, if required by the corporation, to pay reasonable interest on the allowance to the extent that it is ultimately determined under s. 181.0873 that indemnification under s. 181.0872 (2) is not required and that indemnification is not ordered by a court under s. 181.0879 (2) (b). The undertaking under this subsection shall be an unlimited general obligation of the director or officer and may be accepted without reference to his or her ability to repay the allowance. The undertaking may be secured or unsecured.

History: 1997 a. 79.

181.0875 Corporation may limit indemnification. (1) METHODS OF LIMITING OBLIGATION. A corporation's obligations to indemnify under s. 181.0872 may be limited as follows:

(a) If the corporation is incorporated on or after June 13, 1987, by the articles of incorporation, including any amendments or restatements of the articles of incorporation.

(b) If the corporation was incorporated before June 13, 1987, by an amendment to, or restatement of, the articles of incorporation which becomes effective on or after June 13, 1987.

(2) APPLICABILITY. A limitation under sub. (1) applies if the first alleged act of a director or officer for which indemnification is sought occurred while the limitation was in effect.

History: 1997 a. 79.

181.0877 Additional rights to indemnification and allowance of expenses. (1) ADDITIONAL RIGHTS TO INDEMNIFICATION. Except as provided in sub. (2), ss. 181.0872 and 181.0874 do not preclude any additional right to indemnification or allowance of expenses that a director or officer may have under any of the following:

(a) The articles of incorporation or bylaws.

(b) A written agreement between the director or officer and the corporation.

(c) A resolution of the board of directors.

(d) A resolution, after notice, adopted by a majority vote of members who are entitled to vote.

(2) WHEN PROHIBITED. Regardless of the existence of an additional right under sub. (1), the corporation may not indemnify a director or officer, or permit a director or officer to retain any allowance of expenses unless it is determined by or on behalf of the corporation that the director or officer did not breach or fail to perform a duty that he or she owes to the corporation which constitutes conduct under s. 181.0872 (2) (a) 1., 2., 3. or 4. A director or officer who is a party to the same or related proceeding for which indemnification or an allowance of expenses is sought may not participate in a determination under this subsection.

(3) APPLICABILITY. Sections 181.0871 to 181.0883 do not affect a corporation's power to pay or reimburse expenses incurred by a director or officer in any of the following circumstances:

(a) As a witness in a proceeding to which he or she is not a party.

(b) As a plaintiff or petitioner in a proceeding because he or she is or was an employee, agent, director or officer of the corporation.

History: 1997 a. 79.

181.0879 Court−ordered indemnification. (1) APPLICATION TO COURT. Except as provided otherwise by written agreement between the director or officer and the corporation, a director or officer who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. Application shall be made for an initial determination by the court under s. 181.0873 (5) or for review by the court of an adverse determination under s. 181.0873 (1), (2), (3), (4) or (6). After receipt of an application, the court shall give any notice it considers necessary.

(2) STANDARDS USED BY COURT. The court shall order indemnification if it determines any of the following:

(a) That the director or officer is entitled to indemnification under s. 181.0872 (1) or (2). If the court also determines that the corporation unreasonably refused the director's or officer's request for indemnification, the court shall order the corporation to pay the director's or officer's reasonable expenses incurred to obtain the court−ordered indemnification.

(b) That the director or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, regardless of whether indemnification is required under s. 181.0872 (2).

History: 1997 a. 79.

181.0881 Indemnification and allowance of expenses of employees and agents. A corporation may indemnify and allow reasonable expenses of an employee or agent who is not a director or officer to the extent provided by the articles of incorporation or bylaws, by general or specific action of the board of directors or by contract.

History: 1997 a. 79.

181.0883 Insurance. A corporation may purchase and maintain insurance on behalf of an individual who is an employee, agent, director or officer of the corporation against liability asserted against and incurred by the individual in his or her capacity as an employee, agent, director or officer, or arising from his or her status as an employee, agent, director or officer, regardless of whether the corporation is required or authorized to indemnify or allow expenses to the individual against the same liability under ss. 181.0872, 181.0874, 181.0877 and 181.0881.

History: 1997 a. 79.

181.0889 Indemnification and insurance against securities law claims. (1) IN GENERAL. It is the public policy of this state to require or permit indemnification, allowance of expenses and insurance for any liability incurred in connection with a proceeding involving securities regulation described under sub. (2) to the extent required or permitted under ss. 181.0871 to 181.0883.

(2) SCOPE OF SECURITIES REGULATION. Sections 181.0871 to 181.0883 apply, to the extent applicable to any other proceeding, to any proceeding involving a federal or state statute, rule or regulation regulating the offer, sale or purchase of securities, securities brokers or dealers, or investment companies or investment advisers.

History: 1997 a. 79.

SUBCHAPTER IX

[RESERVED]

SUBCHAPTER X

AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

181.1001 Authority to amend articles of incorporation. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted to be included in the articles of incorporation or to delete a provision that is not required in the articles of incorporation. Whether a provision is required or permitted to be included in the articles of incorporation is determined as of the effective date of the amendment.

History: 1997 a. 79.

181.1002 Amendment of articles of incorporation by directors. (1) CORPORATIONS WITH VOTING RIGHTS. Unless the articles of incorporation provide otherwise, a corporation's board may adopt any of the following amendments to the corporation's articles of incorporation, without the approval of members with voting rights:

(a) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.

(b) To delete the names and addresses of the initial directors.

(c) To delete the names and addresses of the incorporators.

(d) To delete the name and address of a former registered agent or registered office, if a statement of change is on file with the department.

(e) To change the registered agent or the registered office.

(f) To change the corporate name by substituting the word "corporation", "incorporated", "company" or, "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", or words or abbreviations of similar meaning in another language, for a similar word or abbreviation in the name, or by adding, deleting or changing a geographical attribution to the name.

(g) To make any other change expressly permitted by this chapter to be made without member approval.

(2) CORPORATIONS WITH NO VOTING MEMBERS. If a corporation has no members with voting rights, its incorporators, until directors have been chosen, and thereafter its board, may adopt amendments to the corporation's articles of incorporation subject to any approval required under s. 181.1030. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with s. 181.0822 (3). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles of incorporation and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time that the amendment is adopted.

History: 1997 a. 79.

181.1003 Amendment of articles of incorporation by directors and members. (1) IN GENERAL. Unless this chapter, the articles of incorporation or the bylaws require a greater vote or voting by class, an amendment to a corporation's articles of incorporation to be adopted must be approved by all of the following:

(b) Except as provided in s. 181.1002 (1), the members by two−thirds of the votes cast or a majority of the voting power, whichever is less.

(c) A person, in writing, whose approval is required by a provision of the articles of incorporation authorized under s. 181.1030.

(2) NOTICE REQUIREMENTS. If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with s. 181.0705. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider and to act upon the proposed amendment and shall contain or be accompanied by a copy or summary of the amendment.

(3) WRITTEN CONSENTS OR BALLOT. If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

History: 1997 a. 79.

181.1004 Class voting by members on amendments to articles of incorporation. (1) WHEN CLASS ENTITLED TO VOTE. The members of a class in a corporation are entitled to vote as a class on a proposed amendment to the articles of incorporation if the amendment does any of the following:

(a) Affects the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer of memberships in a manner different than such amendment would affect another class.

(b) Changes the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class.

(c) Increases or decreases the number of memberships authorized for that class.

(e) Effects an exchange, reclassification or termination of the memberships of that class.

(2) APPROVAL BY EACH CLASS REQUIRED. If a class is to be divided into 2 or more classes as a result of an amendment to the articles of incorporation of a corporation, the amendment must be approved by the members of each class that would be created by the amendment.

(3) VOTING REQUIREMENTS. Unless provided otherwise in the articles of incorporation or bylaws, if a class vote is required to approve an amendment to the articles of incorporation of a corporation, the amendment must be approved by the members of the class by two−thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

History: 1997 a. 79.

181.1005 Articles of amendment. A corporation amending its articles of incorporation shall deliver to the department for filing articles of amendment that include all of the following information:

(1) NAME. The name of the corporation.

(2) TEXT. The text of each amendment adopted.

(3) DATES. The date of each amendment's adoption.

(4) METHOD OF APPROVAL. A statement that the amendment was adopted in accordance with s. 181.1002, 181.1003 or 181.1004, whichever is the case.

(5) WHEN APPROVAL BY OTHERS IS REQUIRED. If approval of the amendment by a person other than the members, the board or the incorporators is required under s. 181.1030, a statement that the approval was obtained.

History: 1997 a. 79.

181.1006 Restated articles of incorporation. (1) WHEN PERMITTED. A corporation's board may restate its articles of incorporation at any time with or without approval by members or any other person.

(2) AMENDMENTS MAY BE INCLUDED. The restatement may include amendments to the articles of incorporation. If the restatement includes an amendment requiring approval by the members or any other person, it must be adopted as provided in s. 181.1003.

(3) APPROVAL REQUIREMENTS. If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.

(4) NOTICE REQUIREMENTS. If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with s. 181.0705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles of incorporation.

(5) APPROVAL BY WRITTEN BALLOT OR CONSENT. If the board seeks to have the restatement approved by the members by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles of incorporation.

