# BUSINESS CORPORATION ACT
# Act 284 of 1972

AN ACT to provide for the organization and regulation of corporations; to prescribe their duties, rights, powers, immunities and liabilities; to provide for the authorization of foreign corporations within this state; to prescribe the functions of the administrator of this act; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

*The People of the State of Michigan enact:*

## CHAPTER 1
## GENERAL PROVISIONS

### 450.1101 Short title.

Sec. 101. This act shall be known and may be cited as the “business corporation act”.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1103 Liberal construction; purposes and policies of act.

Sec. 103. This act shall be liberally construed and applied to promote its underlying purposes and policies which include all of the following:

(a) To simplify, clarify, and modernize the law governing business corporations.

(b) To provide a general corporate form for the conduct or promotion of a lawful business or purpose with variations and modifications from the form as interested parties in any corporation may agree upon, subject only to overriding interests of this state and of third parties.

(c) To give special recognition to the legitimate needs of close corporations.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1104 Definitions controlling interpretation of act.

Sec. 104. The definitions contained in sections 105 through 109 shall control the interpretation of this act, unless the context otherwise requires.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1105 Definitions; A, B.

Sec. 105. (1) "Administrator" means the chief officer of the department or of any other agency or department authorized by law to administer this act, or his or her designated representative.

(2) "Articles of incorporation" includes any of the following:

(a) The original articles of incorporation or any other instrument filed or issued under any statute to organize a domestic or foreign corporation, as amended, supplemented, or restated by certificates of amendment, merger, conversion, or consolidation or other certificates or instruments filed or issued under any statute.

(b) A special act or charter creating a domestic or foreign corporation, as amended, supplemented, or restated.

(3) "Authorized shares" means shares of all classes that a corporation is authorized to issue.

(4) "Board" means board of directors or other governing board of a corporation.

(5) "Bonds" includes secured and unsecured bonds, debentures, and notes.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1106 Definitions; C to E.

Sec. 106. (1) "Corporation" or "domestic corporation" means a corporation formed under this act, or existing on January 1, 1973 and formed under any other statute of this state for a purpose for which a corporation may be formed under this act.

(2) "Department" means the department of licensing and regulatory affairs.

(3) "Director" means a member of the board of a corporation.

(4) "Distribution" means a direct or indirect transfer of money or other property, except the corporation's shares, or the incurrence of indebtedness by the corporation to or for the benefit of its shareholders in respect to the corporation's shares. A distribution may be in the form of a dividend, a purchase, redemption or other acquisition of shares, an issuance of indebtedness, or any other declaration or payment to or for the benefit of


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the shareholders.

(5) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

(a) It does not directly involve the physical transmission of paper.

(b) It creates a record that may be retained and retrieved by the recipient.

(c) It may be directly reproduced in paper form by the recipient through an automated process.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2006, Act 68, Imd. Eff. Mar. 20, 2006;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1107 Definitions; F to I.

Sec. 107. (1) “Foreign corporation” means a corporation for profit formed under laws other than the laws of this state, which includes in its purposes a purpose for which a corporation may be formed under this act.

(2) “Foreign nonprofit corporation” means a corporation organized under laws other than the laws of this state, which includes in its purposes a purpose for which a corporation may be organized under the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

(3) “Independent director” means a director who meets all of the following requirements:

(a) Is elected by the shareholders.

(b) Is designated as an independent director by the board or the shareholders.

(c) Has at least 5 years of business, legal, or financial experience, or other equivalent experience. For a corporation with securities registered under section 12 of the securities exchange act of 1934, chapter 404, 48 Stat. 881, 15 U.S.C. 78L, “experience” shall mean experience as a senior executive, director, or attorney, or other equivalent experience, for a corporation with registered securities.

(d) Is not and during the 3 years prior to being designated as an independent director has not been any of the following:

(*i*) An officer or employee of the corporation or any affiliate of the corporation.

(*ii*) Engaged in any business transaction for profit or series of transactions for profit, including banking, legal, or consulting services, involving more than $10,000.00 with the corporation or any affiliate of the corporation.

(*iii*) An affiliate, executive officer, general partner, or member of the immediate family of any person that had the status or engaged in a transaction described in subparagraph (*i*) or (*ii*).

(e) Does not propose to enter into a relationship or transaction described in subdivision (d)(*i*) through (*iii*).

(f) Does not have an aggregate of more than 3 years of service as a director of the corporation, whether or not as an independent director.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1108 Definitions; N to P.

Sec. 108. (1) "Nonprofit corporation" or "domestic nonprofit corporation" means a nonprofit, corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(2) "Person" means an individual, a partnership, a domestic or foreign corporation, a limited liability company, or any other association, corporation, trust, or legal entity.

(3) "Professional corporation" means a corporation incorporated under former 1962 PA 192, or a corporation incorporated under this act and governed by chapter 2A.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1109 Definitions; S.

Sec. 109. (1) "Services in a learned profession" means services provided to the public by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney-at-law. The term does not include services provided to residents of a nursing home, as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109, by a dentist, osteopathic physician, physician, or surgeon who is an employee or independent contractor of the nursing home.

(2) "Shareholder" means a person that holds units of proprietary interest in a corporation and is considered to be synonymous with "member" in a nonstock corporation.

(3) "Shares" means the units into which proprietary interests in a corporation are divided and is considered to be synonymous with "membership" in a nonstock corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013;—Am. 2015, Act 158, Eff. Jan. 18, 2016.


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### 450.1110 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section contained definitions.

### 450.1121 Applicability of act to domestic and foreign corporations.

Sec. 121. This act applies to every domestic corporation and to every foreign corporation which is authorized to or does transact business in this state except as otherwise provided in this act or by other law. This act also applies to any other domestic corporation or foreign corporation not formed under this act to the extent, if any, provided under this act or any law governing the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1122 References to repealed acts; statutes inapplicable to corporations defined in MCL 450.1106; uniform fraudulent transfer act inapplicable to distributions.

Sec. 122. (1) A reference in any statute of this state to parts of any act that are repealed by this act is considered to be a reference to this act, unless the context requires otherwise.

(2) The following statutes do not apply to a corporation as defined in section 106:

(a) 1846 RS 55, MCL 450.504 to 450.525.

(b) 1955 PA 156, MCL 450.701 to 450.704.

(3) The uniform fraudulent transfer act, 1998 PA 434, MCL 566.31 to 566.43, does not apply to distributions governed by this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1123 Applicability of act generally.

Sec. 123. (1) Unless otherwise provided in, or inconsistent with, the act under which a corporation is or has been formed, this act applies to deposit and security companies, summer resort associations, brine pipeline companies, telegraph companies, telephone companies, safety and collateral deposit companies, canal, river, and harbor improvement companies, cemetery, burial, and cremation associations, railroad, bridge, and tunnel companies, and agricultural and horticultural fair societies. The entities specified in this subsection shall not be incorporated under this act.

(2) This act does not apply to insurance, surety, savings and loan associations, fraternal benefit societies, and banking corporations.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 357, Imd. Eff. Jan. 14, 1994;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1125 Applicability to foreign commerce, interstate commerce, and federal corporations.

Sec. 125. This act applies to commerce with foreign nations and among the several states and to corporations formed by or under any act of congress, only to the extent permitted under the constitution and laws of the United States.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1127 Applicability to existing corporations; saving clause.

Sec. 127. (1) This act does not affect the duration of a corporation which exists on the effective date of this act. An existing corporation and its shareholders, directors and officers have the same rights and are subject to the same limitations, restrictions, liabilities and penalties as a corporation formed under this act, and its shareholders, directors and officers.

(2) This act does not affect a cause of action, liability, penalty or action or special proceeding, which on the effective date of this act is accrued, existing, incurred or pending, but the same may be asserted, enforced, prosecuted or defended as if this act had not been enacted.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1129 Amendment or repeal of act.

Sec. 129. This act may be supplemented, altered, amended or repealed by the legislature and every corporation, domestic or foreign, to which this act applies is bound thereby.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1131 Submission of document; delivery; filing; return of copy; public inspection; maintaining records or files; copies of documents and destroying originals; facsimile or electronic transmission as original; effective date of document; fees.

Sec. 131. (1) A document required or permitted to be filed under this act shall be submitted by delivering


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the document to the administrator together with the fees and accompanying documents required by law. The administrator may establish a procedure for accepting delivery of a document submitted under this subsection by facsimile or other electronic transmission. However, by December 31, 2006, the administrator shall establish a procedure for accepting delivery of a document submitted under this subsection by electronic mail or over the Internet. Beginning January 1, 2007, the administrator shall accept delivery of documents submitted by electronic mail or over the Internet.

(2) If a document submitted under subsection (1) substantially conforms to the requirements of this act, the administrator shall endorse upon it the word "filed" with his or her official title and the date of receipt and of filing and shall file and index the document or a photostatic, micrographic, photographic, optical disc media, or other reproduced copy in his or her office. If requested at the time of the delivery of the document to his or her office, the administrator shall include the hour of filing in the endorsement on the document.

(3) The administrator shall return a copy of a document filed under subsection (2), other than an annual report, or, at his or her discretion, the original, to the person who submitted it for filing. The administrator shall mark the filing date on the copy or original before returning it or, if the document was submitted by electronic mail or over the Internet, may provide proof of the filing date to the person who submitted the document for filing in another manner determined by the administrator.

(4) The records and files of the administrator relating to domestic and foreign corporations shall be open to reasonable inspection by the public. The administrator may maintain records or files either in their original form or in photostatic, micrographic, photographic, optical disc media, or other reproduced form.

(5) The administrator may make copies of any documents filed under this act or any predecessor act by photostatic, micrographic, photographic, optical disc media, or other reproduced form and may destroy the originals of the copied documents. A photostatic, micrographic, photographic, optical disc media, or other reproduced copy certified by the administrator, including a copy sent by facsimile or other electronic transmission, is considered an original for all purposes and is admissible in evidence in like manner as an original.

(6) Except as provided in section 806, a document filed under subsection (2) is effective at the time it is endorsed unless a subsequent effective time, not later than 90 days after the date of delivery, is set forth in the document.

(7) The administrator shall charge 1 of the following nonrefundable fees if expedited filing of a document by the administrator is requested and the administrator shall retain the revenue collected under this subsection and the department shall use it to carry out its duties required by law:

(a) For any filing that a person requests the administrator to complete within 1 hour on the same day as the day of the request, $1,000.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(b) For any filing that a person requests the administrator to complete within 2 hours on the same day as the day of the request, $500.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(c) Except for a filing request under subdivision (a) or (b), for the filing of any formation or qualification document that a person requests the administrator to complete on the same day as the day of the request, $100.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(d) Except for a filing request under subdivision (a) or (b), for the filing of any other document concerning an existing domestic corporation or a qualified foreign corporation that a person requests the administrator to complete on the same day as the day of the request, $200.00. The department may establish a deadline by which a person must submit a request for filing under this subdivision.

(e) For the filing of any formation or qualification document that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, $50.00.

(f) For the filing of any other document concerning an existing domestic corporation or a qualified foreign corporation that a person requests the administrator to complete within 24 hours of the time the administrator receives the request, $100.00.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974 ;—Am. 1989, Act 121, Eff. Oct.1, 1989;—Am. 1992, Act 199, Imd. Eff. Oct. 5, 1992;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2005, Act 217, Eff. Jan. 1, 2006;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1132 Filed documents; language, form, execution, and contents.

Sec. 132. (1) A document filed with the administrator shall be in the English language, except that the corporate name need not be in the English language if written in English letters or Arabic or Roman numerals.

(2) A document required or permitted to be filed under this act that is also required by this act to be


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executed on behalf of the domestic or foreign corporation shall be signed by an authorized officer or agent of the domestic or foreign corporation. If the board has not yet met, the document shall be signed by the incorporator or the majority of incorporators if there are more than 1. If the domestic or foreign corporation is in the hands of a receiver, trustee, or other court appointed officer, the document shall be signed by the fiduciary or the majority of the fiduciaries, if there are more than 1. The name of a person signing the document and the capacity in which he or she signs shall be stated beneath or opposite his or her signature. The document may, but need not, contain any of the following:

(a) The corporate seal.

(b) An attestation by the secretary or an assistant secretary of the corporation.

(c) An acknowledgment or proof.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1133 Correction of document relating to domestic or foreign corporation; signing and filing of certificate of correction; contents of certificate; effective date of corrected document.

Sec. 133. If a document relating to a domestic or foreign corporation filed with the administrator under this act was at the time of filing an inaccurate record of the corporation action referred to in the document, or was defectively or erroneously executed, or the document was electronically transmitted and the electronic transmission was defective, the document may be corrected by filing with the administrator a certificate of correction on behalf of the corporation. A certificate, entitled “certificate of correction of ... (correct title of document and name of corporation)” shall be signed as provided in this act with respect to the document being corrected and filed with the administrator. The certificate shall set forth the name of the corporation, the date the document to be corrected was filed by the administrator, the provision in the document as it should have originally appeared, and if the execution was defective, the proper execution. The corrected document is effective in its corrected form as of its original filing date except as to a person who relied upon the inaccurate portion of the document and was, as a result of the inaccurate portion of the document, adversely affected by the correction.

**History:** Add. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1141 Corporate action without notice or lapse of prescribed time period.

Sec. 141. When, under this act or the articles of incorporation or bylaws of a corporation or by the terms of an agreement or instrument, a corporation or the board or any committee of the board may take action after notice to any person or after lapse of a prescribed period of time, the action may be taken without notice and without lapse of the period of time, if at any time before or after the action is completed the person entitled to notice or to participate in the action to be taken or, in case of a shareholder, his or her attorney-in-fact, submits a signed waiver or a waiver by electronic transmission of the requirements.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1142 Notice or communication where communication unlawful or where notice or communication not required; statement.

Sec. 142. When a notice or communication is required to be given to a person by this act, by the articles of incorporation or bylaws, or by the terms of an agreement or instrument relating to the internal affairs of the corporation, or as a condition precedent to taking corporate action, and communication with the person is then unlawful under a statute of this state or the United States or a rule, regulation, proclamation or order issued under any of those statutes, the giving of the notice or communication to the person is not required and there is no duty to apply for a license or other permission to do so. An affidavit, certificate or other instrument which is required to be made or filed as proof of the giving of a notice or communication required by this chapter, if the notice or communication to any person is dispensed with under this section, shall include a statement that the notice or communication was not given to any person with whom communication is unlawful. The affidavit, certificate or other instrument is as effective for all purposes as though such notice or communication had been personally given to the person.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1143 Mailing notice or communication; delivery; electronic transmission; "address" defined.

Sec. 143. (1) If a notice or communication is required or permitted by this act to be given by mail, it shall


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be mailed, except as otherwise provided in this act, to the person to whom it is directed at the address designated by him or her for that purpose or, if none is designated, at his or her last known address. The notice or communication is given when deposited, with postage prepaid, in a post office or official depository under the exclusive care and custody of the United States postal service. Unless the corporation has securities registered under section 12 of title 1 of the securities exchange act of 1934, 15 USC 78*l*, the mailing shall be registered, certified, or other first-class mail except where otherwise provided in this act.

(2) If a corporation is required or permitted to provide its shareholders with a written notice or other written report, statement, or communication by this act, the articles of incorporation, or the bylaws, the corporation may provide that notice, report, statement, or communication to all shareholders that share a common address by delivering 1 copy of it to the common address if all of the following are met:

(a) The corporation addresses the notice, report, statement, or communication to the shareholders who share the common address as a group, individually, or in any other form to which any of those shareholders have not objected.

(b) At least 60 days before the first delivery of any delivery to a common address under this subsection, the corporation gives notice to the shareholders who share that common address that it intends to provide only 1 copy of notices, reports, statements, or other communications to shareholders that share a common address.

(c) The corporation has not received a written objection from any shareholder that shares a common address to deliveries under this subsection to that shareholder. If it receives a written objection under this subdivision, the corporation within 30 days shall begin providing the objecting shareholder with separate copies of any notices, reports, statements, or communications to the shareholders, but the corporation may deliver 1 copy of the notices, reports, statements, or communications to all of the shareholders at that common address that have not objected.

(3) If a notice is required or permitted by this act to be given in writing, electronic transmission is written notice.

(4) If a notice or communication is permitted by this act to be transmitted electronically, the notice or communication is given when electronically transmitted to the person entitled to the notice or communication in a manner authorized by the person.