(6) VOTING REQUIREMENTS. A restatement requiring approval by the members must be approved by the same vote as an amendment to articles of incorporation under s. 181.1003.

(7) APPROVAL BY 3RD PERSONS. If the restatement includes an amendment requiring approval pursuant to s. 181.1030, the board must submit the restatement for such approval.

(8) FILING REQUIREMENTS. A corporation restating its articles of incorporation shall deliver to the department for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate including all of the following information:

(a) Whether the restatement contains an amendment to the articles of incorporation requiring approval by the members or any other person other than the board and, if it does not, that the board adopted the restatement.

(b) If the restatement contains an amendment to the articles of incorporation requiring approval by the members, the information required by s. 181.1005.

(c) If the restatement contains an amendment to the articles of incorporation requiring approval by a person whose approval is required under s. 181.1030, a statement that such approval was obtained.

(d) A statement that the restated articles of incorporation supersede and take the place of the existing articles of incorporation and any amendments to the articles of incorporation.

History: 1997 a. 79.

181.1007 Amendment of articles of incorporation pursuant to judicial reorganization. (1) WHEN AUTHORIZED. A corporation's articles of incorporation may be amended without board approval or approval by the members or approval required under s. 181.1030 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of incorporation after amendment contain only provisions required or permitted under s. 181.0202.

(2) FILING REQUIREMENT. The individual or individuals designated by the court shall deliver to the department for filing articles of amendment that include all of the following information:

(a) The name of the corporation.

(b) The text of each amendment approved by the court.

(c) The date of the court's order or decree approving the articles of amendment.

(d) The title of the reorganization proceeding in which the order or decree was entered.

(e) A statement that the court had jurisdiction of the proceeding under federal statute.

(3) APPLICABILITY. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

History: 1997 a. 79.

181.1008 Effect of amendment and restatement of articles of incorporation. (1) RIGHTS AND PROCEEDINGS NOT AFFECTED. An amendment to a corporation's articles of incorporation, including a restatement of its articles of incorporation under s. 181.1006 that includes an amendment to its articles of incorporation, does not affect any of the following:

(a) A cause of action existing against or in favor of the corporation.

(b) A civil, criminal, administrative or investigatory proceeding to which the corporation is a party.

(c) The existing rights of persons other than members of the corporation.

(2) PROCEEDINGS NOT ABATED. An amendment, or a restatement including an amendment, changing a corporation's name

does not abate a civil, criminal, administrative or investigatory proceeding brought by or against the corporation in its former name.

History: 1997 a. 79.

181.1020 Amendment of bylaws by directors. If a corporation has no members with voting rights, its incorporators, until directors have been chosen, and thereafter its board, may adopt amendments to the corporation's bylaws subject to any approval required under s. 181.1030. The corporation shall provide notice of any meeting of the board at which an amendment is to be approved. The notice shall be in accordance with s. 181.0822 (3). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time that the amendment is adopted.

History: 1997 a. 79.

181.1021 Amendment of bylaws by directors and members. (1) BY BOARD. A corporation's board may amend or repeal the corporation's bylaws or adopt new bylaws except to the extent that any of the following applies:

(a) The articles of incorporation or any other provision of this chapter reserves that power exclusively to the members.

(b) The members, in adopting, amending or repealing a particular bylaw, provide within the bylaw that the board may not amend, repeal or readopt that bylaw.

(2) BY MEMBERS WITH VOTING RIGHTS. A corporation's members with voting rights may amend or repeal the corporation's bylaws or adopt new bylaws even though the board may also amend or repeal the corporation's bylaws or adopt new bylaws.

History: 1997 a. 79.

181.1022 Class voting by members on amendments of bylaws. (1) WHEN CLASS ENTITLED TO VOTE. The members of a class in a corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment does any of the following:

(a) Affects the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer of memberships in a manner different than such amendment would affect another class.

(b) Changes the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class.

(c) Increases or decreases the number of memberships authorized for that class.

(e) Effects an exchange, reclassification or termination of all or part of the memberships of that class.

(2) APPROVAL BY EACH CLASS REQUIRED. If a class is to be divided into 2 or more classes as a result of an amendment to the bylaws, the amendment must be approved by the members of each class that would be created by the amendment.

(3) VOTING REQUIREMENTS. Unless otherwise provided in the articles of incorporation or bylaws, if a class vote is required to approve an amendment to the bylaws, the amendment must be approved by the members of the class by two−thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

History: 1997 a. 79.

181.1030 Approval by 3rd persons. The articles of incorporation may require an amendment to the articles of incorporation or bylaws to be approved in writing by a specified person other than the board. Such an article provision may only be amended with the approval in writing of the person.

History: 1997 a. 79.

SUBCHAPTER XI

MERGER; CONVERSION

181.1100 Definitions. In this subchapter:

(1) "Business entity" means a domestic business entity and a foreign business entity.

(2) "Domestic business entity" means a corporation, as defined in s. 180.0103 (5), a limited liability company, as defined in s. 183.0102 (10), a partnership, as defined in s. 178.0102 (11), a limited partnership, as defined in s. 179.01 (7), or a corporation, as defined in s. 181.0103 (5).

(3) "Foreign business entity" means a foreign limited liability company, as defined in s. 183.0102 (8), a foreign partnership, as defined in s. 178.0102 (6), a foreign limited partnership, as defined in s. 179.01 (4), a foreign corporation, as defined in s. 180.0103 (9), or a foreign corporation, as defined in s. 181.0103 (13).

History: 2001 a. 44; 2015 a. 295.

181.1101 Approval of plan of merger. (1) IN GENERAL. One or more corporations may merge with or into one or more other business entities if the plan of merger is approved as provided in s. 181.1103 and if the merger is permitted under the applicable law of the jurisdiction that governs each other business entity that is a party to the merger and each business entity approves the plan of merger in the manner required by the laws applicable to the business entity.

(2) REQUIRED INFORMATION. The plan of merger shall include all of the following information:

(a) The name, form of business entity, and identity of the jurisdiction governing each business entity planning to merge and the name, form of business entity, and identity of the jurisdiction of the surviving business entity into which each other business entity plans to merge.

(b) The terms and conditions of the planned merger.

(d) The manner and basis, if any, of converting the shares or other interests in each business entity that is a party to the merger into shares, interests, obligations, or other securities of the surviving business entity or any other business entity or into cash or other property in whole or part.

(3) PERMITTED INFORMATION. The plan of merger may include any of the following:

(a) Amendments to the articles of incorporation or other similar governing document of the surviving business entity.

(b) Other provisions relating to the planned merger.

History: 1997 a. 79; 2001 a. 44.

181.1103 Action on plan by board, members and 3rd persons. (1) CORPORATIONS WITHOUT MEMBERS WITH VOTING RIGHTS. If the corporation does not have members with voting rights, the plan of merger must be approved by a majority of the directors in office at the time the plan of merger is approved. In addition the corporation shall provide notice of any board meeting at which such approval is to be obtained in accordance with s. 181.0822 (3). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed plan of merger.

(2) CORPORATIONS WITH VOTING MEMBERS. Unless this chapter, the articles of incorporation or the bylaws require a greater vote or voting by class, a plan of merger to be adopted by a corporation with voting members shall be approved by all of the following:

(a) Unless the articles of incorporation provide otherwise, the board.

(b) The members with voting rights, by two−thirds of the votes cast or a majority of the voting power, whichever is less.

(c) A 3rd person, in writing, whose approval is required by a provision of the articles of incorporation.

(3) NOTICE REQUIREMENTS. If the board seeks to have the plan of merger approved by the members at a membership meeting, the corporation shall give notice, to its members with voting rights, of the proposed membership meeting in accordance with s. 181.0705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of incorporation and bylaws that will be in effect immediately after the merger takes effect.

(4) WRITTEN CONSENTS OR BALLOTS. If the board seeks to have the plan approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles of incorporation and bylaws that will be in effect immediately after the merger takes effect.

(5) CLASS VOTING. Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would require the class of members to vote as a class on the proposed amendment under s. 181.1004 or 181.1022. The plan is approved by a class of members by two−thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(6) ABANDONMENT OF PLANNED MERGER. After a merger is adopted, and at any time before articles of merger are filed, the planned merger may be abandoned, subject to any contractual rights, without further action by members or other persons who approved the plan, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board or other similar governing body of any other business entity that is a party to the merger.

History: 1997 a. 79; 2001 a. 44.

181.1104 Merger of subsidiary or parent. (1) MEMBER APPROVAL NOT REQUIRED. A parent corporation that is a member with at least 90 percent of the voting rights in a subsidiary corporation may merge the subsidiary into the parent or the parent into the subsidiary without approval of the members of the parent or the members or other owners of the subsidiary.

(2) PLAN OF MERGER. The board of directors of the parent corporation shall adopt a plan of merger that sets forth all of the following:

(a) The names of the parent and subsidiary.

(b) The manner and basis of converting the memberships of the subsidiary or parent into memberships or other interests of the surviving business entity or any other business entity or into cash or other property in whole or part.

(3) NOTICE REQUIREMENT. The parent shall mail a copy or summary of the plan of merger to each member or other owner of the merging business entity who does not waive the mailing requirement in writing.

(4) FILING WITH DEPARTMENT. The parent may not deliver articles of merger to the department for filing until at least 10 days after the date on which it mailed a copy of the plan of merger to each member or other owner of the merging business entity who did not waive the mailing requirement.

(5) CERTAIN AMENDMENTS PROHIBITED. Articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation, except for amendments enumerated in s. 181.1002.

History: 1997 a. 79; 2001 a. 44.

181.1105 Articles of merger. After a plan of merger is approved by the board, and, if required under s. 181.1103, by the members and any other persons, and by each other business entity that is a party to the merger in the manner required by the laws applicable to the business entity, the surviving or acquiring business entity shall deliver to the department for filing articles of merger that include all of the following information:

(1) PLAN. The plan of merger.

(2) IF MEMBER APPROVAL NOT REQUIRED. If approval of members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board and by each other business entity that is a party to the merger in the manner required by the laws applicable to the business entity.

(3) IF MEMBER APPROVAL REQUIRED. If approval by members is required, all of the following:

(a) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class voting on the plan.

(b) Either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of votes cast for the plan by each class and a statement that the number cast for the plan by each class was sufficient for approval by that class.

(c) A statement that the plan was approved by each other business entity that is a party to the merger in the manner required by the laws applicable to the business entity.

(4) IF APPROVAL BY 3RD PERSON REQUIRED. If approval of the plan by a person other than the members or the board is required under s. 181.1103 (2) (c), a statement that the approval was obtained.

(5) EFFECTIVE DATE AND TIME. The effective date and time of the merger, if the merger is to take effect at a time other than the close of business on the date of filing the articles of merger, as provided under s. 181.0123.

(6) OTHER MATTERS. Other provisions relating to the merger, as determined by the surviving business entity.

History: 1997 a. 79; 2001 a. 44; 2005 a. 476; 2015 a. 295.

181.1106 Effect of merger. When a merger takes effect all of the following occur:

(1) TERMINATION OF SEPARATE EXISTENCE. Every other business entity that is a party to the merger merges into the surviving business entity, and the separate existence of every business entity, except the surviving business entity, ceases.

(1m) DEBTS AND OBLIGATIONS. (a) If, under the laws applicable to a business entity that is a party to the merger, one or more of the owners thereof is liable for the debts and obligations of such business entity, such owner or owners shall continue to be liable for the debts and obligations of the business entity, but only for such debts and obligations accrued during the period or periods in which such laws are applicable to such owner or owners.

(b) If, under the laws applicable to the surviving business entity, one or more of the owners thereof is liable for the debts and obligations of such business entity, the owner or owners of a business entity that is party to the merger, other than the surviving business entity, who become subject to such laws shall be liable for the debts and obligations of the surviving business entity to the extent provided in such laws, but only for such debts and obligations accrued after the merger. The owner or owners of the surviving business entity prior to the merger shall continue to be liable for the debts and obligations of the surviving business entity to the extent provided in par. (a).

(c) This subsection does not affect liability under any taxation laws.

(2) TITLE TO PROPERTY. The title to all real estate and other property owned by each business entity that is a party to the merger is vested in the surviving business entity without reversion or impairment subject to any conditions to which the property was subject before the merger.

(3) LIABILITIES. The surviving business entity has all liabilities of each business entity that is a party to the merger.

(4) PENDING PROCEEDINGS. A civil, criminal, administrative, or investigatory proceeding pending by or against any business entity that is a party to the merger may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for the business entity whose existence ceased.

(5) ARTICLES OF INCORPORATION OR OTHER SIMILAR GOVERNING DOCUMENT. The articles of incorporation, articles of organization, certificate of limited partnership, or other similar governing document shall be amended to the extent provided in the plan of merger.

(6) OWNERSHIP INTERESTS. The shares or other interests of each business entity that is party to the merger that are to be converted into shares, interests, obligations, or other securities of the surviving business entity or any other business entity or into cash or other property are converted, and the former holders of the shares or interests are entitled only to the rights provided in the articles of merger or under laws applicable to each business entity that is party to the merger.

History: 1997 a. 79; 2001 a. 44, 105; 2005 a. 476.

181.1107 Merger with foreign corporation or foreign stock corporation. (1) WHEN PERMITTED. One or more foreign corporations or foreign stock corporations may merge with one or more domestic corporations if all of the following conditions are met:

(a) The merger is permitted by the law of the state or country under whose law each foreign corporation or stock corporation is incorporated and each foreign corporation or stock corporation complies with that law in effecting the merger.

(b) The foreign corporation or stock corporation complies with s. 181.1105 if it is the surviving corporation of the merger.

(c) Each domestic corporation complies with the applicable provisions of ss. 181.1101 and 181.1103 and, if it is the surviving corporation of the merger, with s. 181.1105.

(2) EFFECT OF MERGER. Upon the merger taking effect, any surviving foreign business entity is deemed to have irrevocably appointed the department as its agent for service of process in any proceeding brought against it.

History: 1997 a. 79; 2001 a. 44.

181.1108 Bequests, devises, and gifts. Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, that is made to a constituent business entity and that takes effect or remains payable after the merger, inures to the surviving business entity unless the will or other instrument otherwise specifically provides.

History: 1997 a. 79; 2001 a. 44.

181.1150 Conversion of cooperative. A cooperative or an unincorporated cooperative association organized without capital stock may elect to convert itself to a corporation by adopting and filing restated articles of incorporation or organization in the manner required under ch. 185 or 193. The restated articles of incorporation or organization shall conform to the requirements of s. 181.0202 and shall contain a statement that the cooperative or unincorporated cooperative association elects to convert itself to a corporation subject to this chapter. The election to become a corporation subject to this chapter is effective upon the filing of the restated articles of incorporation or organization.

History: 1997 a. 79; 2005 a. 441.

181.1161 Conversion. (1) (a) A domestic corporation may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the organization of the business entity into which the domestic corporation is converting.

(b) In addition to satisfying any applicable legal requirements of the jurisdiction that governs the organization of the business entity into which the domestic corporation is converting and that relate to the submission and approval of a plan of conversion, the domestic corporation shall comply with the procedures that govern a plan of merger under s. 181.1103 for the submission and approval of a plan of conversion.

(2) (a) A business entity other than a domestic corporation may convert to a domestic corporation if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity.

(b) A business entity converting into a domestic corporation shall comply with the procedures that govern the submission and approval of a plan of conversion of the jurisdiction that governs the business entity.

(3) A plan of conversion shall set forth all of the following:

(a) The name, form of business entity, and the identity of the jurisdiction governing the business entity that is to be converted.

(b) The name, form of business entity, and the identity of the jurisdiction that will govern the new business entity.

(c) The terms and conditions of the conversion.

(d) The manner and basis of converting the shares or other ownership interests of the business entity that is to be converted into the shares or other ownership interests of the new form of business entity.

(e) The effective date and time of the conversion, if the conversion is to be effective other than at the close of business on the date of filing the certificate of conversion, as provided under s. 181.0123.

(f) A copy of the articles of incorporation, articles of organization, certificate of limited partnership, or other similar governing document of the business entity after conversion.

(g) Other provisions relating to the conversion, as determined by the business entity.

(4) When a conversion is effective, all of the following shall occur:

(a) 1. Except with respect to taxation laws of each jurisdiction that are applicable upon the conversion of the business entity, the business entity that was converted is no longer subject to the applicable law of the jurisdiction that governed the organization of the prior form of business entity and is subject to the applicable law of the jurisdiction that governs the new form of business entity.

2. If the conversion is from or to a business entity under the laws applicable to which one or more of the owners thereof is liable for the debts and obligations of such business entity, such owner or owners shall continue to be or become so liable for debts and obligations of such business entity, but only for such debts and obligations accrued during the period or periods in which such laws are applicable to such owner or owners. This subdivision does not affect liability under any taxation laws.

(b) The business entity continues to have all liabilities of the business entity that was converted.

(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment.

(d) The articles of incorporation, articles of organization, certificate of limited partnership, or other similar governing document, whichever is applicable, of the business entity are as provided in the plan of conversion.

(e) All other provisions of the plan of conversion apply.

(5) After a plan of conversion is submitted and approved, the business entity that is to be converted shall deliver to the department for filing a certificate of conversion that includes all of the following:

(a) The plan of conversion.

(b) A statement that the plan of conversion was approved in accordance with the applicable law of the jurisdiction that governs the organization of the business entity.

(c) The registered agent and registered office, the record agent and record office, or other similar agent and office of the business entity before and after conversion.

(6) Any civil, criminal, administrative, or investigatory proceeding that is pending by or against a business entity that is converted may be continued by or against the business entity after the effective date of conversion.

History: 2001 a. 44; 2005 a. 476; 2015 a. 295.

Next Economy Legislation: Allowing Complex Business Reorganizations. Boucher, Sosnowski, & Nichols. Wis. Law. Aug. 2002.

SUBCHAPTER XII

SALE OF ASSETS

181.1201 Sale of assets in regular course of activities and mortgage of assets. (1) ROLE OF BOARD. A corporation may, on the terms and conditions and for the consideration determined by the board, do any of the following:

(a) Sell, lease, exchange or otherwise dispose of all, or substantially all, of its property in the usual and regular course of its activities.