(5) As used in subsection (2), "address" means a street address, post office box, electronic mail address for electronic transmissions by electronic mail, or telephone facsimile number for electronic transmissions by facsimile.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2006, Act 47, Imd. Eff. Mar. 9, 2006.

### 450.1151 Notice of refusal to file document; refusing or revoking authorization of foreign corporation to transact business; judicial review.

Sec. 151. (1) If the administrator fails to promptly file a document, other than an annual report, submitted for filing under this act, the administrator shall within 10 days after receipt of a written request to file the document from the person submitting the document for filing give written notice of the refusal to file the document to that person, specifying the reasons for the refusal to file the document. If the document was not originally submitted by electronic transmission, the administrator shall not give the written notice by electronic transmission. The person may seek judicial review of the refusal to file the document pursuant to sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.306.

(2) If the administrator refuses to authorize or revokes the authorization of a foreign corporation to transact business in this state pursuant to this act, the foreign corporation may seek judicial review pursuant to sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.306.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

## CHAPTER 2
## FORMATION; PURPOSES AND POWERS

### 450.1201 Incorporators.

Sec. 201. (1) One or more persons may be the incorporators of a corporation by signing and filing articles of incorporation for the corporation.

(2) A corporation incorporated to provide 1 or more services in a learned profession must be incorporated as a professional corporation under chapter 2A.

(3) A corporation incorporated to provide professional services other than services in a learned profession


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may comply with chapter 2A and incorporate as a professional corporation, or may incorporate as a corporation under chapter 2 without complying with chapter 2A.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1202 Articles of incorporation; contents.

Sec. 202. The articles of incorporation shall contain all of the following:

(a) The name of the corporation.

(b) The purposes for which the corporation is formed. All of the following apply for purposes of this subdivision:

(*i*) Except as otherwise provided in subparagraph (*ii*) or (*iii*), it is a sufficient compliance with this subdivision to state substantially, alone or with specifically enumerated purposes, that the corporation may engage in any activity within the purposes for which corporations may be formed under the business corporation act, and all activities shall by the statement be considered within the purposes of the corporation, subject to expressed limitations.

(*ii*) Any corporation that proposes to conduct educational purposes shall state the purposes and shall comply with all requirements of sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177.

(*iii*) A professional corporation shall comply with section 283(2) and (3).

(c) The aggregate number of shares that the corporation has authority to issue.

(d) If the shares are, or are to be, divided into classes, or into classes and series, the designation of each class and series, the number of shares in each class and series, and a statement of the relative rights, preferences and limitations of the shares of each class and series, to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined.

(e) If any class of shares is to be divided into series, a statement of any authority vested in the board to divide the class of shares into series, and to determine or change for any series its designation, number of shares, relative rights, preferences and limitations.

(f) The street address, and the mailing address if different from the street address, of the corporation's initial registered office and the name of the corporation's initial resident agent at that address.

(g) The names and addresses of the incorporators.

(h) The duration of the corporation if other than perpetual.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1204 Articles of incorporation; provision as to compromise, arrangement, or plan of reorganization.

Sec. 204. The articles of incorporation may contain the following provision or the substance thereof: When a compromise or arrangement or a plan of reorganization of this corporation is proposed between this corporation and its creditors or any class of them or between this corporation and its shareholders or any class of them, a court of equity jurisdiction within the state, on application of this corporation or of a creditor or shareholder thereof, or on application of a receiver appointed for the corporation, may order a meeting of the creditors or class of creditors or of the shareholders or class of shareholders to be affected by the proposed compromise or arrangement or reorganization, to be summoned in such manner as the court directs. If a majority in number representing 3/4 in value of the creditors or class of creditors, or of the shareholders or class of shareholders to be affected by the proposed compromise or arrangement or a reorganization, agree to a compromise or arrangement or a reorganization of this corporation as a consequence of the compromise or arrangement, the compromise or arrangement and the reorganization, if sanctioned by the court to which the application has been made, shall be binding on all the creditors or class of creditors, or on all the shareholders or class of shareholders and also on this corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1205 Articles of incorporation; effect of provision as to compromise, arrangement, or plan of reorganization.

Sec. 205. (1) When the provision of section 204 is included in the original articles of incorporation of a corporation, all persons who become creditors or shareholders thereof are deemed to have become creditors or shareholders subject in all respects to that provision, and it shall be binding upon them.

(2) When that provision is inserted in the articles of a corporation, by an amendment of the articles, all persons who become creditors or shareholders of the corporation after the amendment becomes effective are deemed to have become creditors or shareholders subject in all respects to that provision, and it shall be binding upon them.

(3) The circuit court may administer and enforce the provision and restrain, pendente lite, actions and


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proceedings against the corporation with respect to which the court so restraining has begun the administration or enforcement of the provision, and appoint a temporary receiver for the corporation and grant the receiver such powers as are deemed proper.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1209 Articles of incorporation; permissible provisions.

Sec. 209. (1) The articles of incorporation may contain any provision not inconsistent with this act or another statute of this state, including any of the following:

(a) A provision for management of the business and conduct of the affairs of the corporation, or creating, defining, limiting, or regulating the powers of the corporation, its directors and shareholders, or a class of shareholders.

(b) A provision that under this act is required or permitted to be set forth in the bylaws.

(c) A provision eliminating or limiting a director's liability to the corporation or its shareholders for money damages for any action taken or any failure to take any action as a director, except liability for any of the following:

(*i*) The amount of a financial benefit received by a director to which he or she is not entitled.

(*ii*) Intentional infliction of harm on the corporation or the shareholders.

(*iii*) A violation of section 551.

(*iv*) An intentional criminal act.

(2) If the articles of incorporation contain a provision eliminating the liability of a director prior to the amendatory act that amended subsection (1) and added this subsection, that provision shall be considered to eliminate the liability of a director as provided in subsection (1)(c).

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1211 Corporate name; required words and abbreviations.

Sec. 211. Except as provided in chapter 2A for a professional corporation, the corporate name of a domestic corporation shall contain the word "corporation", "company", "incorporated", or "limited" or shall contain 1 of the following abbreviations: corp., co., inc., or ltd., with or without periods.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1212 Corporate name; conformity; noncompliance of corporate name of foreign corporation as bar to certificate of authority; rights to use of corporate name not created.

Sec. 212. (1) The corporate name of a domestic or foreign corporation formed or existing under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, which indicates or implies that the corporation is formed for a purpose other than 1 or more of the purposes permitted by its articles of incorporation.

(b) Shall distinguish the corporate name upon the records in the office of the administrator from all of the following:

(*i*) The corporate name of any other domestic corporation or foreign corporation authorized to transact business in this state.

(*ii*) The corporate name of any corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, or any corporation authorized to conduct affairs in this state under that act.

(*iii*) A corporate name currently reserved, registered, or assumed under this act or the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iv*) The name of any domestic limited partnership or foreign limited partnership as filed or registered under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108, or any name currently reserved or assumed under that act.

(*v*) The name of any domestic limited liability company or foreign limited liability company as filed or registered under the Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200, or any name currently reserved or assumed under that act.

(c) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state, unless in compliance with that restriction.

(2) If a foreign corporation is unable to obtain a certificate of authority to transact business in this state because its corporate name does not comply with the provisions of subsection (1), the foreign corporation may apply for authority to transact business in this state by adding to its corporate name in the application a


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word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed name otherwise available for use. If in the judgment of the administrator that name would comply with the provisions of subsection (1), that subsection shall not be a bar to issuing the foreign corporation a certificate of authority to transact business in this state. The certificate issued to the foreign corporation shall be issued in the name applied for and the foreign corporation shall use that name in all its dealings with the administrator and in the transaction of business in this state.

(3) The fact that a corporate name complies with this section does not create substantive rights to the use of that corporate name.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1213 Assumption of name implying banking, insurance, surety, or trust company; prohibited letters or words; corporation licensed as nursing home; use of terms.

Sec. 213. (1) A corporation formed or existing under or subject to this act other than a bank holding company registered or to be registered as a bank holding company under the bank holding company act of 1956, chapter 240, 70 Stat. 133, shall not assume a name that implies that it is a banking corporation, an insurance or surety company, or a trust company, and the corporation shall not use the word “bank”, “industrial bank”, “deposit”, “surety”, “security”, “trust”, or “trust company” in its corporate name or use a combination of the letters or words with other letters or words in its corporate name to indicate or convey the idea of a bank or banking or industrial banking activity or security unless from the other words constituting the name it is clear that the business conducted does not include the business of banking.

(2) A corporation formed or existing under or subject to this act that is licensed or is to be licensed as a nursing home under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, may use the term “health center” or “health care center” or a term conveying a meaning substantially similar to those terms, or the term “rehabilitation center”, as long as those terms do not conflict with the terms prohibited by section 21712 of the public health code, 1978 PA 368, MCL 333.21712.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 2001, Act 276, Imd. Eff. Jan. 11, 2002
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### 450.1215 Corporate name; reservation of right to use; transfer of right.

Sec. 215. (1) A person may reserve the right to use of a corporate name by executing and filing an application to reserve the name. If the administrator finds that the name is available for corporate use, he or she shall reserve it for exclusive use of the applicant for a period expiring at the end of the sixth full calendar month following the month in which the application was filed.

(2) The right to exclusive use of a reserved corporate name may be transferred to another person by filing a notice of the transfer, executed by the applicant for whom the name was reserved, and stating the name and address of the transferee.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1217 Transacting business under assumed name; certificate.

Sec. 217. (1) A domestic or foreign corporation may transact business under any assumed name or names other than its corporate name, if not precluded from use by section 212, by filing a certificate stating the true name of the corporation and the assumed name under which the business is to be transacted. The certificate is effective, unless sooner terminated by filing a certificate of termination or by the dissolution or withdrawal of the corporation, for a period expiring on December 31 of the fifth full calendar year following the year in which it was filed. The certificate of assumed name may be extended for additional consecutive periods of 5 full calendar years each by filing similar certificates not earlier than 90 days before the expiration of the initial or a subsequent 5-year period. The administrator shall notify the corporation of the impending expiration of the certificate of assumed name not later than 90 days before the expiration of the initial or a subsequent 5-year period. A certificate of assumed name filed under this section does not create substantive rights to the use of a particular assumed name.

(2) The same name may be assumed by 2 or more corporations, or by 1 or more corporations and 1 or more limited partnerships or other enterprises participating together in a partnership or joint venture. Each participant corporation shall file a certificate under this section.

(3) A corporation participating in a merger, or any other entity participating in a merger under section 736, may transfer to the surviving entity the use of an assumed name for which a certificate of assumed name is on file with the administrator before the merger, if the transfer is noted in the certificate of merger as provided in section 707(1)(g), 712(1)(c), or 736(7)(f), or other applicable statute. The use of an assumed name transferred


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under this subsection may continue for the remaining effective period of the certificate of assumed name on file before the merger, and the surviving entity may terminate or extend the certificate of assumed name in accordance with subsection (1).

(4) A corporation surviving a merger may use as an assumed name the corporate name of a merging corporation, or the name of any other entity participating in the merger under section 736, by filing a certificate of assumed name under subsection (1) or by providing for the use of the name as an assumed name in the certificate of merger. The surviving corporation also may file a certificate of assumed name under subsection (1) or provide in the certificate of merger for the use as an assumed name of an assumed name of a merging entity not transferred under subsection (3). A provision in a certificate of merger under this subsection shall be treated as a new certificate of assumed name.

(5) A business organization into which a corporation has converted under section 745 may use an assumed name of the converting corporation, if the corporation has a certificate of assumed name for that assumed name on file with the administrator before the conversion, by providing for the use of the name as an assumed name in the certificate of conversion. The use of an assumed name under this subsection may continue for the remaining effective period of the certificate of assumed name on file before the conversion, and the surviving business organization may terminate or extend the certificate of assumed name in the manner described in subsection (1).

(6) A corporation into which 1 or more business organizations have converted under section 746 may use as an assumed name the name of any business organization converting into that corporation, or use as an assumed name an assumed name of that business organization, by filing a certificate of assumed name under subsection (1) or by providing for the use of that name or assumed name as an assumed name of the corporation in the certificate of conversion. A provision in the certificate of conversion under this subsection shall be treated as a new certificate of assumed name.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1221 Beginning of corporate existence; filing of articles as evidence.

Sec. 221. The corporate existence shall begin on the effective date of the articles of incorporation as provided in section 131. Filing is conclusive evidence that all conditions precedent required to be performed under this act have been fulfilled and that the corporation has been formed under this act, except in an action or special proceeding by the attorney general.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1223 Selection of board; adoption of bylaws; first meeting; quorum; election of officers; transaction of business.

Sec. 223. Before or after filing of the articles of incorporation a majority of the incorporators, at a meeting or by written instrument, shall select a board and may adopt bylaws. On or after the filing date of the articles any member of the board may call the first meeting of the board upon not less than 3 days notice by mail to each director. A majority of the directors constitutes a quorum for the first meeting of the board. At the first meeting, the board may adopt bylaws, elect officers and transact such other business as may come before the meeting.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1231 Adoption, amendment, or repeal of bylaws; contents of bylaws.

Sec. 231. The initial bylaws of a corporation shall be adopted by its incorporators, its shareholders, or its board. The shareholders or the board may amend or repeal the bylaws or adopt new bylaws unless the articles of incorporation or bylaws provide that the power to adopt new bylaws is reserved exclusively to the shareholders or that the bylaws or any particular bylaw shall not be altered or repealed by the board. The bylaws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1241 Registered office and resident agent required; address.

Sec. 241. (1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state both of the following:

(a) A registered office, which may be the same as its place of business.

(b) A resident agent. A resident agent may be an individual resident of this state; a domestic corporation or limited liability company; or a foreign corporation or limited liability company authorized to transact business


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in this state.

(2) The address of the business office or residence of a resident agent must be the same as the address of the registered office.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1242 Changing registered office or resident agent; statement; changing address of registered office.

Sec. 242. (1) A domestic corporation or a foreign corporation authorized to transact business in this state may change its registered office or change its resident agent, or both, upon filing a statement. The statement may be executed by any of the individuals set forth in section 132 or by the secretary or assistant secretary of the corporation. The statement shall provide all of the following information:

(a) The corporate name.

(b) The street address of the corporation's then registered office, and its mailing address if different from its street address.

(c) If the address of the corporation's registered office is changed, the street address and the mailing address, if different from the street address, to which the registered office is to be changed.

(d) The name of the corporation's then resident agent.

(e) If the corporation's resident agent is changed, the name of its successor resident agent.

(f) That the address of the corporation's registered office and the address of its resident agent, as changed, will be identical.

(g) That the change was authorized by resolution duly adopted by the corporation's board.

(2) If a resident agent changes its business or residence address to another place within this state, the resident agent may change the address of the registered office of any domestic or foreign corporation of which the person is a resident agent by filing a statement as required in subsection (1), except, the statement need only be signed by the resident agent, need not be responsive to subsection (1)(e) or (g), and shall recite that a copy of the statement has been mailed to the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1243 Resignation of resident agent.

Sec. 243. A resident agent of a domestic or foreign corporation may resign by filing a written notice of resignation with the president or a vice president of the corporation and with the administrator. The corporation shall promptly appoint a successor resident agent. The appointment of the resigning agent terminates upon appointment of a successor or upon expiration of 30 days after receipt of the notice by the administrator, whichever first occurs. Upon the resignation becoming effective, the business or residence address of the resigned agent shall no longer be the registered office of the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1246 Service of process.

Sec. 246. (1) The resident agent appointed by a corporation is an agent of the corporation upon whom any process, notice, or demand required or permitted by law to be served upon the corporation may be served.

(2) A person, whether a resident or nonresident of this state, who accepts election, appointment, or employment as a director or officer of a corporation organized under this act or in existence on the effective date of this act, by the acceptance, is held to have appointed the resident agent of the corporation as his or her agent upon whom process may be served while the person is a director or officer, in any action commenced in a court of general jurisdiction in this state, arising out of or founded upon any action of the domestic corporation or of a person as a director or officer of the domestic corporation. Upon accepting service of process, the resident agent shall promptly forward it to the director or officer at his or her last known address.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1251 Formation of corporation for lawful purpose; exception; aiding national emergency.

Sec. 251. (1) A corporation may be formed under this act for any lawful purpose, except to engage in a business for which a corporation may be formed under any other statute of this state unless that statute permits formation under this act.