(b) Sell, lease, exchange or otherwise dispose of less than substantially all of its property whether or not in the usual and regular course of activities.

(c) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of its property whether or not in the usual and regular course of its activities.

(2) ROLE OF MEMBERS. Unless required by the articles of incorporation or bylaws, approval of the members or any other person of a transaction described in sub. (1) is not required.

History: 1997 a. 79.

181.1202 Sale of assets other than in regular course of activities. (1) WHEN PERMITTED. A corporation may sell, lease, exchange or otherwise dispose of all, or substantially all, of its property, with or without the goodwill, other than in the usual and regular course of its activities on the terms and conditions and for the consideration determined by the corporation's board if the proposed transaction is authorized under sub. (2).

(2) APPROVAL REQUIREMENTS IN GENERAL. Unless this chapter, the articles of incorporation or the bylaws require a greater vote or voting by class, the proposed transaction to be authorized must be approved by all of the following:

(a) Unless the articles of incorporation or bylaws provide otherwise, the board.

(b) The members with voting rights, if any, by two−thirds of the votes cast or a majority of the voting power, whichever is less.

(c) A 3rd person, in writing, whose approval is required by a provision of the articles of incorporation.

(3) CORPORATION WITHOUT MEMBERS. If the corporation does not have members the transaction must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition the corporation shall provide notice of any board meeting at which such approval is to be obtained in accordance with s. 181.0822 (3). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

(4) NOTICE REQUIREMENTS. If the corporation seeks to have the transaction approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with s. 181.0705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

(5) WRITTEN CONSENTS OR BALLOTS. If the board needs to have the transaction approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of a description of the transaction.

(6) ABANDONMENT OF TRANSACTION. After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned, subject to any contractual rights, without further action by the members or any other person who approved the transaction in accordance with the procedure set forth in the resolution proposing the transaction or, if none is set forth, in the manner determined by the board.

History: 1997 a. 79.

SUBCHAPTER XIII

DISTRIBUTIONS

181.1301 Prohibited distributions. Except as provided in s. 181.1302, a corporation may not make any distributions.

History: 1997 a. 79.

181.1302 Authorized distributions. (1) PURCHASE OF MEMBERSHIPS. A corporation may purchase its memberships if after the purchase is completed all of the following conditions are met:

(a) The corporation would be able to pay its debts as they become due in the usual course of its activities.

(b) The corporation's total assets would at least equal the sum of its total liabilities.

(2) DISTRIBUTIONS ON DISSOLUTION. Corporations may make distributions upon dissolution under subch. XIV.

(3) DISTRIBUTIONS TO NONPROFIT CORPORATIONS. A corporation may make a distribution or other payment to another domestic or foreign corporation, if all of the following conditions are met:

(a) The articles of incorporation, or, if the articles of incorporation so provide, the bylaws, state that a distribution or other payment may be made under this subsection.

(b) The distribution or other payment is made in accordance with the stated purpose of the corporation.

(c) The corporation would be able to pay its debts as they become due in the usual course of its activities.

(d) The corporation's total assets would equal at least the sum of its total liabilities.

(e) The domestic or foreign corporation to which the distribution or other payment is made may not distribute any part of its income to members, directors or officers and is exempt from taxation under 26 USC 501.

(4) OTHER DISTRIBUTIONS. A corporation may make a distribution that is not permitted under subs. (1) to (3) only if all of the following apply:

(a) The articles of incorporation state that a distribution may be made under this subsection.

(b) The distribution is made in accordance with the stated purpose of the corporation.

(c) The corporation would be able to pay its debts as they become due in the usual course of its activities.

(d) The corporation's total assets would equal at least the sum of its total liabilities.

History: 1997 a. 79.

SUBCHAPTER XIV

DISSOLUTION

181.1401 Dissolution by incorporators, directors, members and 3rd persons. (1) IN GENERAL. (a) Prior to the election of directors, unless this chapter, the articles of incorporation or the bylaws require a greater vote or voting by class, dissolution is authorized if it is approved by a majority of the incorporators.

(b) After the election of directors, unless this chapter, the articles of incorporation or the bylaws require a greater vote or voting by class, dissolution is authorized if it is approved by all of the following:

1. Unless the articles of incorporation or bylaws provide otherwise, the board.

2. The members with voting rights, if any, by two−thirds of the votes cast or a majority of the voting power, whichever is less.

3. A 3rd person, in writing, whose approval is required by a provision of the articles of incorporation.

(2) CORPORATION WITHOUT MEMBERS WITH VOTING RIGHTS. If the corporation does not have members with voting rights, dissolution must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any board of directors' meeting at which such approval is to be obtained in accordance with s. 181.0822 (3). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(3) NOTICE REQUIREMENTS. If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with s. 181.0705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(4) WRITTEN CONSENTS OR BALLOTS. If the board seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

(5) DISTRIBUTION OF ASSETS. The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

History: 1997 a. 79.

181.1403 Articles of dissolution. (1) FILING REQUIREMENTS. At any time after dissolution is authorized, the corporation may dissolve by delivering to the department for filing articles of dissolution that include all of the following information:

(a) The name of the corporation.

(b) The date dissolution was authorized.

(c) A statement that dissolution was approved by a sufficient vote of the board.

(d) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board or of the incorporators.

(e) If approval by members is required, a statement that dissolution was approved by a sufficient vote of the members of each class entitled to vote on dissolution.

(f) If approval of dissolution by a person other than the members, the board or the incorporators is required under s. 181.1401 (1) (b) 3., a statement that the approval was obtained.

(g) If the corporation is to retain the exclusive use of its name for less than 120 days after the effective date of its articles of dissolution, as provided in s. 181.1405 (3), a statement specifying the shorter period.

(2) EFFECTIVE DATE. A corporation is dissolved upon the effective date of its articles of dissolution.

History: 1997 a. 79; 2001 a. 44.

181.1404 Revocation of dissolution. (1) WHEN PERMITTED. A corporation may revoke its dissolution within 120 days of its effective date.

(2) HOW AUTHORIZED. Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board alone, in which event the board may revoke the dissolution without action by the members or any other person.

(3) FILING REQUIREMENTS. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the department for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that include all of the following information:

(a) The name of the corporation.

(b) The effective date of the dissolution that was revoked.

(c) The date that the revocation of dissolution was authorized.

(d) If the corporation's board or the incorporators revoked the dissolution, a statement to that effect.

(e) If the corporation's board revoked a dissolution authorized by the members alone or in conjunction with another person, a statement that revocation was permitted by action by the board alone pursuant to that authorization.

(f) If member or 3rd−person action was required to revoke the dissolution, the information required under s. 181.1403 (1) (e) and (f).

(4) EFFECTIVE DATE. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(5) EFFECT OF REVOCATION. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its activities as if dissolution had never occurred.

History: 1997 a. 79.

181.1405 Effect of dissolution. (1) POWERS OF DISSOLVED CORPORATION. A dissolved corporation continues its corporate existence but may not carry on any activities except those appropriate to wind up and liquidate its affairs, including any of the following:

(a) Preserving and protecting its assets and minimizing its liabilities.

(b) Discharging or making provision for discharging its liabilities and obligations.

(c) Disposing of its properties that will not be distributed in kind.

(d) Returning, transferring or conveying assets held by the corporation upon a condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, in accordance with the condition.

(e) Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws.

(g) If no provision has been made in the corporation's articles of incorporation or bylaws for distribution of assets on dissolution, transferring its assets to its members or, if it has no members, to those persons whom the corporation holds itself out as benefiting or serving.

(h) Doing every other act necessary to wind up and liquidate its assets and affairs.

(2) MATTERS NOT AFFECTED BY DISSOLUTION. Dissolution of a corporation does not do any of the following:

(a) Transfer title to the corporation's property.

(b) Subject its directors or officers to standards of conduct different from those under subch. VIII.

(c) Change quorum or voting requirements for its board or members; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws.

(d) Prevent commencement of a proceeding by or against the corporation in its corporate name.

(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution.

(f) Terminate the authority of the registered agent.

(3) RETENTION OF EXCLUSIVE USE OF NAME. Except as provided in s. 181.1421 (6) and unless a dissolved corporation registers its corporate name under s. 181.0403 (2), the dissolved corporation retains the exclusive use of its corporate name for 120 days after the effective date of its articles of dissolution or for a shorter period if specified in its articles of dissolution under s. 181.1403 (1) (g).

History: 1997 a. 79.

181.1406 Known claims against dissolved corporation. (1) DEFINITION. In this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(2) DISPOSITION OF KNOWN CLAIMS. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(3) NOTICE REQUIREMENTS. The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice shall include all of the following information:

(a) A description of the information that must be included in a claim.

(b) A mailing address where a claim may be sent.

(c) The deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation must receive the claim.

(d) The claim will be barred if not received by the deadline.

(4) WHEN CLAIMS BARRED. A claim against the dissolved corporation is barred if any of the following occurs:

(a) A claimant who is given written notice under sub. (2) does not deliver the claim to the dissolved corporation by the deadline.

(b) A claimant whose claim is rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

History: 1997 a. 79.

181.1407 Survival of remedies and claims. (1) COMMENCEMENT OF ACTIONS OR PROCEEDINGS. Except as provided in s. 181.1406 (4), the dissolution of a corporation does not take away or impair any remedy available to or against the corporation, its directors, officers or members, for any right or claim existing or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within 2 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. The members, directors and officers have the power to take such corporate or other action as is appropriate to protect such remedy, right or claim.

(2) ENFORCEMENT OF CLAIM AGAINST CORPORATION. A claim may be enforced under this section against any of the following:

(a) The dissolved corporation, to the extent of its undistributed assets.

(b) If the assets have been distributed in liquidation, any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's prorated share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

History: 1997 a. 79.

181.1420 Grounds for administrative dissolution. The department may bring a proceeding under s. 181.1421 to administratively dissolve a corporation if any of the following occurs:

(1) NONPAYMENT. The corporation does not pay, within one year after they are due, any fees or penalties due the department under this chapter.

(2) FAILURE TO FILE ANNUAL REPORT. The corporation does not have on file its annual report with the department within one year after it is due.

(3) FAILURE TO MAINTAIN REGISTERED AGENT OR OFFICE. The corporation is without a registered agent or registered office in this state for at least one year.

(4) FAILURE TO NOTIFY DEPARTMENT OF CHANGE. The corporation does not notify the department within one year that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued.

(5) FAILURE OF DOMESTICATING CORPORATION TO FILE REQUIRED NOTICE. The corporation does not file a notice required under s. 181.1533 (5) (a) within one year of the date that it is required under s. 181.1533 (5) (a) to be filed.

(6) DURATION EXPIRES. The corporation's period of duration stated in its articles of incorporation expires.

(7) HUMAN TRAFFICKING. The corporation violates s. 940.302 (2) or 948.051 (2).

History: 1997 a. 79; 2007 a. 116.

181.1421 Procedure for and effect of administrative dissolution. (1) NOTICE OF DETERMINATION. If the department determines that one or more grounds exist under s. 181.1420 for dissolving a corporation, the department shall give the corporation written notice of the department's determination by first−class mail, addressed to the corporation's registered agent.

(2) SECONDARY NOTICES. (a) If a notice under sub. (1) is returned to the department as undeliverable, the department shall again give the corporation notice by first−class mail, addressed to the principal office of the corporation, as most recently designated in the records of the department.

(b) If the notice under par. (a) is returned to the department as undeliverable or if the corporation's principal office cannot be determined from the records of the department, the department shall give the notice by posting the notice on the department's Internet site.

(3) EFFECTIVE DATE OF NOTICE. A notice of determination made under sub. (1) or (2) is effective upon the earliest of the following:

(a) The date on which the corporation or its registered agent receives the notice.

(b) Five days after the notice is deposited in the U.S. mail, if mailed postpaid and correctly addressed.

(c) If the notice is sent by certified mail, return receipt requested, and if the return receipt is signed on behalf of the corporation, the date shown on the return receipt.

(d) If the notice is posted on the department's Internet site, the date of posting.

(4) CURE. (a) Within 60 days after the notice is effective under sub. (3), the corporation shall correct each ground for dissolution or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist.

(b) If the corporation fails to satisfy par. (a), the department shall administratively dissolve the corporation. The department shall enter a notation in the department's records to reflect each ground for dissolution and the effective date of dissolution and shall give the corporation notice of those facts in the same manner as a notice of determination under subs. (1) and (2).

(5) EFFECT OF ADMINISTRATIVE DISSOLUTION. Sections 181.1405 (1) and (2), 181.1406 and 181.1407 apply to a corporation that is administratively dissolved.

(6) TERMINATION OF RIGHT TO EXCLUSIVE USE OF NAME. The corporation's right to the exclusive use of its corporate name terminates on the effective date of its administrative dissolution.

History: 1997 a. 79; 2001 a. 44; 2011 a. 234; 2013 a. 20.

181.1422 Reinstatement following administrative dissolution. (1) APPLICATION FOR REINSTATEMENT. A corporation that is administratively dissolved may apply to the department for reinstatement. The application shall include all of the following:

(a) The name of the corporation and the effective date of its administrative dissolution.

(b) A statement that each ground for dissolution either did not exist or has been cured.

(c) A statement that the corporation's name satisfies s. 181.0401.

(2) GROUNDS FOR REINSTATEMENT. (a) The department shall cancel the notice of dissolution and issue a certificate of reinstatement that complies with par. (b) if the department determines all of the following:

1. That the application contains the information required by sub. (1) and the information is correct.

2. That all fees and penalties owed by the corporation to the department under this chapter have been paid.

(b) The certificate of reinstatement shall state the department's determination under par. (a) and the effective date of reinstatement. The department shall file the original of the certificate and return a copy to the corporation or its representative.

(3) EFFECT OF REINSTATEMENT. When the reinstatement becomes effective, it shall relate back to and take effect as of the effective date of the administrative dissolution, and the corporation may resume carrying on its business as if the administrative dissolution had never occurred.

History: 1997 a. 79; 2001 a. 44.

181.1423 Appeal from denial of reinstatement. (1) NOTICE OF DENIAL. If the department denies a corporation's application for reinstatement under s. 181.1422, the department shall serve the corporation under s. 181.0504 with a written notice that explains each reason for denial.

(2) TIME FOR APPEAL OF DENIAL. The corporation may appeal the denial of reinstatement to the circuit court for the county where the corporation's principal office or, if none in this state, its registered office is located, within 30 days after service of the notice of denial is perfected. The corporation shall appeal by petitioning the court to set aside the dissolution and attaching to the petition copies of the department's notice of dissolution, the corporation's application for reinstatement, and the department's notice of denial.

(3) JUDICIAL REMEDY. The court may order the department to reinstate the dissolved corporation or may take other action that the court considers appropriate.

(4) APPEAL OF COURT DECISION. The court's final decision may be appealed as in other civil proceedings.

History: 1997 a. 79; 2001 a. 44.

181.1430 Grounds for judicial dissolution. (1) WHO MAY BRING PROCEEDING. The circuit court may dissolve a corporation in a proceeding brought by any of the following:

(a) The attorney general if any of the following is established:

1. That the corporation obtained its articles of incorporation through fraud.

2. That the corporation has continued to exceed or abuse the authority conferred upon it by law.

(b) Fifty members or members holding 5 percent of the voting power, whichever is less, or any person specified in the articles of incorporation, if any of the following is established:

1. That the directors are deadlocked in the management of the corporate affairs, the members are unable to break the deadlock and, because of the deadlock, either irreparable injury to the corporation is threatened or being suffered or the business and affairs of the corporation can no longer be conducted in accordance with it corporate purposes.

2. That 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.

3. That the members 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, or would otherwise have, expired.

4. That the corporate assets are being misapplied or wasted.

5. That the corporation is no longer able to carry out its purposes.

(c) A creditor if any of the following is established:

1. That the creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied and the corporation is insolvent.

2. That the corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

(d) The corporation to have its voluntary dissolution continued under court supervision.

(2) FACTORS REQUIRED TO BE CONSIDERED. Before dissolving a corporation, the court shall consider all of the following:

(a) Whether there are reasonable alternatives to dissolution.

(b) Whether dissolution is the best way of protecting the interests of members or, if the corporation has no members, is in the interest of those persons or interests whom the corporation holds itself as benefiting or serving.

History: 1997 a. 79.

181.1431 Procedure for judicial dissolution. (1) WHO ARE PARTIES. It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(2) POWERS OF COURT. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

History: 1997 a. 79.

181.1432 Receivership or custodianship. (1) POWERS OF COURT. A court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(2) WHO MAY SERVE AS RECEIVER OR CUSTODIAN. The court may appoint an individual, or a domestic or foreign corporation

or stock corporation authorized to transact business in this state, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) POWERS AND DUTIES OF RECEIVER OR CUSTODIAN. (a) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time.

(b) A receiver may exercise, but is not limited to, all of the following powers:

1. To dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; provided, however, that the receiver's power to dispose of the assets of the corporation is subject to any trust and other restrictions that would be applicable to the corporation.

2. To sue and defend in the receiver's name as receiver of the corporation in all courts of this state.

(c) A custodian may exercise all of the powers of the corporation, through or in place of its board or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors and may sue and defend in the custodian's name as custodian of the corporation in all courts in this state.

(4) REDESIGNATION. The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its members, and creditors.

(5) COMPENSATION AND EXPENSES. The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's counsel from the assets of the corporation or proceeds from the sale of the assets.

History: 1997 a. 79.

181.1433 Decree of dissolution. (1) ENTERING DECREE. If after a hearing the court determines that one or more grounds for judicial dissolution under s. 181.1430 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the department, who shall file it.

(2) EFFECT OF DECREE. After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's affairs in accordance with s. 181.1405 and the notification of its claimants in accordance with ss. 181.1406 and 181.1407.

History: 1997 a. 79.

181.1440 Deposit with secretary of revenue. Assets of a dissolved corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them, shall be reduced to cash subject to known trust restrictions and deposited with the secretary of revenue for safekeeping. However, in the secretary's discretion property may be received and held in kind. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited or property held in kind, the secretary of revenue shall deliver to the creditor, member or other person or his or her representative that amount or property.

History: 1997 a. 79; 2013 a. 20.