(2) In time of war or other national emergency, a corporation may take any lawful action to provide aid, notwithstanding the purposes set forth in its articles of incorporation, at the request or direction of a competent governmental authority.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.


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**450.1261 Corporate powers.**

Sec. 261. A corporation, subject to any limitation provided in this act, in any other statute of this state, or in its articles of incorporation, shall have power in furtherance of its corporate purposes to do all of the following:

(a) Have perpetual duration.

(b) Sue and be sued in all courts and participate in actions and proceedings, judicial, administrative, arbitrative, or otherwise, in the same manner as natural persons.

(c) Have a corporate seal, and alter the seal, and use it by causing it or a facsimile to be affixed, impressed, or reproduced in any other manner.

(d) Adopt, amend, or repeal bylaws, including emergency bylaws, relating to the business of the corporation, the conduct of its affairs, its rights and powers and the rights and powers of its shareholders, directors, or officers.

(e) Elect or appoint officers, employees, and other agents of the corporation, prescribe their duties, fix their compensation and the compensation of directors, and indemnify corporate directors, officers, employees, and agents.

(f) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or an interest in real or personal property, wherever situated.

(g) Sell, convey, lease, exchange, transfer, or otherwise dispose of, or mortgage or pledge, or create a security interest in any of its property or an interest in its property, wherever situated.

(h) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other obligations, shares or other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities, including banking corporations or trust companies. A corporation organized or transacting business in this state under this act shall not guarantee or become surety upon a bond or other undertaking securing the deposit of public money.

(i) Make contracts, give guarantees and incur liabilities, borrow money at rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property or an interest in its property, wherever situated. This power shall include the power to give guarantees that are necessary or convenient to the conduct, promotion, or attainment of the business of any of the following corporations, whether or not subject to this act, and domestic or foreign limited liability companies, and those guarantees shall be considered to be in furtherance of the corporate purposes of the contracting corporation:

(*i*) All of the outstanding shares or interests of which are owned, directly or indirectly, by the contracting corporation.

(*ii*) A corporation or limited liability company that owns, directly or indirectly, all of the outstanding shares of the contracting corporation.

(*iii*) All of the outstanding shares or interests of which are owned, directly or indirectly, by a corporation, whether or not subject to this act, or a limited liability company that owns, directly or indirectly, all of the outstanding shares of the contracting corporation.

(j) Lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(k) Make donations for any of the following: The public welfare; community fund or hospital; or a charitable, educational, scientific, civic, or similar purpose. A corporation also has the power to provide aid in time of war or other national emergency.

(*l*) Pay pensions, establish and carry out pension, profit sharing, share bonus, share purchase, share option, savings, thrift and other retirement, incentive and benefit plans, trusts, and provisions for any of its directors, officers, and employees.

(m) Purchase, receive, take, otherwise acquire, own, hold, sell, lend, exchange, transfer, otherwise dispose of, pledge, use and otherwise deal in and with its own shares, bonds, and other securities.

(n) Participate with others in any corporation, partnership, limited partnership, joint venture, or other association of any kind, or in any transaction, undertaking, or agreement which the participating corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control with or to others.

(o) Cease its corporate activities and dissolve.

(p) Transact business, carry on its operations, and have offices and exercise the powers granted by this act in any jurisdiction in or outside the United States.


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(q) Have and exercise all powers necessary or convenient to effect any purpose for which the corporation is formed.

(r) Participate as a member of any mutual insurance company for purposes of insuring property or activities relative to nuclear facilities owned, operated, constructed, or being constructed by the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2006, Act 68, Imd. Eff. Mar. 20, 2006.

### 450.1271 Asserting lack of corporate capacity or power.

Sec. 271. An act of a corporation and a transfer of real or personal property to or by a corporation, otherwise lawful, is not invalid because the corporation was without capacity or power to do the act or make or receive the transfer. However the lack of capacity or power may be asserted:

(a) In an action by a shareholder against the corporation to enjoin the doing of an act or the transfer of real or personal property by or to the corporation.

(b) In an action by or in the right of the corporation to procure a judgment in its favor against an incumbent or former officer or director of the corporation for loss or damage due to his unauthorized act.

(c) In an action or special proceeding by the attorney general to dissolve the corporation or to enjoin it from the transacting of unauthorized business.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1275 Agreement to pay interest in excess of legal rate; defense of usury prohibited.

Sec. 275. A domestic or foreign corporation, whether or not formed at the request of a lender or in furtherance of a business enterprise, may by agreement in writing, and not otherwise, agree to pay a rate of interest in excess of the legal rate and the defense of usury shall be prohibited.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

## CHAPTER 2A
## PROFESSIONAL CORPORATIONS

### 450.1281 Incorporation as professional corporation.

Sec. 281. (1) A corporation must incorporate as a professional corporation under this chapter if it is incorporated to provide 1 or more services in a learned profession, whether or not it is providing other professional services. A corporation may comply with this chapter and incorporate as a professional corporation if it is incorporated to provide 1 or more professional services, none of which are services in a learned profession, or may incorporate as a corporation that is not required to comply with this chapter.

(2) A corporation that is incorporated as a professional corporation and its shareholders are subject to this chapter and this act. If there is a conflict between an applicable provision of this chapter and another provision of this act, the provision of this chapter takes precedence.

(3) This chapter applies to a corporation incorporated under former 1962 PA 192, or to a corporation that on the effective date of this chapter was governed by former 1962 PA 192 as if incorporated under that act, as if that corporation were incorporated under this act and pursuant to this chapter.

(4) This chapter does not apply to a corporation organized in this state before the enactment of former 1962 PA 192 to provide professional services to the public, and that did not previously amend its articles of incorporation to bring itself within the provisions of former 1962 PA 192, unless that corporation amends its articles of incorporation in such a manner that it is consistent with all the provisions of this chapter and affirmatively states in its amended articles of incorporation that the shareholders have elected to bring the corporation within the provisions of this chapter and this act.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1282 Definitions.

Sec. 282. As used in this chapter:

(a) "Licensed person" means an individual who is duly licensed or otherwise legally authorized to practice a professional service by a court, department, board, commission, or agency of this state or another jurisdiction. The term includes an entity if all of its owners are licensed persons.

(b) "Professional service" means a type of personal service to the public that requires that the provider obtain a license or other legal authorization as a condition precedent to providing that service. Professional service includes, but is not limited to, services provided by a certified or other public accountant, chiropractor, dentist, optometrist, veterinarian, osteopathic physician, physician, surgeon, podiatrist, chiropodist, physician's assistant, architect, professional engineer, land surveyor, or attorney-at-law.


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**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1283 Professional corporation; formation; name.

Sec. 283. (1) Except as provided in this section, 1 or more licensed persons may form a professional corporation under this chapter.

(2) Each shareholder of a professional corporation must be a licensed person in 1 or more of the professional services provided by the professional corporation.

(3) Except as provided in this section or otherwise prohibited, the articles of incorporation of a professional corporation shall state that the professional corporation is formed to provide 1 or more professional services and shall state the specific professional service or services the professional corporation is formed to provide.

(4) The name of a professional corporation shall contain the words "professional corporation" or the abbreviation "P.C." with or without periods or other punctuation.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1284 Professional corporation subject to MCL 333.16101 to 333.18838.

Sec. 284. (1) Except as otherwise provided in subsection (2) or (3), if a professional corporation provides a professional service that is subject to article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, each shareholder of the professional corporation must be licensed or legally authorized in this state to provide the same professional service.

(2) One or more individuals who are licensed to engage in the practice of medicine under part 170, the practice of osteopathic medicine and surgery under part 175, or the practice of podiatric medicine and surgery under part 180 of article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, may organize a professional corporation under this act with 1 or more other individuals who are licensed to engage in the practice of medicine under part 170, the practice of osteopathic medicine and surgery under part 175, or the practice of podiatric medicine and surgery under part 180 of article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(3) Subject to section 17048 of the public health code, 1978 PA 368, MCL 333.17048, 1 or more individuals who are licensed to engage in the practice of medicine under part 170, the practice of osteopathic medicine and surgery under part 175, or the practice of podiatric medicine and surgery under part 180 of article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, may organize a professional corporation under this act with 1 or more physician's assistants licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. Beginning July 19, 2010, 1 or more physician's assistants may not organize a professional corporation under this act that will have only physician's assistants as shareholders.

(4) A licensed person of another jurisdiction may become an officer, agent, or employee of a professional corporation but shall not provide any professional service in this state until the person is licensed or otherwise legally authorized to provide the professional service in this state.

(5) A professional corporation that is organized under this act may engage in the practice of public accounting, as defined in section 720 of the occupational code, 1980 PA 299, MCL 339.720, in this state if more than 50% of the equity and voting rights of the professional corporation are held directly or beneficially by individuals who are licensed or otherwise authorized to engage in the practice of public accounting under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013;—Am. 2013, Act 132, Imd. Eff. Oct. 15, 2013.

### 450.1285 Professional services; licensure of officers, employee, and agents; other laws; liability.

Sec. 285. (1) A professional corporation shall not provide professional services in this state except through its officers, employees, and agents who are duly licensed or otherwise legally authorized to provide the professional services in this state. The term "employee" does not include a secretary, bookkeeper, technician, or other assistant who is not usually and ordinarily considered by custom and practice to be providing a professional service to the public for which a license or other legal authorization is required.

(2) Nothing contained in this chapter shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between a person furnishing a professional service and the person that receives the professional service and to the standards for professional conduct. Any officer, agent, or employee of a professional corporation shall remain personally and fully liable and accountable for any negligent or wrongful acts or misconduct committed by him or her, or by any individual under his or her direct supervision and control, while providing professional service on behalf of the professional corporation to the person to which the professional services were provided.


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(3) A professional corporation is liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the professional corporation in providing professional services.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1286 Officer, shareholder, agent, or employee; legal disqualification; restriction or limitation of authority to provide services; failure to comply with section.

Sec. 286. If an officer, shareholder, agent, or employee of a professional corporation becomes legally disqualified to provide the professional services provided by the corporation, or accepts employment that under existing law restricts or limits his or her authority to continue providing those professional services, he or she shall sever within a reasonable period all employment with and financial interests in the professional corporation. A professional corporation's failure to require compliance with this section is grounds for the forfeiture of its articles of incorporation and its dissolution. If a professional corporation's failure to comply with this section is brought to the attention of the administrator, he or she shall notify the attorney general of the failure and the attorney general may take appropriate action to dissolve the professional corporation.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1287 Professional services; limitation.

Sec. 287. (1) A professional corporation shall not engage in any business other than providing the professional service or services for which it was specifically incorporated.

(2) This chapter does not prohibit a professional corporation from doing any of the following:

(a) Investing its money in real estate, mortgages, stocks, bonds, or any other type of investments.

(b) Owning real or personal property necessary to provide a professional service or services.

(c) Becoming a partner in a partnership formed under the uniform partnership act, 1917 PA 72, MCL 449.1 to 449.48, if the partnership provides the same professional services as the professional corporation.

(d) Becoming a member or manager of a professional limited liability company organized under or subject to chapter 9 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4901 to 450.4910, if the professional limited liability company provides 1 or more of the same professional services as the professional corporation.

(e) Becoming a shareholder in a professional corporation governed by this chapter, if both professional corporations provide 1 or more of the same professional services.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1288 Issuance of capital stock; sale or transfer of shares; voting trust or other agreement; redemption or purchase of shares.

Sec. 288. (1) A professional corporation shall not issue any of its capital stock to anyone other than an individual who is duly licensed or otherwise legally authorized to provide the same specific professional services as those for which the professional corporation was incorporated. The uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, does not apply to the issuance or transfer by a professional corporation of its capital stock.

(2) Shares of a professional corporation shall not be sold or transferred except to a person who is eligible to be a shareholder of the professional corporation; to the personal representative or estate of a deceased or legally incompetent shareholder; or to a trust or split interest trust in which the trustee and the current income beneficiary are each eligible to be a shareholder of the professional corporation. The personal representative or estate of the shareholder may continue to own shares for a reasonable period but is not authorized to participate in any decisions concerning the providing of professional service by the professional corporation.

(3) Except as permitted under subsection (2), a shareholder of a professional corporation shall not enter into a voting trust agreement or any other type agreement that vests another person with the authority to exercise the voting power of any or all of his or her stock, unless that other person is duly licensed or otherwise legally authorized to provide the same specific professional services as those for which the professional corporation was incorporated.

(4) The articles of incorporation, bylaws, or a contract may provide specifically for additional restrictions on the transfer of shares and may provide for the redemption or purchase of the shares by the professional corporation or its shareholders at prices and in a manner specifically set forth in the articles, bylaws, or contract.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1289 Professional entity as surviving entity of merger or conversion.


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Sec. 289. (1) A professional corporation that is the surviving entity of a merger or conversion shall only have as shareholders licensed persons that are permitted to be shareholders under this chapter.

(2) A professional corporation organized to provide services in a learned profession may merge with, or convert into, only other corporations or entities whose shareholders, members, partners, and managers, following the merger or conversion as applicable, are licensed persons permitted to be shareholders under this chapter.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

## CHAPTER 3
## CAPITAL STRUCTURE AND CORPORATE FINANCE

### 450.1301 Issuance and classes of shares; rights, preferences, and limitations.

Sec. 301. (1) A corporation may issue the number of shares authorized in its articles of incorporation. The shares may be all of 1 class or may be divided into 2 or more classes. Each class shall consist of shares having the designations and relative voting, distribution, dividend, liquidation, and other rights, preferences, and limitations, consistent with this act, as stated in the articles of incorporation. The articles of incorporation may deny, limit, or otherwise prescribe the voting rights and may limit or otherwise prescribe the distribution, dividend, or liquidation rights of shares of any class.

(2) If the shares are divided into 2 or more classes, the shares of each class shall be designated to distinguish them from the shares of the other classes.

(3) Subject to the designations, relative rights, preferences, and limitations applicable to separate series, each share shall be equal to every other share of the same class.

(4) Any of the voting, distribution, liquidation, or other rights, preferences, or limitations of a class or series may be made dependent upon facts or events ascertainable outside of the articles of incorporation or the resolution of the board adopted pursuant to section 302(3), if the manner in which the facts or events operate on the rights, preferences, or limitations is set forth in the articles of incorporation or board resolution.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1301a Amendment deleting reference to par value.

Sec. 301a. The board by resolution may adopt and file an amendment of the articles of incorporation deleting any reference to par value.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1302 Class of shares; division and issuance in series; rights and preferences; certificate; amendment eliminating series of shares.

Sec. 302. (1) If provided for in the articles of incorporation, a class of shares may be divided into and issued in series. The shares of each series shall be designated to distinguish them from the shares of the other series and classes.

(2) Any series of any class and the variations in the relative rights and preferences among different series may be prescribed by the articles of incorporation.

(3) If the articles of incorporation authorize the board, to the extent that the articles of incorporation have not established series and prescribed variations in the relative rights and preferences among series, the board may divide any class into series, and, within the limitations set forth in the articles of incorporation, prescribe the relative rights and preferences of the shares of any series.

(4) A certificate containing the resolution of the board establishing and designating the series and prescribing the relative rights and preferences shall be filed, and when filed shall constitute an amendment to the articles of incorporation.

(5) Unless otherwise provided in the articles of incorporation, the board may adopt and file an amendment of the articles of incorporation eliminating a series of shares if there are no outstanding shares of the series, no outstanding shares or bonds convertible into shares of the series, or other rights, options, or warrants issued by the corporation that could require issuing shares of the series.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1303 Convertible shares and bonds; increase in shares to satisfy conversion privileges.

Sec. 303. (1) If the articles of incorporation provide, subject to restrictions in section 304, a corporation may issue shares convertible at the option of the holder or the corporation or upon the happening of a specified event into shares of any class, into shares of any series of any class, or into bonds. Shares may be converted into bonds only if the corporation could at the time of conversion have purchased, redeemed, or


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otherwise acquired the shares by issuing the bonds under the restrictions of section 345. Authorized shares, issued or unissued, may be made convertible as provided in this subsection within the period and upon terms and conditions authorized in the articles of incorporation.

(2) Unless otherwise provided in the articles of incorporation, and subject to the restrictions of section 304, a corporation may issue its bonds convertible at the option of the holder into other bonds or into shares of the corporation within the period and upon terms and conditions as fixed by the board.