SUBCHAPTER XV

FOREIGN CORPORATIONS

181.1501 Authority to transact business required. (1) IN GENERAL. A foreign corporation may not transact business in this state until it obtains a certificate of authority from the department.

(2) PERMITTED ACTIVITIES. The following activities, among others, do not constitute transacting business in this state within the meaning of this subchapter:

(a) Maintaining, defending or settling any civil, criminal, administrative or investigatory proceeding.

(b) Holding meetings of the board or members or carrying on other activities concerning internal corporate affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange and registration of the foreign corporation's memberships or maintaining trustees or depositaries with respect to those memberships.

(e) Selling through independent contractors.

(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

(g) Creating or acquiring indebtedness, mortgages and security interests in property.

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(i) Owning, without more, property.

(j) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.

(k) Transacting business in interstate commerce.

History: 1997 a. 79.

181.1502 Consequences of transacting business without authority. (1) COURT PROCEEDINGS BARRED. A foreign corporation transacting business in this state without a certificate of authority, if a certificate of authority is required under s. 181.1501, may not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) SUCCESSORS TO FOREIGN CORPORATIONS. The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(3) STAY OF PROCEEDINGS. A court may stay a proceeding commenced by a foreign corporation, its successor or its assignee until the court determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(4) PENALTIES. (a) Beginning on February 1, 2000, a foreign corporation that transacts business in this state without a certificate of authority is liable to the state, for each year or any part of a year during which it transacted business in this state without a certificate of authority, in an amount equal to the sum of all of the following:

1. All fees that would have been imposed under this chapter upon the foreign corporation had it applied for and received a certificate of authority when it began transacting business in this state.

2. A fee of $50 for each year or portion of a year during which it transacted business without a certificate of authority or $500, whichever is less.

(b) The foreign corporation shall pay the amount owed under par. (a) to the department. The department may not issue a certificate of authority to the foreign corporation until the amount owed under par. (a) is paid. The attorney general may enforce a foreign corporation's obligation to pay the department any amount owed under par. (a).

(5) VALIDITY OF CORPORATE ACTIONS. Notwithstanding subs. (1) and (2), the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or its title to property in this state or prevent it from defending any

civil, criminal, administrative or investigatory proceeding in this state.

History: 1997 a. 79.

181.1503 Application for certificate of authority. **(1)** FILING REQUIREMENTS. A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the department for filing. The application shall be made on a form prescribed by the department and shall include all of the following information:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a fictitious name that satisfies s. 181.1506.

(b) The name of the state or country under whose law it is incorporated.

(c) Its date of incorporation and period of duration.

(d) The street address of its principal office.

(e) The street address of its registered office in this state and the name of its registered agent at that office.

(f) The name and usual business or home address of each of its current directors and principal officers.

(g) Whether the foreign corporation has members.

(h) A statement that the corporation is organized without capital stock.

(2) AUTHENTICATION. The foreign corporation shall deliver with the completed application a certificate of status or a document of similar import authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated. The certificate shall be dated no earlier than 60 days before its delivery.

History: 1997 a. 79.

181.1504 Amended certificate of authority. **(1)** WHEN REQUIRED. A foreign corporation authorized to transact business in this state shall obtain an amended certificate of authority from the department if the foreign corporation changes any of the following:

(a) Its corporate name or the fictitious name under which it has been issued a certificate of authority.

(b) Its date of incorporation or the period of its duration.

(c) The state or country of its incorporation.

(2) FILING AND AUTHENTICATION REQUIREMENTS. The requirements of s. 181.1503 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section, except that a foreign corporation is not required to deliver a certificate of status with an application solely to change a fictitious name.

History: 1997 a. 79; 2001 a. 44.

181.1505 Effect of certificate of authority. **(1)** TRANSACTION OF BUSINESS. A certificate of authority issued to a foreign corporation authorizes the foreign corporation to transact business in this state subject to the right of the state to revoke the certificate as provided in this chapter.

(2) RIGHTS AND PRIVILEGES. A foreign corporation with a valid certificate of authority has the same rights and enjoys the same privileges as and, except as otherwise provided by this chapter, is subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(3) INTERNAL AFFAIRS. This chapter does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

History: 1997 a. 79.

181.1506 Corporate name of foreign corporation. **(1)** FICTITIOUS NAME. If the corporate name of a foreign corporation is not available under sub. (2), the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, may use a fictitious name to transact business in this state if it delivers to the department for filing a copy of the resolution of its board of directors, certified by any of its officers, adopting the fictitious name.

(2) DISTINGUISHABILITY GENERALLY REQUIRED. (a) Except as authorized under subs. (3) and (4), the corporate name, including a fictitious name, of a foreign corporation must be distinguishable upon the records of the department from all of the following names:

1. The corporate name of a domestic corporation or a foreign corporation authorized to transact business in this state.

2. The corporate name of a stock corporation or a foreign stock corporation authorized to transact business in this state.

3. A name reserved or registered under this chapter or ch. 178, 179, 180, 183, 185, or 193.

4. The corporate name of a dissolved corporation or stock corporation that has retained the exclusive use of its name under s. 181.1404 (3) or under s. 180.1405 (3), respectively.

5. The fictitious name adopted by a foreign corporation or a foreign stock corporation authorized to transact business in this state.

6. The name of a limited partnership formed under the laws of, or registered in, this state.

7. The name of a cooperative association or an unincorporated cooperative association incorporated or authorized to transact business in this state.

8. The name of a limited liability company organized under the laws of, or registered in, this state.

9. The name of a limited liability partnership formed under the laws of, or registered in, this state.

(b) The corporate name of a corporation is not distinguishable from a name referred to in par. (a) 1. to 9. if the only difference between it and the other name is the inclusion or absence of a word or words referred to in s. 181.0401 (1) (a) 1. or of the words "limited partnership", "limited liability partnership", "cooperative" or "limited liability company" or an abbreviation of these words.

(3) APPLICATION TO USE NONDISTINGUISHABLE NAME. A foreign corporation may apply to the department for authorization to use in this state a name that is not distinguishable upon the records of the department from one or more of the names described under sub. (2). The department shall authorize use of the name applied for if any of the following conditions exists:

(a) The other foreign corporation or the domestic corporation, limited liability company, nonstock corporation, limited partnership, limited liability partnership, cooperative association, or unincorporated cooperative association consents to the use in writing and submits an undertaking in a form satisfactory to the department to change its name to a name that is distinguishable upon the records of the department from the name of the applicant.

(b) The applicant delivers to the department a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) CORPORATE REORGANIZATIONS. A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation or stock corporation that is used in this state if the other corporation or stock corporation is incorporated or authorized to transact business in this state and the foreign corporation has done any of the following:

(a) Merged with the other domestic or foreign corporation or stock corporation.

(b) Been formed by reorganization of the other domestic or foreign corporation or stock corporation.

(c) Acquired all or substantially all of the assets, including the corporate name, of the other domestic or foreign corporation or stock corporation.

(5) FAILURE TO COMPLY. If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of sub. (2), it shall not transact business in this state under the changed name until it adopts a

name satisfying the requirements of sub. (2) and obtains an amended certificate of authority under s. 181.1504.

History: 1997 a. 79; 2005 a. 441.

181.1507 Registered office and registered agent. Each foreign corporation shall continuously maintain in this state a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business. The registered agent shall be any of the following:

(1) INDIVIDUALS. An individual who resides in this state and whose business office is identical with the registered office.

(2) DOMESTIC ENTITIES. A domestic corporation, stock corporation, limited partnership, limited liability partnership, or limited liability company, incorporated or organized in this state or that has in effect a statement of qualification under s. 178.0901, whose business office is identical with the registered office.

(3) FOREIGN ENTITIES. A foreign corporation, stock corporation, limited partnership, registered limited liability partnership, or limited liability company, authorized to transact business in this state, whose business office is identical with the registered office.

History: 1997 a. 79; 2001 a. 44; 2015 a. 295.

181.1508 Change of registered office or registered agent of foreign corporation. (1) FILING REQUIREMENTS. A foreign corporation authorized to transact business in this state may change its registered office or registered agent, or both, by delivering to the department for filing a statement of change that, except as provided in sub. (2), includes all of the following information.

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

(b) The street address of its registered office, as changed.

(c) The name of its registered agent, as changed.

(d) A statement that, after the change or changes are made, the street addresses of its registered office and the office of its registered agent will be identical.

(2) AGENT CHANGE OF ADDRESS. If a registered agent changes the street address of its business office, the agent may change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the foreign corporation in writing of the change and signing, either manually or in facsimile, and delivering to the department for filing a statement of change that complies with sub. (1) and recites that the foreign corporation has been notified of the change.

History: 1997 a. 79.

181.1509 Resignation of registered agent of foreign corporation. (1) HOW AGENT MAY RESIGN. The registered agent of a foreign corporation may resign by signing and delivering to the department for filing a statement of resignation that includes all of the following information:

(a) The name of the foreign corporation for which the registered agent is acting.

(b) The name of the registered agent.

(c) The street address of the foreign corporation's current registered office and its principal office.

(d) A statement that the registered agent resigns.

(e) If applicable, a statement that the registered office is also discontinued.