(3) If there is shareholder approval for the issue of bonds or shares convertible into shares of the corporation, the approval may provide that the board is authorized by amendment of the articles of incorporation to increase the authorized shares of any class or series to the number that will be sufficient, when added to the previously authorized but unissued shares of the class or series, to satisfy the conversion privileges of any bonds or shares convertible into shares of the class or series.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1304 Convertible shares and bonds; conditions to issuance; disposition of convertible bonds or shares.

Sec. 304. (1) Bonds or shares convertible into shares of a corporation shall not be issued unless 1 of the following conditions is satisfied:

(a) A sufficient number of authorized but unissued shares of the appropriate class or series are reserved by the board to be issued only in satisfaction of the conversion privileges of the convertible bonds or shares when issued.

(b) The aggregate conversion privileges of the convertible bonds or shares when issued do not exceed the aggregate of any shares reserved under subdivision (a) and any additional shares which may be authorized by the board under subsection (3) of section 303.

(2) Bonds which have been converted shall be canceled. Shares which have been converted shall be restored to the status of authorized but unissued shares, unless otherwise provided in the articles of incorporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1304a Redeemable shares.

Sec. 304a. The articles of incorporation may provide for 1 or more classes or series of shares which are redeemable, in whole or in part, at the option of the shareholder, the corporation, or upon the happening of a specified event. Subject to restrictions imposed by section 345, the shares may be redeemable in cash, bonds, securities, or other property at prices, within the periods, and under conditions as are stated in the articles.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1305 Subscription for shares.

Sec. 305. (1) A subscription for shares made before or after organization of a corporation is not enforceable unless in writing and signed by the subscriber.

(2) A subscription for shares of a corporation to be organized is irrevocable and may be accepted by the corporation for a period of 6 months, unless otherwise provided by the subscription agreement or unless all the subscribers consent to its revocation.

(3) A contract with a corporation to purchase its shares to be issued is a subscription agreement and not an executory contract to purchase shares, unless otherwise provided in the contract.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1306 Subscription for shares; payment; call; security interest.

Sec. 306. (1) Unless otherwise provided in the subscription agreement:

(a) A subscription for shares made before or after organization of a corporation shall be paid in full at the time, or in installments and at the times, as shall be determined by the board.

(b) A call made by the board for payment on subscriptions shall be ratable as to all shares of the same class or as to all shares of the same series.

(c) A corporation may retain a security interest in any shares as security for performance by the subscriber of his or her obligations under a subscription agreement and subject to the power of sale or rescission upon default provided in section 307.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1307 Subscription agreement; default in payment; rights and duties of corporation.


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Sec. 307. (1) In case of default in payment of an installment or call or other amount due under a subscription agreement, including an amount which may become due as a result of a default in performance of any provision of a subscription agreement, the corporation has the following rights and duties:

(a) It may collect the amount due in the same manner as any other debt owing to it. At any time before full satisfaction of the claim or a judgment, it may proceed as provided in subdivision (b).

(b) It may sell the shares in any reasonable manner. Notice of the time and place of a public sale or of the time after which a private sale may be had, together with a statement of the amount due upon each share, shall be given in writing to the subscriber personally or by registered or certified mail at least 20 days before any time stated in the notice. Any excess of net proceeds realized over the amount due plus interest shall be paid to the subscriber. If the sale is made in good faith, in a reasonable manner and upon notice, the corporation may recover the difference between the amount due plus interest and the net proceeds of the sale. A good faith purchaser for value acquires title to the sold shares free of any right of the subscriber even though the corporation fails to comply with 1 or more of the requirements of this subdivision.

(c) It may rescind the subscription, with the effect provided in section 308, and may recover damages for breach of contract. Unless special circumstances show proximate damages of a different amount, the measure of damages shall be the difference between the market price at the time and place of tender of the shares and the unpaid contract price. Liquidated damages may be provided for in the subscription agreement. The subscriber may have restitution of the amount by which the sum of his or her payments exceeds the corporation's damages for breach of contract, whether fixed by agreement or judgment.

(2) The rights and duties set forth in this section shall be interpreted as cumulative so far as is consistent with entitling the corporation to a full and single recovery of the amount due or its damages. The subscription agreement may limit the rights and remedies of the corporation set forth in this section, and may add to them so far as is consistent with this subsection.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1308 Cancellation of shares upon rescission of subscription.

Sec. 308. Rescission by a corporation of a subscription under which a part of the shares subscribed for have been issued and in which the corporation retains a security interest, as provided in subdivision (c) of section 306, effects the cancellation of such shares.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1311, 450.1313 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed sections pertained to consideration for issuance of shares.

### 450.1314 Reservation of powers to shareholders; consideration for authorized issuance of shares; determination of adequacy; shares fully paid and nonassessable; rights and privileges of subscriber.

Sec. 314. (1) The powers granted in this section to the board may be reserved to the shareholders by the articles of incorporation.

(2) The board may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including but not limited to cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

(3) A determination by the board that the consideration received or to be received for shares to be issued is adequate is conclusive insofar as the nature and amount of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(4) When the corporation receives the consideration for which the board authorized the issuance of shares, the shares issued are fully paid and nonassessable and the subscriber has all the rights and privileges of a holder of the shares.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1315 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to payment of consideration for issuance of shares.

### 450.1317 Liability of purchaser, holder, subscriber, assignee, transferee, pledgee, or shareholder.

Sec. 317. (1) A purchaser from a corporation of its own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were to be issued.

(2) A person holding stock in a fiduciary or representative capacity is not personally liable to the


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corporation as the holder of or subscriber for shares of a corporation but the estate and funds in his or her hands are liable to the corporation.

(3) A person becoming an assignee, transferee, or pledgee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration has not been paid is not liable to the corporation or its creditors for any unpaid portion of the consideration, but the original holder or subscriber and any assignee or transferee before an assignment or transfer to a person taking in good faith and without knowledge or notice remains liable.

(4) Unless otherwise provided in the articles of incorporation, a shareholder of a corporation is not personally liable for the acts or debts of the corporation except that he or she may become personally liable by reason of his or her own acts or conduct.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1321 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to rights or options to purchase shares.

### 450.1327 Expenses of organization and reorganization; expenses of sale or underwriting of shares.

Sec. 327. The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by the corporation out of the consideration received by it in payment for its shares without thereby rendering the shares not fully paid or assessable.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1331 Share certificates.

Sec. 331. Except as provided in section 336, the shares of a corporation shall be represented by certificates which shall be signed by the chairperson of the board, vice-chairperson of the board, president or a vice-president and which also may be signed by another officer of the corporation. The certificate may be sealed with the seal of the corporation or a facsimile of the seal. The signatures of the officers may be facsimiles. If an officer who has signed or whose facsimile signature has been placed upon a certificate ceases to be an officer before the certificate is issued, it may be issued by the corporation with the same effect as if he or she were the officer at the date of issue.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1994, Act 318, Imd. Eff. Oct. 6, 1994.

### 450.1332 Share certificates; contents.

Sec. 332. (1) A certificate representing shares shall state upon its face all of the following:

(a) That the corporation is formed under the laws of this state.

(b) The name of the person to whom issued.

(c) The number and class of shares, and the designation of the series, if any, which the certificate represents.

(2) A certificate representing shares issued by a corporation which is authorized to issue shares of more than 1 class shall set forth on its face or back or state on its face or back that the corporation will furnish to a shareholder upon request and without charge a full statement of the designation, relative rights, preferences, and limitations of the shares of each class authorized to be issued, and if the corporation is authorized to issue any class of shares in series, the designation, relative rights, preferences, and limitations of each series so far as the same have been prescribed and the authority of the board to designate and prescribe the relative rights, preferences, and limitations of other series.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1334 Share certificates; loss or destruction; bond.

Sec. 334. A corporation may issue a new certificate for shares or fractional shares in place of a certificate theretofore issued by it, alleged to have been lost or destroyed, and the board may require the owner of the lost or destroyed certificate, or his legal representative, to give the corporation a bond sufficient to indemnify the corporation against any claim that may be made against it on account of the alleged lost or destroyed certificate or the issuance of such a new certificate.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1335 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to shares or securities listed on national securities exchange.


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### 450.1336 Issuance or transfer of shares without certificates; statement.

Sec. 336. (1) Unless the articles of incorporation or bylaws provide otherwise, the board may authorize the issuance of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until the certificates are surrendered to a corporation.

(2) Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates under section 332 and, if applicable, sections 472 and 488.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1338 Fractions of share or scrip.

Sec. 338. (1) A corporation may issue fractions of shares and may do 1 of the following:

(a) Issue certificates for fractions of shares that entitle the holders to exercise voting rights and to receive dividends and distributions in proportion to their fractional holdings.

(b) Pay in cash the fair value of fractions of shares as of the time when those entitled to receive the fractions are determined.

(c) Issue scrip in registered or bearer form over the manual or facsimile signature of an officer of the corporation or of its agent, exchangeable as provided in the scrip for full shares. The scrip shall not entitle the holder to any right of a shareholder except as provided in the scrip. The scrip shall be issued subject to the condition that it becomes void if not exchanged for certificates representing full shares before a specified date. The scrip may be subject to the condition that the shares for which the scrip is exchangeable may be sold by the corporation and the proceeds of the sale distributed to the holders of the scrip, or subject to any other condition that the board may determine.

(2) A corporation may provide reasonable opportunity for persons entitled to fractions of a share or scrip to sell them or to purchase additional fractions of a share or scrip needed to acquire a full share.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1341 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to consideration for shares as capital or capital surplus.

### 450.1341a Issuance of shares pro rata and without consideration; share dividend.

Sec. 341a. (1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of 1 or more classes or series. An issuance of shares under this subsection is a share dividend.

(2) Shares of 1 class or series may not be issued as a share dividend in respect of shares of another class or series unless the articles so authorize, a majority of the votes entitled to be cast by the class or series to be issued approve the issue, or there are no outstanding shares of the class or series to be issued.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1342 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to earned surplus and transfer of surplus.

### 450.1342a Rights, options, or warrants.

Sec. 342a. (1) A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued.

(2) The terms and conditions of any right, option, or warrant issued under subsection (1), including those outstanding on the effective date of the amendatory act that added this subsection, may include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer, or receipt of the right, option, or warrant by any person owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of a corporation, or any transferee or transferees of that person, or that invalidate or void the right, option, or warrant held by a person or his or her transferee.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1343 Preemptive rights.

Sec. 343. (1) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent provided in the articles of incorporation or by agreement between the corporation and 1 or more shareholders.

(2) A statement included in the articles or an agreement that the corporation elects to have preemptive


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rights, or words of similar import, means that the following principles apply except to the extent the articles or agreement expressly provide otherwise:

(a) The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board to issue them.

(b) A shareholder may waive his or her preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

(c) There is no preemptive right with respect to any of the following:

(*i*) Shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries or affiliates.

(*ii*) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or affiliates.

(*iii*) Shares authorized in the articles that are issued within 6 months from the effective date of incorporation.

(*iv*) Shares issued otherwise than for money.

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class.

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of 1 year after being offered to shareholders at a consideration set by the board that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of 1 year is subject to the shareholders' preemptive rights.

(3) For purposes of this section, “shares” includes a security convertible into or carrying a right to subscribe for or acquire shares.

(4) The preemptive rights, whether created by statute or common law, of shareholders of a corporation formed before January 1, 1973, are not affected by subsections (1) and (2). A corporation may alter or abolish its shareholders' preemptive rights by an amendment of its articles.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1344 Acquisition of own shares by corporation; shares as authorized but unissued; reducing number of authorized shares if reissuance prohibited; restriction on acquisition.

Sec. 344. (1) Subject to restrictions imposed by this act or the articles of incorporation, a corporation may acquire its own shares and those shares constitute authorized but unissued shares, except as provided in subsection (4).

(2) If the articles of incorporation prohibit reissue of any shares acquired pursuant to subsection (1), the board, by resolution, shall adopt and file an amendment of the articles of incorporation reducing the number of authorized shares accordingly.

(3) A corporation shall not acquire its own shares by purchase, redemption, or otherwise unless after the acquisition there remain outstanding shares possessing, collectively, voting rights and unlimited rights to receive assets in dissolution.

(4) A corporation that acquires its own shares may grant a security interest in the shares as security for the payment of the purchase price of the shares. Any shares acquired by the corporation in which it has granted a security interest are not canceled and do not constitute authorized but unissued shares until the corporation pays the purchase price. If the corporation has granted a security interest in the shares, the shares shall not be voted directly or indirectly and shall not be counted in determining the total number of issued shares entitled to vote at any given time, except to the extent provided by the agreement creating the security interest in the event of default. Upon payment of the purchase price, the shares shall be canceled and constitute authorized but unissued shares. If the articles of incorporation prohibit reissue of canceled shares, then the amendment required by subsection (2) shall be filed.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1345 Distributions to shareholders; record date for determining entitlement; prohibited distribution; determination; measuring effect of distribution; indebtedness to shareholder; obligation to make future payments; enforceability of guaranty or other undertaking by


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**third party; asserting right of rescission or other legal or equitable rights.**

Sec. 345. (1) A board may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (3).

(2) If the board does not fix the record date for determining shareholders entitled to a distribution, other than a distribution involving a purchase, redemption, or acquisition of the corporation's shares, the record date is the date the board authorizes the distribution.

(3) A distribution shall not be made if, after giving it effect, the corporation would not be able to pay its debts as the debts become due in the usual course of business, or the corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(4) The board may base a determination that a distribution is not prohibited under subsection (3) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances, on a fair valuation, or on another method that is reasonable.

(5) The effect of a distribution under subsection (3) is measured at the following times:

(a) Except as provided in subsection (7), in the case of a distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the date money or other property is transferred or debt incurred by the corporation, or the date the shareholder ceases to be a shareholder with respect to the acquired shares.

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is authorized if distribution occurs within 120 days after the date of authorization or the date the indebtedness is distributed if it occurs more than 120 days after the date of authorization.

(c) In all other cases, as of the date the distribution is authorized if the payment occurs within 120 days after the date of authorization or the date the payment is made if it occurs more than 120 days after the date of authorization.

(6) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors, except as otherwise agreed.

(7) If the corporation acquires its shares in exchange for an obligation to make future payments, and distribution of the obligation would otherwise be prohibited under subsection (3) at the time it is made, the corporation may issue the obligation and the following apply:

(a) The portion of the obligation that could have been distributed without violating subsection (3) shall be treated as indebtedness as described in subsection (6).

(b) All of the following apply to the portion of the obligation that exceeds the amount treated as indebtedness under subdivision (a):

(*i*) At any time prior to the due date of the obligation, payments of principal and interest may be made as a distribution to the extent that a distribution may then be made under this section.

(*ii*) At any time on or after the due date, the obligation to pay principal and interest is deemed distributed and treated as indebtedness described in subsection (6) to the extent that a distribution may then be made under this section.

(*iii*) Unless otherwise provided in the agreement for the acquisition of the shares, the obligation is a liability or debt for purposes of determining whether distributions other than payments on the obligation may be made under this section, except for purposes of determining whether distributions may be made with respect to shares having preferential rights superior to those of the shares acquired in exchange for the obligation.

(8) The enforceability of a guaranty or other undertaking by a third party relating to a distribution shall not be affected by the prohibition of the distribution under subsection (3).

(9) If a claim is made to recover a distribution made contrary to subsection (3) or if a violation of subsection (3) is raised as a defense to a claim based upon a distribution, nothing in this section prevents the person receiving the distribution from asserting a right of rescission or other legal or equitable rights.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1351-450.1367 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed sections pertained to dividends, purchase, or redemption of shares.

### 450.1368 Repealed. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

**Compiler's note:** The repealed section pertained to purchase by corporation of shares listed on national securities exchange from


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certain persons.

### 450.1371-450.1381 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed sections pertained to cancellation or retention of shares, and reduction of stated capital.

### 450.1391 Inspection and voting rights of bondholders; facsimile signatures.

Sec. 391. (1) A corporation, in its articles of incorporation, may confer upon the holders of bonds issued or to be issued by it, rights to inspect the corporate books and records and to vote in the election of directors and on any other matters on which shareholders of the corporation may vote to the extent, in the manner, and subject to the conditions prescribed in the articles. The articles may grant to the board the power to confer such voting or inspection rights under the terms of any bonds issued or to be issued by the corporation.

(2) The signatures of the officers upon a bond may be facsimiles.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1392 Chapter inapplicable to distributions in dissolution.

Sec. 392. This chapter shall not apply to distributions in dissolution under chapter 8.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

## CHAPTER 4
## SHAREHOLDERS

### 450.1401 Meetings of shareholders; place.

Sec. 401. Meetings of shareholders may be held at a place within or without this state as provided in the bylaws. In the absence of such a provision, meetings shall be held at the registered office or such other place as may be determined by the board.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1402 Annual meeting of shareholders.

Sec. 402. An annual meeting of shareholders for election of directors and for such other business as may come before the meeting shall be held at a time as provided in the bylaws, unless such action is taken by written consent as provided in section 407. Failure to hold the annual meeting at the designated time, or to elect a sufficient number of directors at the meeting or any adjournment thereof, does not affect otherwise valid corporate acts or work a forfeiture or give cause for dissolution of the corporation, except as provided in section 823. If the annual meeting is not held on the date designated therefor, the board shall cause the meeting to be held as soon thereafter as convenient. If the annual meeting is not held for 90 days after the date designated therefor, or if no date has been designated for 15 months after organization of the corporation or after its last annual meeting, the circuit court of the county in which the principal place of business or registered office of the corporation is located, upon application of a shareholder, may summarily order the meeting or the election, or both, to be held at such time and place, upon such notice and for the transaction of such business as may be designated in the order. At any such meeting ordered to be called by the court, the shareholders present in person or by proxy and having voting powers constitute a quorum for transaction of the business designated in the order.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1403 Special meeting of shareholders.

Sec. 403. A special meeting of shareholders may be called by the board, or by officers, directors or shareholders as provided in the bylaws. Notwithstanding any such provision, upon application of the holders of not less than 10% of all the shares entitled to vote at a meeting, the circuit court of the county in which the principal place of business or registered office is located, for good cause shown, may order a special meeting of shareholders to be called and held at such time and place, upon such notice and for the transaction of such business as may be designated in the order. At any such meeting ordered to be called by the court, the shareholders present in person or by proxy and having voting powers constitute a quorum for transaction of the business designated in the order.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1404 Meetings of shareholders; notice; adjournment; result of shareholder's attendance at meeting.

Sec. 404. (1) Except as otherwise provided in this act, written notice of the time, place if any, and purposes of a meeting of shareholders shall be given not less than 10 nor more than 60 days before the date of the


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meeting to each shareholder of record entitled to vote at the meeting. Notice may be given personally, by mail, or by electronic transmission. If a shareholder or proxy holder may be present and vote at the meeting by remote communication, the means of remote communication allowed shall be included in the notice.

(2) Unless the corporation has securities registered under section 12 of title I of the securities exchange act of 1934, chapter 404, 48 Stat. 892, 15 U.S.C. 78*l*, notice of the purposes of a meeting shall include notice of shareholder proposals that are proper subjects for shareholder action and are intended to be presented by shareholders who have notified the corporation in writing of their intention to present the proposals at the meeting. The bylaws may establish reasonable procedures for the submission of proposals to the corporation in advance of the meeting.

(3) If a meeting is adjourned to another time or place, it is not necessary, unless the bylaws otherwise provide, to give notice of the adjourned meeting if the time, and place if any, to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. A shareholder or proxy holder may be present and vote at the adjourned meeting by a means of remote communication if he or she was permitted to be present and vote by that means of remote communication in the original meeting notice. At the adjourned meeting, only business that might have been transacted at the original meeting may be transacted if a notice of the adjourned meeting is not given. If after the adjournment the board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record on the new record date entitled to notice under subsection (1).

(4) A shareholder's attendance at a meeting will result in both of the following:

(a) Waiver of objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

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

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1405 Participating in meeting of shareholders by conference telephone or remote communications.

Sec. 405. (1) Unless otherwise restricted by the articles of incorporation or bylaws, a shareholder may participate in a meeting of shareholders by a conference telephone or by other means of remote communication through which all persons participating in the meeting may communicate with the other participants. All participants shall be advised of the means of remote communication.

(2) Participation in a meeting under this section constitutes presence in person at the meeting.

(3) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors may hold a meeting of shareholders conducted solely by means of remote communication.

(4) Subject to any guidelines and procedures adopted by the board of directors, shareholders and proxy holders not physically present at a meeting of shareholders may participate in the meeting by means of remote communication and are considered present in person and may vote at the meeting if all of the following are met:

(a) The corporation implements reasonable measures to verify that each person considered present and permitted to vote at the meeting by means of remote communication is a shareholder or proxy holder.

(b) The corporation implements reasonable measures to provide each shareholder and proxy holder a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings.

(c) If any shareholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of the vote or other action is maintained by the corporation.

**History:** Add. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1406 Meeting of shareholders; duties of chairperson.

Sec. 406. (1) At each meeting of shareholders, a chairperson shall preside. The chairperson shall be appointed as provided in the bylaws or, in the absence of a provision in the bylaws, by the board of directors.

(2) The chairperson, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting. Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

(3) The chairperson of the meeting shall announce at the meeting when the polls close for each matter


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voted upon. If no announcement is made, the polls shall close upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes nor any revocations or changes to ballots, proxies, or votes may be accepted.

**History:** Add. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1406a Electronic transmission as notice; consent.

Sec. 406a. In addition to any other form of notice to a shareholder permitted by the articles of incorporation, the bylaws, or this chapter, any notice given to a shareholder by a form of electronic transmission to which the shareholder has consented is effective.

**History:** Add. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1407 Corporate action without meeting of shareholders.

Sec. 407. (1) The articles of incorporation may provide that any action required or permitted by this act to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action so taken, are signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. A written consent shall bear the date of signature of the shareholder who signs the consent. Written consents are not effective to take corporate action unless within 60 days after the record date for determining shareholders entitled to express consent to or to dissent from a proposal without a meeting, written consents dated not more than 10 days before the record date and signed by a sufficient number of shareholders to take the action are delivered to the corporation. Delivery shall be to the corporation's registered office, its principal place of business, or an officer or agent of the corporation having custody of the minutes of the proceedings of its shareholders. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to shareholders who would have been entitled to notice of the shareholder meeting if the action had been taken at a meeting and who have not consented to the action in writing. If the action consented to would have required filing of a certificate under any other section of this act if the action had been voted upon by shareholders at a meeting of the shareholders, the certificate filed under the other section shall state, in lieu of any statement required by the section concerning a vote of shareholders, that both written consent and written notice have been given as provided in this section.

(2) Any action required or permitted by this act to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote, if before or after the action all the shareholders entitled to vote consent in writing. If the action consented to would have required filing of a certificate under any other section of this act if the action had been voted upon by shareholders at a meeting, the certificate filed under the other section shall state, in lieu of any statement required by the section concerning a vote of shareholders, that written consent has been given as provided in this section.

(3) An electronic transmission consenting to an action transmitted by a shareholder or proxy holder, or by a person authorized to act for the shareholder or proxy holder, is written, signed, and dated for the purposes of this section if the electronic transmission is delivered with information from which the corporation can determine that the electronic transmission was transmitted by the shareholder or proxy holder, or by the person authorized to act for the shareholder or proxy holder, and the date on which the electronic transmission was transmitted. The date on which an electronic transmission is transmitted is the date on which the consent was signed for purposes of this section. A consent given by electronic transmission is not delivered until reproduced in paper form and the paper form delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Delivery to a corporation's principal place of business or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders are recorded shall be made by hand, by certified or registered mail, return receipt requested, or in any other manner provided in the articles of incorporation or bylaws or by resolution of the board of directors of the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1411 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to record date for determination of shareholders.

### 450.1412 Fixing record dates for certain purposes.


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Sec. 412. (1) For the purpose of determining shareholders entitled to notice of and to vote at a meeting of shareholders or an adjournment of a meeting, the bylaws may provide for fixing, or in the absence of a provision the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board. The date shall not be more than 60 nor less than 10 days before the date of the meeting. If a record date is not fixed, the record date for determination of shareholders entitled to notice of or to vote at a meeting of shareholders shall be the close of business on the day next preceding the day on which notice is given, or if no notice is given, the day next preceding the day on which the meeting is held. When a determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders has been made as provided in this section, the determination applies to any adjournment of the meeting, unless the board fixes a new record date under this section for the adjourned meeting.

(2) For the purpose of determining shareholders entitled to express consent to or to dissent from a proposal without a meeting, the bylaws may provide for fixing a record date, which shall not be more than 60 days before effectuation of the action proposed to be taken. In the absence of a provision, the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board and shall not be more than 10 days after the board resolution. If a record date is not fixed and prior action by the board is required with respect to the corporate action to be taken without a meeting, the record date shall be the close of business on the day on which the resolution of the board is adopted. If a record date is not fixed and prior action by the board is not required, the record date shall be the first date on which a signed written consent is delivered to the corporation as provided in section 407.

(3) For the purpose of determining shareholders entitled to receive payment of a share dividend or distribution, or allotment of a right, or for the purpose of any other action, the bylaws may provide for fixing, or in the absence of a provision the board may fix a record date, which shall not precede the date on which the resolution fixing the record date is adopted by the board. The date shall not be more than 60 days before the payment of the share dividend or distribution or allotment of a right or other action. If a record date is not fixed, the record date shall be the close of business on the day on which the resolution of the board relating to the corporate action is adopted.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1413 List of shareholders entitled to vote.

Sec. 413. (1) The officer or agent having charge of the stock transfer books for shares of a corporation shall make and certify a complete list of the shareholders entitled to vote at a shareholders' meeting or any adjourned shareholders' meeting. The list shall be all of the following:

(a) Arranged alphabetically within each class and series, with the address of and the number of shares held by each shareholder.

(b) Produced at the time and place of the meeting.

(c) Subject to inspection by any shareholder during the entire meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any shareholder during the entire meeting by posting the list on a reasonably accessible electronic network and the information required to access the list shall be provided with the notice of the meeting.

(d) Prima facie evidence as to who are the shareholders entitled to examine the list or to vote at the meeting.

(2) If the requirements of this section have not been complied with, and a shareholder present in person or by proxy in good faith challenges the existence of sufficient votes to carry any action at the meeting, the meeting shall be adjourned until the requirements are complied with. Failure to comply with the requirements of this section does not affect the validity of an action taken at the meeting before a challenge described in this subsection.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1415 Shareholder meeting; quorum.

Sec. 415. (1) Unless a greater or lesser quorum is provided in the articles of incorporation, in a bylaw adopted by the shareholders or incorporators, or in this act, shares entitled to cast a majority of the votes at a meeting constitute a quorum at the meeting. The shareholders present in person or by proxy at the meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum. Whether or not a quorum is present, the meeting may be adjourned by a vote of the shares present.

(2) When the holders of a class or series of shares are entitled to vote separately on an item of business, this section applies in determining the presence of a quorum of the class or series for transaction of the item of business.


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**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1421 Proxy; expiration; means; use of reproduction of writing or transmission; revocability; incompetence or death of shareholder.

Sec. 421. (1) A shareholder entitled to vote at a meeting of shareholders or to express consent or dissent without a meeting may authorize other persons to act for him or her by proxy.

(2) A proxy is not valid after the expiration of 3 years from its date unless otherwise provided in the proxy.

(3) Without limiting the manner in which a shareholder may authorize another person or persons to act for him or her as proxy pursuant to subsection (1), the following methods constitute a valid means by which a shareholder may grant authority to another person to act as proxy:

(a) The execution of a writing authorizing another person or persons to act for the shareholder as proxy. Execution may be accomplished by the shareholder or by an authorized officer, director, employee, or agent signing the writing or causing his or her signature to be affixed to the writing by any reasonable means including, but not limited to, facsimile signature.

(b) Transmitting or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission to the person who will hold the proxy or to a proxy solicitation firm, proxy support service organization, or similar agent fully authorized by the person who will hold the proxy to receive that transmission. Any telegram, cablegram, or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram, or other electronic transmission was authorized by the shareholder. If a telegram, cablegram, or other electronic transmission is determined to be valid, the inspectors, or, if there are no inspectors, the persons making the determination shall specify the information upon which they relied.

(4) A copy, facsimile telecommunication, or other reliable reproduction of the writing or transmission created pursuant to subsection (3) may be substituted or used in lieu of the original writing or transmission for any purpose for which the original writing or transmission could be used, if the copy, facsimile telecommunication, or other reproduction is a complete reproduction of the entire original writing or transmission.

(5) A proxy is revocable at the pleasure of the shareholder executing it, except as otherwise provided in this section and sections 422 and 423.

(6) The authority of the holder of a proxy to act is not revoked by the incompetence or death of the shareholder who executed the proxy unless, before the authority is exercised, written notice of an adjudication of the incompetence or death is received by the corporate officer responsible for maintaining the list of shareholders.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1422 Irrevocable proxy.

Sec. 422. A proxy which is entitled "irrevocable proxy", and which states that it is irrevocable, is irrevocable when it is held by any of the following or a nominee of any of the following:

(a) A pledgee of or other holder of a security interest in the shares.

(b) A person who has purchased or agreed to purchase the shares.

(c) A creditor of the corporation who extends or continues credit to the corporation in consideration of the proxy.

(d) A person who has contracted to perform services as a director, officer, or employee of the corporation, if a proxy is required by the contract of employment.

(e) A person designated by or under an agreement under section 461.

(f) A holder of any other proxy coupled with an interest.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1423 Revocable proxy.

Sec. 423. (1) A proxy becomes revocable, notwithstanding a provision making it irrevocable, after the pledge is redeemed or the security interest is terminated, or the debt of the corporation is paid, or the period of employment provided for in the contract of employment has terminated, or the agreement under section 461 has terminated. In a case provided for in section 422(c) or (d), the proxy is revocable 3 years after the date of the proxy or at the end of any period specified in the proxy, whichever period is less, unless the period of irrevocability is renewed by execution of a new irrevocable proxy. This subsection does not affect the duration of a proxy under section 421(2).

(2) A proxy is revocable, notwithstanding a provision making it irrevocable, by a purchaser of shares who


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did not know of the existence of the provision unless the existence of the proxy and its irrevocability are noted conspicuously on the face or back of the certificate representing the shares.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1431 Inspectors at shareholders' meetings.

Sec. 431. (1) If the bylaws require inspectors at a shareholders' meeting, the requirement is waived unless compliance therewith is requested by a shareholder present in person or by proxy and entitled to vote at the meeting. Unless otherwise provided in the bylaws, the board, in advance of a shareholders' meeting, may appoint 1 or more inspectors to act at the meeting or any adjournment thereof. If inspectors are not so appointed, the person presiding at a shareholders' meeting may, and on request of a shareholder entitled to vote thereat shall, appoint 1 or more inspectors. In case a person appointed fails to appear or act, the vacancy may be filled by appointment made by the board in advance of the meeting or at the meeting by the person presiding thereat.

(2) The inspectors shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine challenges and questions arising in connection with the right to vote, count and tabulate votes, ballots or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all shareholders. On request of the person presiding at the meeting or a shareholder entitled to vote thereat, the inspectors shall make and execute a written report to the person presiding at the meeting of any of the facts found by them and matters determined by them. The report is prima facie evidence of the facts stated and of the vote as certified by the inspectors.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1432 Procedure recognizing beneficial owner of shares as shareholder.

Sec. 432. (1) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The procedure established may determine the extent of this recognition.

(2) The procedure may set forth any of the following:

(a) The types of nominees to which it applies.

(b) The rights or privileges that the corporation recognizes in a beneficial owner.

(c) The manner in which the procedure is selected by the nominee.

(d) The information that must be provided when the procedure is selected.

(e) The period for which selection of the procedure is effective.

(f) Other aspects of the rights and duties created.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1441 Voting by shareholders.

Sec. 441. (1) Each outstanding share is entitled to 1 vote on each matter submitted to a vote of the shareholders, unless otherwise provided in the articles of incorporation. A vote may be cast either orally or in writing, unless otherwise provided in the bylaws.

(2) Other than the election of directors, if an action is to be taken by vote of the shareholders, it shall be authorized by a majority of the votes cast by the holders of shares entitled to vote on the action, unless a greater vote is required in the articles of incorporation or another section of this act. Unless otherwise provided in the articles of incorporation, abstaining from a vote or submitting a ballot marked "abstain" with respect to an action is not a vote cast on that action. Unless otherwise provided in the articles, directors shall be elected by a plurality of the votes cast at an election.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1988, Act 58, Eff. Apr. 1, 1988;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2006, Act 66, Imd. Eff. Mar. 20, 2006.