(2) NOTICE TO CORPORATION. After filing the statement, the department shall mail a copy to the foreign corporation at its principal office.

(3) EFFECTIVE DATE. The resignation is effective and, if applicable, the registered office is discontinued on the earlier of the following:

(a) Sixty days after the department receives the statement of resignation for filing.

(b) The date on which the appointment of a successor registered agent is effective.

History: 1997 a. 79.

181.1510 Service on foreign corporation. (1) REGISTERED AGENT. Except as provided in subs. (2) and (3), the registered agent of a foreign corporation authorized to transact business in this state is the foreign corporation's agent for service of process, notice or demand required or permitted by law to be served on the foreign corporation.

(2) FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS. A foreign corporation authorized to transact business in this state may be served in the manner provided in sub. (4) if the foreign corporation has no registered agent or its registered agent cannot, with reasonable diligence, be served.

(3) FOREIGN CORPORATION FORMERLY AUTHORIZED TO TRANSACT BUSINESS. A foreign corporation formerly authorized to transact business in this state may be served in the manner provided in sub. (4) in any civil, criminal, administrative or investigatory proceeding based on a cause of action arising while it was authorized to transact business in this state, if the foreign corporation has done any of the following:

(a) Withdrawn from transacting business in this state under s. 181.1520.

(b) Had its certificate of authority revoked under s. 181.1531.

(4) MANNER OF SERVICE ON FOREIGN CORPORATION. (a) With respect to a foreign corporation described in sub. (2) or (3), the foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the foreign corporation at its principal office as shown on the records of the department, except as provided in par. (b). Service is perfected under this paragraph at the earliest of the following:

1. The date on which the foreign corporation receives the mail.

2. The date shown on the return receipt, if signed on behalf of the foreign corporation.

3. Five days after it is deposited in the U.S. mail, if mailed postpaid and correctly addressed.

(b) Except as provided in s. 181.1531 (2g) (b), if the address of the foreign corporation's principal office cannot be determined from the records of the department, the foreign corporation may be served by publishing a class 3 notice, under ch. 985, in the community where the foreign corporation's principal office or registered office, as most recently designated in the records of the department, is located.

(5) OTHER METHODS OF SERVICE. This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a foreign corporation in any other manner permitted by law.

History: 1997 a. 79; 2011 a. 234.

181.1520 Withdrawal of foreign corporation. (1) CERTIFICATE REQUIRED. A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the department.

(2) APPLICATION FOR CERTIFICATE. A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the department for filing. The application shall include all of the following information:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated.

(b) A statement that it is not transacting business in this state and that it surrenders its authority to transact business in this state.

(c) A statement that it revokes the authority of its registered agent to accept service on its behalf and that it consents to service of process under s. 181.1510 (3) and (4) in any civil, criminal, administrative or investigatory proceeding based on a cause of

action arising during the time it was authorized to transact business in this state.

(d) The mailing address of its principal office, if different from that shown on its most recent annual report.

(e) A commitment to notify the department in the future of any change in the mailing address of its principal office.

History: 1997 a. 79.

181.1530 Grounds for revocation. (1) PERMISSIVE REVOCATION BY DEPARTMENT. Except as provided in sub. (1m), the department may bring a proceeding under s. 181.1531 to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if any of the following applies:

(a) The foreign corporation fails to file its annual report with the department within 4 months after it is due.

(b) The foreign corporation does not pay, within 4 months after they are due, any fees or penalties due the department under this chapter.

(c) The foreign corporation is without a registered agent or registered office in this state for at least 6 months.

(d) The foreign corporation does not inform the department under s. 181.1508 or 181.1509 that its registered agent or registered office has changed, that its registered agent has resigned or that its registered office has been discontinued, within 6 months of the change, resignation or discontinuance.

(e) The foreign corporation obtained its certificate of authority through fraud.

(f) The department receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or has disappeared as the result of a merger.

(g) The foreign corporation violates s. 940.302 (2) or 948.051 (2).

(1m) MANDATORY REVOCATION BY DEPARTMENT. If the department receives a certificate under sub. (1) (f) and a statement by the foreign corporation that the certificate is submitted by the foreign corporation to terminate its authority to transact business in this state, the department shall issue a certificate of revocation under s. 181.1531 (2) (b).

(2) REVOCATION BY A COURT. A court may revoke, under s. 946.87, the certificate of authority of a foreign corporation authorized to transact business in this state. The court shall notify the department of the action, and the department shall issue a certificate of revocation under s. 181.1531 (2) (b).

History: 1997 a. 79; 2007 a. 116.

181.1531 Procedure for and effect of revocation. (1) NOTICE OF PROCEEDING BY DEPARTMENT. If the department determines that one or more grounds exist under s. 181.1530 (1) for revocation of a certificate of authority, the department shall give the foreign corporation under s. 181.1510 written notice of the determination, addressed to the foreign corporation's registered agent.

(2) CURE, REVOCATION AND REINSTATEMENT. (a) Within 60 days after the notice takes effect, the foreign corporation shall correct each ground for revocation or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist.

(b) If the foreign corporation fails to satisfy par. (a), the department may revoke the foreign corporation's certificate of authority by entering a notation in the department's records to reflect each ground for revocation and the effective date of revocation. The department shall give notice of those facts to the foreign corporation in the same manner as a notice of determination under subs. (1) and (2).

(c) 1. If a foreign corporation's certificate of authority is revoked, the department shall reinstate the certificate of authority if the foreign corporation does all of the following within 6 months after the effective date of revocation:

a. Corrects each ground for revocation.

b. Pays any fees or penalties due the department under s. 181.1502 (4) (a) or $500, whichever is less.

2. A reinstatement under this paragraph shall relate back to and take effect as of the effective date of the revocation, and the foreign corporation may resume carrying on its business as if the revocation never occurred.

(2g) SECONDARY NOTICES. (a) If a notice under sub. (1) or (2) (b) is returned to the department as undeliverable, the department shall again give written notice to the foreign corporation, addressed to the principal office of the foreign corporation, as most recently designated in the records of the department.

(b) If the notice under par. (a) is returned to the department as undeliverable or if the corporation's principal office cannot be determined from the records of the department, the department shall give the notice by posting the notice on the department's Internet site.

(2r) EFFECTIVE DATE OF NOTICE. A notice under sub. (1), (2) (b), or (2g) (a) takes effect at the earliest of the following:

(a) When received.

(b) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(3) EFFECT OF REVOCATION. The authority of a foreign corporation to transact business in this state, ends on the effective date of revocation of its certificate of authority, as reflected in the records of the department.

(4) SERVICE ON CORPORATION AFTER REVOCATION. If the department or a court revokes a foreign corporation's certificate of authority, the foreign corporation may be served under s. 181.1510 (3) and (4) or the foreign corporation's registered agent may be served until the registered agent's authority is terminated, in any civil, criminal, administrative or investigatory proceeding based on a cause of action which arose while the foreign corporation was authorized to transact business in this state.

(5) AUTHORITY OF REGISTERED AGENT. Revocation of a foreign corporation's certificate of authority does not terminate the authority of its registered agent.

History: 1997 a. 79; 2001 a. 44; 2011 a. 234; 2013 a. 20.

181.1532 Appeal from revocation. (1) RIGHT TO APPEAL. A foreign corporation may appeal the department's revocation of its certificate of authority under s. 181.1530 (1) to the circuit court for the county where the foreign corporation's principal office or, if none exists in this state, its registered office is located, within 30 days after the effective date of the notice of revocation. The foreign corporation shall appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of authority and the department's notice of revocation.

(2) PERMISSIBLE REMEDIES. The court may order the department to reinstate the certificate of authority or may take any other action that the court considers appropriate.

(3) APPEAL OF JUDICIAL DECISION. The court's final decision may be appealed as in other civil proceedings.

History: 1997 a. 79; 2001 a. 44.

181.1533 Domestication of a foreign corporation. (1) ARTICLES OF DOMESTICATION AND CERTIFICATE OF AUTHENTICATION. (a) *In general.* A foreign corporation may become a domestic corporation by filing articles of domestication under par. (b) and a certificate of authentication under par. (c).

(b) *Articles of domestication.* Articles of domestication shall contain all of the following information:

1. The name of the corporation, which shall comply with s. 181.0401.

2. The text of restated articles of incorporation of the corporation, which shall comply with s. 181.0202.

3. A statement that the corporation has adopted an election to domesticate in accordance with sub. (2).

4. A statement that the corporation will file, with the appropriate entity in the jurisdiction where the foreign corporation is organized, articles of dissolution or an equivalent document having the effect of terminating the corporation's existence as a corporation organized under the laws of that jurisdiction.

(c) *Certificate of authentication.* A certificate of status or a document of similar import authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law the domesticating corporation is incorporated. The certificate or document shall include the corporation's name and date of incorporation, and shall be dated no earlier than 60 days before its delivery.

(2) ELECTION TO DOMESTICATE. An election by a foreign corporation to become a domestic corporation shall be adopted in the same manner as is required, under the law of the jurisdiction where the domesticating corporation is organized, for a merger of that corporation into a domestic corporation.

(3) EFFECT OF DOMESTICATION. When a domestication under this section takes effect, s. 181.1106 applies to the domesticating corporation as if the domesticating corporation had merged with a newly incorporated domestic corporation, with the domesticating corporation being the surviving corporation.