**Compiler's note:** Section 2 of Act 58 of 1988 provides: "This amendatory act shall not apply to any domestic corporation before June 1, 1989, unless the corporation's board of directors adopts a resolution, pursuant to this section, electing to have this act apply to the corporation. The resolution shall specify the date after January 1, 1988 and before June 1, 1989 on which this act will apply to the corporation. The resolution shall be filed with the department of commerce, corporation and securities bureau, on or before the date that the act will apply to the corporation."

### 450.1442 Voting as a class or series.

Sec. 442. (1) The articles of incorporation may provide that a class or series of shares shall vote as a class or series to authorize any action, including amendment to the articles. Any voting as a class or series shall be in addition to any other vote required by this act. If voting as a class or series is provided in the articles, it shall be by the proportionate vote provided in the articles or, if a proportionate vote is not so provided, then


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for any action other than the election of directors, by a majority of the votes cast by the holders of shares of that class or series entitled to vote on that action.

(2) If voting as a class or series is required by this act to authorize an action, the action shall be authorized by a majority of the votes cast by the holders of shares of each class or series entitled to vote on that action, unless a greater vote is required by the articles of incorporation or another section of this act. Any voting as a class or series shall be in addition to any other vote required by this act.

(3) Unless otherwise provided in the articles of incorporation, abstaining from a vote or submitting a ballot marked "abstain" with respect to an action that requires authorization by a vote of a class or series is not a vote cast on that action.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2006, Act 67, Imd. Eff. Mar. 20, 2006.

### 450.1444 Voting shares standing in name of another corporation; voting pledged shares.

Sec. 444. (1) Shares standing in the name of another domestic or foreign corporation, whether or not the corporation is subject to this act, may be voted by an officer or agent, or by proxy appointed by an officer or agent or by some other person, who by action of its board or pursuant to its bylaws, shall be appointed to vote the shares.

(2) A shareholder whose shares are pledged is entitled to vote the shares until they have been transferred into the name of the pledgee, or a nominee of the pledgee.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1445 Voting shares held by representatives or fiduciaries.

Sec. 445. (1) Shares held by a person in a representative or fiduciary capacity may be voted by him without a transfer of the shares into his name.

(2) Shares held jointly by fiduciaries, where the instrument or order appointing the fiduciaries does not otherwise direct, shall be voted as follows:

(a) If only 1 fiduciary votes, his act binds all.

(b) If more than 1 fiduciary votes, the shares shall be voted as the majority of the fiduciaries determines.

(c) If the fiduciaries are equally divided as to how the shares shall be voted, a court having jurisdiction, in an action brought by any of the fiduciaries or by any beneficiary, may appoint an additional person to act with the fiduciaries in such matter, and the stock shall be voted by the majority of such fiduciaries and such additional person.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1446 Voting by joint tenants or tenants in common.

Sec. 446. Shares held by 2 or more persons as joint tenants or as tenants in common may be voted at a meeting of shareholders by any of such persons, unless another joint tenant or tenant in common seeks to vote any of such shares in person or by proxy. In the latter event, the written agreement, if any, which governs the manner in which the shares shall be voted, controls if presented at the meeting. If no such agreement is presented at the meeting, the majority in interest of the joint tenants or tenants in common present shall control the manner of voting. If there is no such majority, the shares, for the purpose of voting, shall be divided among such joint tenants or tenants in common in accordance with their interest in the shares.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1447 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to voting of treasury shares or shares sufficient to elect majority of directors of another corporation.

### 450.1447a Voting shares owned by second corporation.

Sec. 447a. Absent an order of a court of competent jurisdiction based upon a determination that special circumstances exist and the best interests of the corporation would be served, the shares of a corporation shall not be voted on any matter or considered to be outstanding shares for any purpose related to voting if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1448 Voting of redeemable shares.

Sec. 448. After written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem the shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates


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therefor, the shares shall not be voted on any matter nor deemed to be outstanding shares.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1451 Cumulative voting.

Sec. 451. The articles of incorporation may provide that a shareholder entitled to vote at an election for directors may vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving 1 candidate as many votes as the number of such directors multiplied by the number of his shares, or by distributing his votes on the same principle among any number of the candidates.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1455 Articles control where voting requirements exceed those of act.

Sec. 455. With respect to an action to be taken by the shareholders, if the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of a class or series of shares, than required by this act with respect to the action, the articles shall control. An amendment of the articles which changes or deletes such a provision shall be authorized by the vote required to amend the articles pursuant to section 611, or by the same vote as would be required to take action under the provision, whichever is greater. The failure to include a provision of the kind described in this section in the articles shall not invalidate any bylaw or agreement which would otherwise be considered valid.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1461 Voting agreements between shareholders.

Sec. 461. An agreement between 2 or more shareholders, if in writing and signed by the parties, may provide that in exercising voting rights, the shares held by them shall be voted as provided in the agreement, or as they may agree, or as determined in accordance with a procedure agreed upon by them. A voting agreement executed pursuant to this section, whether or not proxies are executed pursuant to the agreement, is not subject to sections 466 through 468. A voting agreement under this section shall be specifically enforceable.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1463 Repealed. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

**Compiler's note:** The repealed section pertained to management provision in articles of incorporation.

### 450.1466 Voting trust agreement; certificates.

Sec. 466. A shareholder may confer upon a trustee the right to vote or otherwise represent his shares for not to exceed 10 years, by entering into a written voting trust agreement setting forth the terms and conditions of the voting trust, by filing an executed counterpart of the agreement at the registered office of the corporation, and by transferring his shares to the trustee for purposes of the agreement. After filing of the agreement, certificates for shares so transferred shall be surrendered and canceled and new certificates therefor issued to the trustee stating that they are issued under the agreement. In the entry of such ownership in the records of the corporation that fact shall also be noted, and the trustee may vote the transferred shares during the term of the agreement. The filed copy of the voting trust agreement is subject to inspection at any reasonable time by a shareholder or a holder of a beneficial interest in the voting trust, in person or by agent or attorney. Voting trust certificates shall be issued to evidence beneficial interests in the voting trust.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1467 Responsibility of voting trustee; determination of right to vote and manner of voting.

Sec. 467. (1) A trustee who votes shares subject to a voting trust incurs no responsibility as shareholder, trustee or otherwise, except for his malfeasance.

(2) Where 2 or more persons are designated as voting trustees, and the right and method of voting shares in their names at a meeting of shareholders are not fixed by the agreement appointing the trustees, the right to vote and the manner of voting the shares at the meeting shall be determined by a majority of the trustees. If the trustees are equally divided as to how the shares shall be voted, the vote shall be divided equally among the trustees.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1468 Extending duration of voting trust agreement.

Sec. 468. (1) At any time within 12 months before expiration of a voting trust agreement as originally fixed


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or as extended as herein provided, 1 or more beneficiaries of the voting trust, by agreement in writing and with written consent of the voting trustees, may extend the duration of the voting trust agreement with regard to the shares subject to their beneficial interest for an additional period not exceeding 10 years. The voting trustees, before expiration of the voting trust agreement as originally fixed or as previously extended, shall file in the registered office of the corporation an executed counterpart of the extension agreement and of their consent thereto, and thereupon the duration of the voting trust agreement shall be extended for the period fixed in the extension agreement. An extension agreement does not affect the rights or obligations of persons not parties thereto.

(2) The validity of a voting trust or of an extension thereof, otherwise lawful, is not affected during a period of 10 years from the date of its commencement by the fact that by its terms it will or may last beyond such 10-year period; but it shall become inoperative at the end of such 10-year period.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1471 Shares as personal property; shares transferable.

Sec. 471. The shares of a corporation are personal property and are transferable in accordance with article 8 of the uniform commercial code, 1962 PA 174, MCL 440.8101 to 440.8601, except as otherwise provided in this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2000, Act 358, Eff. Mar. 28, 2001.

### 450.1472 Restriction on transfer or registration of transfer of bond or share; imposition; enforcement.

Sec. 472. (1) A restriction on the transfer or registration of transfer of a bond or share of a corporation may be imposed by the articles of incorporation, the bylaws, or an agreement among any number of holders or among the holders and the corporation. A restriction imposed under this subsection is not binding with respect to bonds or shares issued before adoption of the restriction unless the holders are parties to an agreement or voted in favor of the restriction.

(2) A written restriction on the transfer or registration of transfer of a bond or share of a corporation, if permitted by this section or section 473 and noted conspicuously on the face or back of the instrument or on the information statement required under section 336, may be enforced against the holder of the restricted instrument or a successor or transferee of the holder of the restricted instrument, including a personal representative, administrator, trustee, guardian, or other fiduciary entrusted with responsibility for the person or estate of the holder. Unless the existence of the restriction is noted conspicuously on the face or back of the instrument or on the information statement required under section 336, the restriction, even though permitted by this section or section 473, is ineffective except against a person with actual knowledge of the restriction.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1473 Permissible restrictions on transfer or registration of transfer of bonds or shares.

Sec. 473. In particular and without limitation of the generality of the power granted by subsection (1) of section 472 to impose restrictions, a restriction on the transfer or registration of transfer of bonds or shares of a corporation is permitted if it does any of the following:

(a) Obligates the holders of the restricted instruments to offer to the corporation or to any other holders of bonds or shares of the corporation or to any other person or to any combination thereof, a prior opportunity to acquire the restricted instruments.

(b) Obligates the corporation or a holder of bonds or shares of the corporation or any other person or any combination thereof, to purchase the instruments which are the subject of an agreement respecting the purchase and sale of the restricted instruments.

(c) Requires the corporation or the holders of a class of bonds or shares of the corporation to consent to a proposed transfer of the restricted instruments or to approve the proposed transferee of the restricted instruments.

(d) Prohibits the transfer of the restricted instruments to designated persons or classes of persons, and the designation is not contrary to public policy.

(e) Exists for the purpose of maintaining the status of the corporation as a corporation under subchapter S of the United States internal revenue code.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1481 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to preemptive rights.


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### 450.1485 Corporate books, records, and minutes.

Sec. 485. A corporation shall keep books and records of account and minutes of the proceedings of its shareholders, board, and executive committee, if any. Unless otherwise provided in the bylaws, the books, records, and minutes may be kept outside this state. The corporation shall keep at its registered office, or at the office of its transfer agent in or outside this state, records containing the names and addresses of all shareholders, the number, class and series of shares held by each, and the dates when they respectively became holders of record. Any of the books, records, or minutes may be in written form or in any other form capable of being converted into written form within a reasonable time. A corporation shall convert into written form without charge any record not in written form, unless otherwise requested by a person entitled to inspect the record.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1487 Request for balance sheet, statement of income, and statement of source and application of funds; inspection of records; court order; definition; holder of voting trust certificate deemed shareholder.

Sec. 487. (1) Upon written request of a shareholder, a corporation shall mail to the shareholder its balance sheet as at the end of the preceding fiscal year; its statement of income for the fiscal year; and, if prepared by the corporation, its statement of source and application of funds for the fiscal year.

(2) Any shareholder of record, in person or by attorney or other agent, shall have the right during the usual hours of business to inspect for any proper purpose the corporation's stock ledger, a list of its shareholders, and its other books and records, if the shareholder gives the corporation written demand describing with reasonable particularity his or her purpose and the records he or she desires to inspect, and the records sought are directly connected with the purpose. A proper purpose shall mean a purpose reasonably related to such person's interest as a shareholder. The demand shall be delivered to the corporation at its registered office in this state or at its principal place of business. In every instance where an attorney or other agent shall be the person who seeks to inspect, the demand shall be accompanied by a power of attorney or other writing which authorizes the attorney or other agent to act on behalf of the shareholder.

(3) If the corporation does not permit an inspection within 5 business days after a demand has been received in compliance with subsection (2), or imposes unreasonable conditions upon the inspection, the shareholder may apply to the circuit court of the county in which the principal place of business or registered office of the corporation is located for an order to compel the inspection. If the shareholder seeks to inspect the corporation's books and records other than its stock ledger or list of shareholders, he or she shall first establish that he or she has complied with this section respecting the form and manner of making demand for inspection of the documents, that the inspection he or she seeks is for a proper purpose, and that the documents sought are directly connected with the purpose. If the shareholder seeks to inspect the corporation's stock ledger or list of shareholders and has established compliance with this section respecting the form and manner of making demand for the inspection of the documents, the burden of proof shall be upon the corporation to establish that the inspection that is sought is for an improper purpose or that the records sought are not directly connected with the person's purpose. The court may, in its discretion, order the corporation to permit the shareholder to inspect the corporation's stock ledger, a list of shareholders, and its other books and records on conditions and with limitations as the court may prescribe and may award other or further relief as the court may consider just and proper. The court may order books, documents and records, pertinent extracts, or duly authenticated copies, to be brought within this state and kept in this state upon terms and conditions as the court may prescribe.

(4) A director shall have the right to examine any of the corporation's books and records for a purpose reasonably related to his or her position as a director. The director may apply to the circuit court of the county in which the principal place of business or registered office of the corporation is located for an order to compel the inspection. The court may, in its discretion, order the corporation to permit the director to inspect any and all books and records, on conditions and with limitations as the court may prescribe and may award other and further relief as the court may consider just and proper.

(5) If the court orders inspection of the records demanded under subsection (3) or (4), it shall also order the corporation to pay the shareholder's or director's costs, including reasonable attorney fees, incurred to obtain the order unless the corporation proves that it failed to permit the inspection in good faith because it had a reasonable basis to doubt the right of the shareholder or director to inspect the records demanded.

(6) As used in this section, “the right to inspect records” includes the right to copy and make extracts from the records and, if reasonable, the right to require the corporation to supply copies made by photographic, xerographic, or other means. The corporation may require the shareholder to pay a reasonable charge,


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covering the costs of labor and material, for copies of the documents provided to the shareholder.

(7) A holder of a voting trust certificate representing shares of the corporation is deemed a shareholder for the purpose of this section and section 485.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1488 Shareholder agreement.

Sec. 488. (1) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with this act in 1 or more of the following ways:

(a) It eliminates the board or restricts the discretion or powers of the board.

(b) It governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to limitations in sections 345 and 855a pertaining to the protection of creditors.

(c) It establishes who shall be directors or officers of the corporation, or the terms of office or manner of selection or removal of directors or officers of the corporation.

(d) In general or in regard to specific matters, it governs the exercise or division of voting power by or between the shareholders and directors or by or among any of the shareholders or directors, including use of weighted voting rights or director proxies.

(e) It establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among the shareholders, directors, officers, or employees of the corporation.

(f) It transfers to 1 or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.

(g) It requires dissolution of the corporation at the request of 1 or more of the shareholders or if a specified event or contingency occurs.

(h) It establishes that shares of the corporation are assessable and includes the procedures for an assessment and the consequences of a failure by a shareholder to pay an assessment.

(i) It otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of the shareholders or directors, and is not contrary to public policy.

(2) An agreement authorized by this section shall meet both of the following requirements:

(a) Is set forth in a provision of the articles of incorporation or bylaws approved by all persons that are shareholders at the time of the agreement, or in a written agreement that is signed by all persons that are shareholders at the time of the agreement and that is made known to the corporation.

(b) Is subject to amendment only by all persons that are shareholders at the time of the amendment, unless the agreement provides otherwise.

(3) The existence of an agreement authorized under this section shall be noted conspicuously on the face or back of a certificate for shares issued by the corporation or on the information statement required under section 336. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement does not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares that did not have knowledge of the existence of the agreement at the time ownership is transferred is entitled to rescission of the purchase. A purchaser has knowledge of the existence of the agreement at the time ownership is transferred if the agreement's existence is noted on the certificate or information statement in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or before the time ownership of the shares is transferred. An action to enforce the right of rescission authorized under this subsection must be commenced within 90 days after discovery of the existence of the agreement or 2 years after the shares are transferred, whichever is earlier.

(4) An agreement authorized under this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by 1 or more members of a national or affiliated securities association.

(5) If an agreement authorized under this section is no longer effective for any reason and is contained or referred to in the corporation's articles of incorporation or bylaws, the board may without shareholder action adopt an amendment to the articles of incorporation or bylaws to delete the agreement and any references to it.

(6) An agreement authorized under this section that limits the discretion or powers of the board shall relieve the directors of, and impose on the person or persons in which the discretion or powers are vested,


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liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement. The person or persons in whom the discretion or powers are vested are treated as a director or directors for purposes of any indemnification and any limitation on liability under section 209(1)(c).

(7) The existence or performance of an agreement authorized under this section is not grounds for imposing personal liability on any shareholder for the acts or debts of the corporation or for treating the corporation as if it were a partnership or unincorporated entity, even if the agreement or its performance results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(8) Dissolution pursuant to an agreement authorized in subsection (1)(g) shall be implemented by filing a certificate of dissolution under section 805.

(9) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized under this section if shares have not been issued when the agreement is made.

(10) The failure to satisfy the unanimity requirement of subsection (2) with respect to an agreement authorized under this section does not invalidate any agreement that would otherwise be considered valid.

**History:** Add. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1489 Action by shareholder.

Sec. 489. (1) A shareholder may bring an action in the circuit court of the county in which the principal place of business or registered office of the corporation is located to establish that the acts of the directors or those in control of the corporation are illegal, fraudulent, or willfully unfair and oppressive to the corporation or to the shareholder. If the shareholder establishes grounds for relief, the circuit court may make an order or grant relief as it considers appropriate, including, without limitation, an order providing for any of the following:

(a) The dissolution and liquidation of the assets and business of the corporation.

(b) The cancellation or alteration of a provision contained in the articles of incorporation, an amendment of the articles of incorporation, or the bylaws of the corporation.

(c) The cancellation, alteration, or injunction against a resolution or other act of the corporation.

(d) The direction or prohibition of an act of the corporation or of shareholders, directors, officers, or other persons party to the action.

(e) The purchase at fair value of the shares of a shareholder, either by the corporation or by the officers, directors, or other shareholders responsible for the wrongful acts.

(f) An award of damages to the corporation or a shareholder. An action seeking an award of damages must be commenced within 3 years after the cause of action under this section has accrued, or within 2 years after the shareholder discovers or reasonably should have discovered the cause of action under this section, whichever occurs first.

(2) No action under this section shall be brought by a shareholder whose shares are listed on a national securities exchange or regularly traded in a market maintained by 1 or more members of a national or affiliated securities association.

(3) As used in this section, "willfully unfair and oppressive conduct" means a continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the shareholder as a shareholder. Willfully unfair and oppressive conduct may include the termination of employment or limitations on employment benefits to the extent that the actions interfere with distributions or other shareholder interests disproportionately as to the affected shareholder. The term does not include conduct or actions that are permitted by an agreement, the articles of incorporation, the bylaws, or a consistently applied written corporate policy or procedure.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2006, Act 68, Imd. Eff. Mar. 20, 2006.

### 450.1491 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to parties and complaint in derivative action.

### 450.1491a Definitions.

Sec. 491a. As used in this section and sections 492a to 497:

(a) “Derivative proceeding” means a civil suit in the right of a domestic corporation or a foreign corporation that is authorized to or does transact business in this state.

(b) “Shareholder” means a record or beneficial owner of shares and includes a beneficial owner whose


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shares are held in a voting trust or held by a nominee on the owner's behalf.

(c) “Disinterested director” means a director who is not a party to a derivative proceeding, or a director who is a party if the corporation demonstrates that the claim asserted against the director is frivolous or insubstantial.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1492 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to discontinuance, compromise, or settlement of derivative action.

### 450.1492a Commencement of derivative proceeding by shareholder; criteria.

Sec. 492a. A shareholder may not commence or maintain a derivative proceeding unless the shareholder meets all of the following criteria:

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

(b) The shareholder fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

(c) The shareholder continues to be a shareholder until the time of judgment, unless the failure to continue to be a shareholder is the result of corporate action in which the former shareholder did not acquiesce and the derivative proceeding was commenced prior to the termination of the former shareholder's status as a shareholder.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1493 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to expenses of derivative action.

### 450.1493a Commencement of derivative proceeding by shareholder; criteria.

Sec. 493a. A shareholder may not commence a derivative proceeding until all of the following have occurred:

(a) A written demand has been made upon the corporation to take suitable action.

(b) Ninety days have expired from the date the demand was made unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1494 Stay of derivative proceeding; condition.

Sec. 494. If the corporation commences an investigation of the allegations made in the demand or complaint, the court may stay any derivative proceeding for a period as the court considers appropriate.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1495 Dismissal of derivative proceeding; determination.

Sec. 495. (1) The court shall dismiss a derivative proceeding if, on motion by the corporation, the court finds that 1 of the groups specified in subsection (2) has made a determination in good faith after conducting a reasonable investigation upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation. If the determination is made pursuant to subsection (2)(a) or (b), the corporation shall have the burden of proving the good faith of the group making the determination and the reasonableness of the investigation. If the determination is made pursuant to subsection (2)(c) or (d), the plaintiff shall have the burden of proving that the determination was not made in good faith or that the investigation was not reasonable.

(2) A determination under subsection (1) may be made by any 1 of the following:

(a) By a majority vote of the disinterested directors, if the disinterested directors constitute a quorum at a meeting of the board.

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

(c) By a panel of 1 or more disinterested persons appointed by the court upon motion by the corporation.

(d) By all disinterested independent directors.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1496 Discontinuance or settlement of derivative proceeding; judicial approval; notice;


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**expense.**

Sec. 496. A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected. If notice is directed to be given to the affected shareholders, the court may determine whether 1 or more of the parties to the action shall bear the expense of giving the notice, in the amount as the court determines and finds to be reasonable under the circumstances. The amount of expense shall be awarded as special costs of the action and recoverable in the same manner as statutory taxable costs.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1497 Termination of derivative proceeding; order of court.

Sec. 497. On termination of the derivative proceeding, the court may order 1 of the following:

(a) The plaintiff to pay any of the defendant's reasonable expenses, including reasonable attorney fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained in bad faith or without reasonable cause.

(b) The corporation to pay the plaintiff's reasonable expenses, including reasonable attorney fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation. The court shall direct the plaintiff to account to the corporation for any proceeds received by the plaintiff in excess of expenses awarded by the court, except that this shall not apply to a judgment rendered for the benefit of an injured shareholder only and limited to a recovery of the loss or damage sustained by him or her.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

## CHAPTER 5
## DIRECTORS AND OFFICERS

### 450.1501 Management of corporation; qualifications of director.

Sec. 501. The business and affairs of a corporation shall be managed by or under the direction of its board, except as otherwise provided in this act or in its articles of incorporation. A director need not be a shareholder of the corporation unless the articles or bylaws so require. The articles or bylaws may prescribe qualifications for directors.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983.

### 450.1505 Number, election, and term of directors; resignation; designation, compensation, and expenses of independent director; communication of independent director with shareholders.

Sec. 505. (1) The board shall consist of 1 or more members. The number of directors shall be fixed by, or in the manner provided in, the bylaws, unless the articles of incorporation fix the number.

(2) The first board of directors shall hold office until the first annual meeting of shareholders. At the first annual meeting of shareholders and at each annual meeting thereafter, the shareholders shall elect directors to hold office until the succeeding annual meeting, except in case of the classification of directors as permitted by this act. A director shall hold office for the term for which he or she is elected and until his or her successor is elected and qualified, or until his or her resignation or removal. A director may resign by written notice to the corporation. The resignation is effective upon its receipt by the corporation or a later time as set forth in the notice of resignation.

(3) The shareholders or board may designate 1 or more directors as an independent director. Any director so designated shall be entitled to reasonable compensation in addition to compensation paid to directors generally, as determined by the board or shareholders, and reimbursement for expenses reasonably related to service as an independent director. An independent director may communicate with shareholders at the corporation's expense, as part of a communication or report sent by the corporation to shareholders. An independent director shall not have any greater duties or liabilities than any other director.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1506 Division of directors into classes; terms of directors in first, second, or third class; election.

Sec. 506. (1) The articles of incorporation or a bylaw adopted by the shareholders or incorporators may provide that in lieu of annual election of all directors the directors be divided into 2 or 3 classes, each to be as nearly equal in number as possible. The term of office of directors in the first class shall expire at the first annual meeting of shareholders after their election, that of the second class shall expire at the second annual


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meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after such classification, a number of directors equal to the number of the class whose term expires at the time of the meeting shall be elected to hold office until the second succeeding annual meeting if there are 2 classes, or until the third succeeding annual meeting if there are 3 classes.

(2) A corporation having more than 1 class or series of shares may provide in its articles for election of 1 or more directors by shareholders of a class or series, to the exclusion of other shareholders.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1511 Removal of directors by shareholders.

Sec. 511. (1) The shareholders may remove 1 or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause. The vote for removal shall be by a majority of shares entitled to vote at an election of directors except that the articles may require a higher vote for removal without cause. This section shall not invalidate any bylaw adopted before the effective date of the act which added this sentence insofar as the bylaw applies to removal without cause.

(2) In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no 1 of the directors may be removed if the votes cast against his or her removal would be sufficient to elect him or her if then cumulatively voted at an election of the entire board of directors, or, if there are classes of directors, at an election of the class of directors of which he or she is a part.

(3) If holders of a class or series of stock or of bonds are entitled by the articles to elect 1 or more directors, this section applies, with respect to removal of a director so elected, to the vote of the holders of the outstanding shares of that class or series of stock or the holders of those bonds.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1514 Removal of director by court.

Sec. 514. (1) The circuit court of the county in which the principal place of business or registered office of the corporation is located may remove a director of the corporation from office in a proceeding commenced either by the corporation or by its shareholders holding at least 10% of the outstanding shares of any class if the court finds that the director engaged in fraudulent, illegal, or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, and removal is in the best interest of the corporation.

(2) The court that removes a director may bar him or her from serving as a director of the corporation for a period prescribed by the court.

(3) If shareholders commence a proceeding under subsection (1), they shall make the corporation a party defendant.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1515 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to vacancy on board of directors.

### 450.1515a Filling vacancy in board.

Sec. 515a. (1) Unless otherwise limited by the articles of incorporation, if a vacancy, including a vacancy resulting from an increase in the number of directors, occurs in a board, the vacancy may be filled as follows:

(a) The shareholders may fill the vacancy.

(b) The board may fill the vacancy.

(c) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(2) Unless otherwise provided in the articles, if the holders of any class or classes of stock or series are entitled to elect 1 or more directors to the exclusion of other shareholders, vacancies of that class or classes or series may be filled only by 1 of the following:

(a) By a majority of the directors elected by the holders of that class or classes or series then in office, whether or not those directors constitute a quorum of the board.

(b) By the holders of shares of that class or classes of shares, or series.

(3) Unless otherwise limited by the articles or bylaws, in the case of a corporation the directors of which are divided into classes, any director chosen to fill a vacancy shall hold office until the next election of the class for which the director shall have been chosen, and until his or her successor is elected and qualified.

(4) If because of death, resignation, or other cause, a corporation has no directors in office, an officer, a shareholder, a personal representative, administrator, trustee, or guardian of a shareholder, or other fiduciary entrusted with like responsibility for the person or estate of a shareholder, may call a special meeting of


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shareholders in accordance with the articles or the bylaws.

(5) A vacancy that will occur at a specific date, by reason of a resignation effective at a later date under section 505 or otherwise, may be filled before the vacancy occurs but the newly elected or appointed director may not take office until the vacancy occurs.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1521 Regular or special meetings of board.

Sec. 521. (1) Regular or special meetings of a board may be held either in or outside this state.

(2) A regular meeting may be held with or without notice as prescribed in the bylaws. A special meeting shall be held upon notice as prescribed in the bylaws. A director's attendance at or participation in a meeting waives any required notice to him or her of the meeting unless he or she at the beginning of the meeting, or upon his or her arrival, objects to the meeting or the transacting of business at the meeting and does not thereafter vote for or assent to any action taken at the meeting. Unless required by the bylaws, neither the business to be transacted at, nor the purpose of, a regular or special meeting need be specified in the notice or waiver of notice of the meeting.

(3) Unless otherwise restricted by the articles of incorporation or bylaws, a member of the board or of a committee designated by the board may participate in a meeting by means of conference telephone or other means of remote communication through which all persons participating in the meeting can communicate with the other participants. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1523 Quorum; majority vote as constituting action of board.

Sec. 523. (1) A majority of the members of the board then in office, or of the members of a committee of the board, constitutes a quorum for transaction of business, unless the articles of incorporation or bylaws, or in the case of a committee, the board resolution establishing the committee, provide for a larger or smaller number. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the board or of the committee, unless the vote of a larger number is required by this act, the articles, or the bylaws, or in the case of a committee, the board resolution establishing the committee.

(2) Amendment of the bylaws by the board requires the vote of not less than a majority of the members of the board then in office.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1525 Consent to action of board without meeting.

Sec. 525. Unless prohibited by the articles of incorporation or bylaws, action required or permitted to be taken under authorization voted at a meeting of the board or a committee of the board, may be taken without a meeting if, before or after the action, all members of the board then in office or of the committee consent to the action in writing or by electronic transmission. The written consents shall be filed with the minutes of the proceedings of the board or committee. The consent has the same effect as a vote of the board or committee for all purposes.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1527 Committees; designation by board; membership; absence or disqualification of member; terms.

Sec. 527. (1) Unless otherwise provided in the articles of incorporation or bylaws, the board may designate 1 or more committees, each committee to consist of 1 or more of the directors of the corporation. The board may designate 1 or more directors as alternate members of a committee, who may replace an absent or disqualified member at a meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the members thereof present at a meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the board to act at the meeting in place of such an absent or disqualified member.

(2) A committee, and each member thereof, shall serve at the pleasure of the board.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1528 Committees; powers and authority; limitations; subcommittees.

Sec. 528. (1) A committee designated under section 527, to the extent provided in a resolution of the board or in the bylaws, may exercise all powers and authority of the board in the management of the business and affairs of the corporation. A committee does not have power or authority to do any of the following:


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(a) Amend the articles of incorporation, except that a committee may prescribe the relative rights and preferences of the shares of a series under section 302(3).

(b) Adopt an agreement of merger, conversion, or share exchange.

(c) Recommend to shareholders the sale, lease, or exchange of all or substantially all of the corporation's property and assets.

(d) Recommend to shareholders a dissolution of the corporation or a revocation of a dissolution.

(e) Amend the bylaws of the corporation.

(f) Fill vacancies in the board.

(2) Unless a resolution of the board, the articles of incorporation, or the bylaws expressly provide the power or authority, a committee does not have the power or authority to declare a distribution or dividend or to authorize the issuance of shares.

(3) Unless otherwise provided in a resolution of the board, the articles of incorporation, or the bylaws, a committee may create 1 or more subcommittees. Each subcommittee shall consist of 1 or more members of the committee. The committee may delegate all or part of its power or authority to a subcommittee.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2006, Act 65, Imd. Eff. Mar. 20, 2006;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1529 Submission of matter to shareholder vote.

Sec. 529. A corporation may agree by contract to submit a matter to a vote of its shareholders even if, after initially approving the matter, the board of directors later determines that it no longer recommends the matter or recommends against approval of the matter by the shareholders.

**History:** Add. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1531 Officers of corporation; election or appointment; holding 2 or more offices; authority and duties.

Sec. 531. (1) The officers of a corporation shall consist of a president, secretary, treasurer, and, if desired, a chairman of the board, 1 or more vice-presidents, and such other officers as may be prescribed by the bylaws or determined by the board. Unless otherwise provided in the articles of incorporation or bylaws, the officers shall be elected or appointed by the board.

(2) Two or more offices may be held by the same person but an officer shall not execute, acknowledge or verify an instrument in more than 1 capacity if the instrument is required by law or the articles or bylaws to be executed, acknowledged or verified by 2 or more officers.

(3) An officer elected or appointed as herein provided shall hold office for the term for which he is elected or appointed and until his successor is elected or appointed and qualified, or until his resignation or removal.

(4) An officer, as between himself and other officers and the corporation, has such authority and shall perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board not inconsistent with the bylaws.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1535 Removal or resignation of officers; contract rights.

Sec. 535. (1) An officer elected or appointed by the board may be removed by the board with or without cause. An officer elected by the shareholders may be removed, with or without cause, only by vote of the shareholders, but his authority to act as an officer may be suspended by the board for cause.

(2) The removal of an officer shall be without prejudice to his contract rights, if any. The election or appointment of an officer does not of itself create contract rights.