(4) EFFECTIVE DATE OF DOMESTICATION. A domestication under this section takes effect on the effective date of the articles of domestication under sub. (1). The department shall establish the date of incorporation of a domesticating corporation on its records from the information supplied in the certificate of authentication filed under sub. (1) (c).

(5) NOTICE OF EFFECTIVE DATE OF FILING IN FOREIGN JURISDICTION. (a) Within 60 days of the effective date of the filing described under sub. (1) (b) 4., the corporation shall file with the department a notice indicating the effective date of that filing in the foreign jurisdiction.

(b) Failure of the domesticating corporation to file the notice under par. (a) does not affect the validity of a domestication under this section. A domesticating corporation that fails to file the notice within the time required under par. (a) may be required to forfeit not more than $100. Each day of continued violation constitutes a separate offense.

History: 1997 a. 79.

SUBCHAPTER XVI

RECORDS AND REPORTS

181.1601 Corporate records. (1) MINUTES AND RECORDS OF ACTION. A corporation shall keep as permanent records minutes of all meetings of its members and board, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board as authorized under s. 181.0825.

(2) ACCOUNTING RECORDS. A corporation shall maintain appropriate accounting records.

(3) MEMBERSHIP RECORDS. A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(4) FORM. A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) COPIES AT PRINCIPAL OFFICE. A corporation shall keep a copy of all of the following records at its principal office:

(a) Its articles of incorporation and all amendments to them currently in effect.

(b) Its bylaws or restated bylaws and all amendments to them currently in effect.

(c) Resolutions adopted by its board relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members.

(d) The minutes of all meetings of members and records of all actions approved by the members for the past 3 years.

(e) The financial statements furnished for the past 3 years under s. 181.1620.

(f) A list of the names and business or home addresses of its current directors and officers.

(g) Its most recent annual report delivered to the department under s. 181.1622.

History: 1997 a. 79.

181.1602 Inspection of records by members. (1) RECORDS AT PRINCIPAL OFFICE. Subject to s. 181.1603 (3), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in s. 181.1601 (5) if the member gives the corporation written notice or a written demand at least 5 business days before the date on which the member wishes to inspect and copy.

(2) OTHER RECORDS THAT MAY BE INSPECTED. A member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of sub. (3) and gives the corporation written notice at least 5 business days before the date on which the member wishes to inspect and copy:

(a) Excerpts from any records required to be maintained under s. 181.1601 (1), to the extent not subject to inspection under sub. (1).

(b) Accounting records of the corporation.

(c) Subject to s. 181.1605, the membership list.

(3) WHEN OTHER RECORDS MAY BE INSPECTED. A member may inspect and copy the records identified in sub. (2) only if all of the following apply:

(a) The member's demand is made in good faith and for a proper purpose.

(b) The member describes with reasonable particularity the purpose and the records the member desires to inspect.

(c) The records are directly connected with this purpose.

(4) APPLICABILITY. This section does not affect any of the following:

(a) The right of a member to inspect records under s. 181.0720 or, if the member is in litigation with the corporation, to the same extent as any other litigant.

(b) The power of a court, independently of this chapter, to compel the production of corporate records for examination.

History: 1997 a. 79.

181.1603 Scope of inspection rights. (1) AGENTS AND ATTORNEYS. A member's agent or attorney has the same inspection and copying rights as the member who the agent or attorney represents.

(2) COPIES. The right to copy records under s. 181.1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(3) REASONABLE CHARGES. The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(4) DATE OF MEMBERSHIP LIST. The corporation may comply with a member's demand to inspect the record of members under s. 181.1602 (2) (c) by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

History: 1997 a. 79.

181.1604 Court−ordered inspection. (1) RECORDS AT PRINCIPAL OFFICE. If a corporation does not allow a member who complies with s. 181.1602 (1) to inspect and copy any records required by that subsection to be available for inspection, the circuit court for the county where the corporation's principal office or, if none in this state, its registered office is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(2) OTHER RECORDS. If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with s. 181.1602 (2) and (3) may apply to the circuit court for the county where the corporation's principal office or, if none in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(3) PAYMENT OF COSTS. If the court orders inspection and copying of the records demanded, it shall also order the corporation to pay the member's costs, including reasonable attorney fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(4) RESTRICTIONS ON DISTRIBUTION OF RECORDS. If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

History: 1997 a. 79.

181.1605 Limitations on use of membership list. Without consent of the board, a membership list or any part of a membership list may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part of a membership list may not be used for any of the following:

(1) SOLICITATION. To solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation.

(2) COMMERCIAL PURPOSES. For any commercial purpose.

(3) SALE OF LIST. To be sold to or purchased by any person.

History: 1997 a. 79.

181.1620 Financial statements for members. (1) MEMBER MAY DEMAND. A corporation upon written demand from a member shall furnish that member its latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, that include a balance sheet as of the end of the fiscal year and statement of operations for that year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis.

(2) CERTIFIED PUBLIC ACCOUNTANT'S REPORT OR OFFICER'S STATEMENT. If annual financial statements are reported upon by a certified public accountant licensed or certified under ch. 442, the certified public accountant's report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's financial accounting records that includes all of the following:

(a) A statement of the president's or other person's reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation.

(b) A description of any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

History: 1997 a. 79; 2001 a. 16.

181.1621 Report of indemnification to members. If a corporation indemnifies or advances expenses to a director under s. 181.0874, 181.0877 or 181.0881 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the members with or before the notice of the next meeting of members.

History: 1997 a. 79.

181.1622 Annual report for department. (1) CONTENT. Each domestic corporation and each foreign corporation authorized to transact business in this state shall file with the department an annual report that includes all of the following information:

(a) The name of the domestic corporation or foreign corporation and the state or country under whose law it is incorporated.

(b) The mailing address of its registered office and the name of its registered agent at that office in this state.

(c) The mailing address of its current principal office.

(d) The name and business address of each director and principal officer.

(e) A brief description of the nature of its business.

(f) Whether the corporation has members.

(2) ACCURACY. Information in the annual report shall be current as of the date on which the annual report is executed on behalf of a domestic corporation.

(3) FILING DEADLINE. (a) A domestic corporation shall deliver its annual report to the department in each year following the calendar year in which the domestic corporation was incorporated or domesticated under s. 181.1533, during the calendar year quarter in which the anniversary date of incorporation occurs.

(b) A foreign corporation authorized to transact business in this state shall deliver its annual report to the department during the first calendar quarter of each year following the calendar year in which the foreign corporation becomes authorized to transact business in this state.

(4) FAILURE TO CONTAIN REQUIRED INFORMATION. If an annual report does not contain the information required by this section, the department shall promptly notify the reporting domestic corporation or foreign corporation in writing and return the report to it for correction. The notice shall comply with s. 181.0141. If the annual report is corrected to contain the information required by this section and delivered to the department within 30 days after the effective date of the notice under s. 181.0141 (5), the annual report is timely filed.

(5) EFFECTIVE DATE OF REPORT. An annual report is effective on the date that it is filed by the department.

History: 1997 a. 79; 2013 a. 20.

SUBCHAPTER XVII

TRANSITIONAL PROVISIONS

181.1701 Applicability of chapter. (1) DOMESTIC CORPORATIONS. (a) Except as provided in par. (b), this chapter applies to all corporations in existence on January 1, 1999, that were incorporated under or have elected to become subject to ch. 181, 1995 stats., and all corporations without stock organized under corresponding prior general corporation laws.

(b) A domestic corporation without stock not organized as provided under par. (a) is not subject to this chapter but may at any time elect to become subject to this chapter by filing restated articles of incorporation in accordance with the provisions of this

chapter. The restated articles shall state that the corporation elects to become subject to this chapter.

(c) A domestic corporation without stock which is not subject to this chapter and which does not elect to become subject to it may conduct and administer its business and affairs under the provisions of this chapter to the extent that the provisions of this chapter are not inconsistent with the articles or form of organization of such corporation or with any provisions elsewhere in the statutes or under any law relating to such corporation.

(d) An industrial development agency formed under s. 59.57 (2) shall, to the extent not inconsistent with that subsection, conduct and administer its business in accordance with this chapter.

(2) FOREIGN CORPORATIONS. This chapter applies to all foreign corporations transacting business in this state beginning on January 1, 1999.

History: 1997 a. 79.

181.1703 Saving provisions. (1) EFFECT OF REPEAL. Except as provided in sub. (2), the repeal of a statute by this chapter does not affect any of the following:

(a) The operation of the statute or any action taken under it before its repeal.

(b) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal.

(c) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal.

(d) Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(e) Any meeting of members or the board or action by written consent noticed or any action taken before its repeal as a result of a meeting of members or a board or action by written consent.

(2) PENALTIES AND PUNISHMENTS. If a penalty or punishment imposed for violation of a statute repealed by this chapter is reduced by this chapter, the penalty or punishment if not already imposed shall be imposed in accordance with this chapter.

(3) REINSTATEMENT OF DISSOLVED CORPORATION. Section 181.1422 applies to any involuntary or administrative dissolution, even if the dissolution occurred before January 1, 1999.

History: 1997 a. 79; 1999 a. 32.