(3) An officer may resign by written notice to the corporation. The resignation is effective upon its receipt by the corporation or at a subsequent time specified in the notice of resignation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1541 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to discharge of duties by director or officer.

### 450.1541a Director or officer; manner of discharging duties; reliance on information, opinions, reports, or statements; action against director or officer; limitations.

Sec. 541a. (1) A director or officer shall discharge his or her duties as a director or officer including his or her duties as a member of a committee in the following manner:

(a) In good faith.

(b) With the care an ordinarily prudent person in a like position would exercise under similar


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circumstances.

(c) In a manner he or she reasonably believes to be in the best interests of the corporation.

(2) In discharging his or her duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

(a) One or more directors, officers, or employees of the corporation, or of a business organization under joint control or common control, whom the director or officer reasonably believes to be reliable and competent in the matters presented.

(b) Legal counsel, public accountants, engineers, or other persons as to matters the director or officer reasonably believes are within the person's professional or expert competence.

(c) A committee of the board of which he or she is not a member if the director or officer reasonably believes the committee merits confidence.

(3) A director or officer is not entitled to rely on the information set forth in subsection (2) if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(4) An action against a director or officer for failure to perform the duties imposed by this section shall be commenced within 3 years after the cause of action has accrued, or within 2 years after the time when the cause of action is discovered or should reasonably have been discovered, by the complainant, whichever occurs first.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1545 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to contracts or transactions involving interested directors or officers.

### 450.1545a Interest of director or officer in transaction; compensation of directors.

Sec. 545a. (1) A transaction in which a director or officer is determined to have an interest shall not, because of the interest, be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, if the person interested in the transaction establishes any of the following:

(a) The transaction was fair to the corporation at the time entered into.

(b) The material facts of the transaction and the director's or officer's interest were disclosed or known to the board, a committee of the board, or the independent director or directors, and the board, committee, or independent director or directors authorized, approved, or ratified the transaction.

(c) The material facts of the transaction and the director's or officer's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction.

(2) For purposes of subsection (1)(b), a transaction is authorized, approved, or ratified if it received the affirmative vote of the majority of the directors on the board or the committee who had no interest in the transaction, though less than a quorum, or all independent directors who had no interest in the transaction. The presence of, or a vote cast by, a director with an interest in the transaction does not affect the validity of the action taken under subsection (1)(b).

(3) For purposes of subsection (1)(c), a transaction is authorized, approved, or ratified if it received the majority of votes cast by the holders of shares who did not have an interest in the transaction. A majority of the shares held by shareholders who did not have an interest in the transaction constitutes a quorum for the purpose of taking action under subsection (1)(c).

(4) Satisfying the requirements of subsection (1) does not preclude other claims relating to a transaction in which a director or officer is determined to have an interest. Those claims shall be evaluated under principles of law applicable to a transaction in which a director or officer does not have an interest.

(5) The board, by affirmative vote of a majority of directors in office and irrespective of any personal interest of any of them, may establish reasonable compensation of directors for services to the corporation as directors or officers, but approval of the shareholders is required if the articles of incorporation, bylaws, or another provision of this act requires that approval. Transactions pertaining to the compensation of directors for services to the corporation as directors or officers shall not be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a shareholder or by or in the right of the corporation unless it is shown that the compensation was unreasonable at the time established.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1546 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to validity of contract involving interested directors or officers.


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### 450.1548 Loan, guaranty, or assistance by corporation to director, officer, or employee.

Sec. 548. (1) A corporation may lend money to, guarantee an obligation of, or otherwise assist an officer or employee of the corporation or a subsidiary, including an officer or employee who is a director of the corporation or subsidiary, if, in the judgment of the board, the loan, guaranty, or assistance may reasonably be expected to benefit the corporation, or is pursuant to a plan authorizing loans, guaranties, or assistance that the board has reasonably determined will benefit the corporation.

(2) The loan, guaranty, or assistance may be with or without interest and may be unsecured or secured in a manner as the board approves, including a pledge of shares of stock of the corporation.

(3) A loan under this section to an officer or employee to purchase shares of the corporation or a subsidiary may be made at any rate of interest not exceeding the rate of interest allowed under Act No. 259 of the Public Acts of 1968, being sections 438.41 to 438.42 of the Michigan Compiled Laws.

(4) This section does not deny, limit, or restrict the powers of guaranty or warranty of a corporation at common law or under any statute.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1996, Act 113, Imd. Eff. Mar. 6, 1996.

### 450.1551 Liability of directors for corporate actions; liability of shareholders accepting or receiving share dividend or distribution.

Sec. 551. (1) Directors who vote for, or concur in, any of the following corporate actions are jointly and severally liable to the corporation for the benefit of its creditors or shareholders, to the extent of any legally recoverable injury suffered by its creditors or shareholders as a result of the action but not to exceed the difference between the amount paid or distributed and the amount that lawfully could have been paid or distributed:

(a) Declaration of a share dividend or distribution to shareholders contrary to this act or contrary to any restriction in the articles of incorporation.

(b) Distribution to shareholders during or after dissolution of the corporation without paying or providing for debts, obligations, and liabilities of the corporation as required by section 855a.

(c) Making a loan to a director, officer, or employee of the corporation or of a subsidiary of the corporation contrary to this act.

(2) A director is not liable under this section if he or she has complied with section 541a.

(3) A shareholder who accepts or receives a share dividend or distribution with knowledge of facts indicating it is contrary to this act, or any restriction in the articles of incorporation, is liable to the corporation for the amount accepted or received in excess of the shareholder's share of the amount that lawfully could have been distributed.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1552 Rights of director against whom claim is successfully asserted under MCL 450.1551.

Sec. 552. (1) A director against whom a claim is successfully asserted under section 551 is entitled to contribution from the other directors who voted for, or concurred in, the action upon which the claim is asserted.

(2) A director against whom a claim is successfully asserted under section 551 is entitled, to the extent of the amounts paid by him or her to the corporation as a result of the claims, to all of the following:

(a) Upon payment to the corporation of any amount of an improper share dividend or distribution, to be subrogated to the rights of the corporation against shareholders who received the share dividend or distribution in proportion to the amounts received by them respectively.

(b) Upon payment to the corporation of any amount of the purchase price of an improper purchase of shares to have the corporation rescind the purchase and recover for his or her benefit, but at his or her expense, the amount of the purchase price from any seller who sold the shares with knowledge of facts indicating that the purchase of shares by the corporation was not authorized by this act, or to have the corporation assign to the director the shares and any claim against the seller.

(c) Upon payment to the corporation of the claim of a creditor because of a violation of subdivision (1)(b) of section 551, to be subrogated to the rights of the corporation against shareholders who received an improper distribution of assets.

(d) Upon payment to the corporation of the amount of a loan made improperly to a director, officer, or employee, to be subrogated to the rights of the corporation against a director, officer, or employee who received the improper loan.


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**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1553 Presumption of concurrence by director in corporation action; effect of dissent.

Sec. 553. A director who is present at a meeting of the board, or a committee thereof of which he is a member, at which action on a corporate matter referred to in section 551 is taken is presumed to have concurred in that action unless his dissent is entered in the minutes of the meeting or unless he files his written dissent to the action with the person acting as secretary of the meeting before or promptly after the adjournment thereof. The right to dissent does not apply to a director who voted in favor of the action. A director who is absent from a meeting of the board, or a committee thereof of which he is a member, at which any such action is taken is presumed to have concurred in the action unless he files his dissent with the secretary of the corporation within a reasonable time after he has knowledge of the action.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1554 Action against director or shareholder; limitation.

Sec. 554. An action against a director or shareholder for recovery upon a liability imposed by section 551 shall be commenced within 3 years after the cause of action accrues. An action under section 552 shall be commenced within 3 years after payment by the director to the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1561 Indemnification of certain persons generally.

Sec. 561. A corporation has the power to indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit, or proceeding, if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders, and with respect to a criminal action or proceeding, if the person had no reasonable cause to believe his or her conduct was unlawful. The termination of an action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders, and, with respect to a criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987.

### 450.1562 Additional provisions for indemnification of certain persons.

Sec. 562. A corporation has the power to indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including attorneys' fees, and amounts paid in settlement actually and reasonably incurred by the person in connection with the action or suit, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders. Indemnification shall not be made for a claim, issue, or matter in which the person has been found liable to the corporation except to the extent authorized in section 564c.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1563 Indemnification against actual and reasonable expenses.

Sec. 563. To the extent that a director or officer of a corporation has been successful on the merits or otherwise in defense of an action, suit, or proceeding referred to in section 561 or 562, or in defense of a claim, issue, or matter in the action, suit, or proceeding, the corporation shall indemnify him or her against actual and reasonable expenses, including attorneys' fees, incurred by him or her in connection with the action, suit, or proceeding and an action, suit, or proceeding brought to enforce the mandatory indemnification provided in this section.


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**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1564 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to payment of defense expenses in advance.

### 450.1564a Indemnification under MCL 450.1561, MCL 450.1562, or MCL 450.1563; determination and evaluation; designation of committee or selection of independent legal counsel; partial indemnification; payment authorization; indemnification for expenses and liabilities.

Sec. 564a. (1) Except as otherwise provided in subsection (5), an indemnification under section 561 or 562, unless ordered by the court or required under section 563, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in sections 561 and 562 and upon an evaluation of the reasonableness of expenses and amounts paid in settlement. This determination and evaluation shall be made in any of the following ways:

(a) By a majority vote of a quorum of the board consisting of directors who are not parties or threatened to be made parties to the action, suit, or proceeding.

(b) If a quorum cannot be obtained under subdivision (a), by majority vote of a committee duly designated by the board and consisting solely of 2 or more directors not at the time parties or threatened to be made parties to the action, suit, or proceeding.

(c) In a written opinion by independent legal counsel selected in 1 of the following ways:

(*i*) By the board or its committee in the manner prescribed in subdivision (a) or (b).

(*ii*) If a quorum of the board cannot be obtained under subdivision (a) and a committee cannot be designated under subdivision (b), by the board.

(d) By all independent directors who are not parties or threatened to be made parties to the action, suit, or proceeding.

(e) By the shareholders, but shares held by directors, officers, employees, or agents who are parties or threatened to be made parties to the action, suit, or proceeding may not be voted.

(2) In the designation of a committee under subsection (1)(b) or in the selection of independent legal counsel under subsection (1)(c)(*ii*), all directors may participate.

(3) If a person is entitled to indemnification under section 561 or 562 for a portion of expenses, including reasonable attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the corporation may indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

(4) An authorization of payment of indemnification under this section shall be made in any of the following ways:

(a) By the board in 1 of the following ways:

(*i*) If there are 2 or more directors who are not parties or threatened to be made parties to the action, suit, or proceeding, by a majority vote of all directors who are not parties or threatened to be made parties, a majority of whom shall constitute a quorum for this purpose.

(*ii*) By a majority of the members of a committee of 2 or more directors who are not parties or threatened to be made parties to the action, suit, or proceeding.

(*iii*) If the corporation has 1 or more independent directors who are not parties or threatened to be made parties to the action, suit, or proceeding, by a majority vote of all independent directors who are not parties or are threatened to be made parties, a majority of whom shall constitute a quorum for this purpose.

(*iv*) If there are no independent directors and less than 2 directors who are not parties or threatened to be made parties to the action, suit, or proceeding, by the vote necessary for action by the board in accordance with section 523, in which authorization all directors may participate.

(b) By the shareholders, but shares held by directors, officers, employees, or agents who are parties or threatened to be made parties to the action, suit, or proceeding may not be voted on the authorization.

(5) To the extent that the articles of incorporation include a provision eliminating or limiting the liability of a director pursuant to section 209(1)(c), a corporation may indemnify a director for the expenses and liabilities described in this subsection without a determination that the director has met the standard of conduct set forth in sections 561 and 562, but no indemnification may be made except to the extent authorized in section 564c if the director received a financial benefit to which he or she was not entitled, intentionally inflicted harm on the corporation or its shareholders, violated section 551, or intentionally committed a criminal act. In connection with an action or suit by or in the right of the corporation described in section 562,


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indemnification under this subsection may be for expenses, including attorneys' fees, actually and reasonably incurred. In connection with an action, suit, or proceeding other than an action, suit, or proceeding by or in the right of the corporation, as described in section 561, indemnification under this subsection may be for expenses, including attorneys' fees, actually and reasonably incurred, and for judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1564b Payment or reimbursement of party in advance of final disposition of proceeding; undertaking as unlimited general obligation; evaluation of reasonableness; advancement of expenses.

Sec. 564b. (1) A corporation may pay or reimburse the reasonable expenses incurred by a director, officer, employee, or agent of the corporation, or by a person that is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other profit or nonprofit enterprise, that is a party or threatened to be made a party to an action, suit, or proceeding in advance of final disposition of the proceeding if the person furnishes the corporation a written undertaking, executed personally or on the person's behalf, to repay the advance if it is ultimately determined that the person did not meet the applicable standard of conduct, if any, required by this act for the indemnification of a person under the circumstances.

(2) An undertaking required under subsection (1) must be an unlimited general obligation of the person but may be unsecured and may be accepted without reference to the financial ability of the person to make repayment.

(3) A corporation shall make an evaluation of reasonableness under this section in the manner specified in section 564a(1) for an evaluation of reasonableness of expenses, and shall make an authorization in the manner specified in section 564a(4) unless an advance is mandatory. A corporation may make an authorization of advances with respect to a proceeding and a determination of reasonableness of advances or selection of a method for determining reasonableness in a single action or resolution covering an entire proceeding. However, unless the action or resolution provides otherwise, the authorizing or determining authority may subsequently terminate or amend the authorization or determination with respect to advances not yet made.

(4) A provision in the articles of incorporation or bylaws, a resolution of the board or shareholders, or an agreement making indemnification mandatory shall also make the advancement of expenses mandatory unless the provision, resolution, or agreement specifically provides otherwise.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1564c Application for indemnification to court; determination.

Sec. 564c. A director, officer, employee, or agent of the corporation who is a party or threatened to be made a party to an action, suit, or proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the court after giving any notice it considers necessary may order indemnification if it determines that the person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he or she met the applicable standard of conduct set forth in sections 561 and 562 or was adjudged liable as described in section 562, but if he or she was adjudged liable, his or her indemnification is limited to reasonable expenses incurred.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1565 Limitation on total amount of expenses advanced or indemnified; duration of indemnification; elimination or impairment.

Sec. 565. (1) The indemnification or advancement of expenses provided under sections 561 to 564c is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation, bylaws, or a contractual agreement. The total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

(2) The indemnification provided under this section and sections 561 to 564c continues as to a person that ceases to be a director, officer, employee, or agent and inures to the benefit of the heirs, personal representatives, and administrators of the person if the person is an individual.

(3) A corporation shall not eliminate or impair a right to indemnification or to advancement of expenses


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established in a provision of the articles of incorporation or the bylaws by amending that provision after the occurrence of the act or omission that is the subject of the formal or informal civil, criminal, administrative, or investigative action, suit, or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of that act or omission explicitly authorizes that elimination or impairment after that act or omission occurs.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1567 Liability insurance.

Sec. 567. (1) A corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or who is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have power to indemnify him or her against liability under sections 561 to 565.

(2) If the articles of incorporation include a provision eliminating or limiting the liability of a director pursuant to section 209(1)(c), insurance on behalf of a director under subsection (1) may be purchased from an insurer owned by the corporation, but insurance purchased from that insurer may insure a director against monetary liability to the corporation or its shareholders only to the extent to which the corporation could indemnify the director under section 564a(5).

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1569 “Corporation” defined for purposes of MCL 450.1561 to 450.1567; "business organization" defined.

Sec. 569. (1) For purposes of sections 561 to 567, "corporation" includes all constituent corporations absorbed in a consolidation or merger, any corporation converted into another business organization, and the resulting or surviving corporation or other business organization, so that a person that is or was a director, officer, employee, or agent of the constituent corporation or is or was serving at the request of the constituent corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, or other business organization in the same position under this section with respect to the resulting or surviving corporation or other business organization as if that person had served the resulting or surviving corporation or other business organization in the same capacity.

(2) As used in this section, "business organization" means that term as defined in section 736(1).

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1987, Act 1, Eff. Mar. 1, 1987;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1571 Definitions.

Sec. 571. For the purposes of sections 561 to 567:

(a) “Fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan.

(b) “Other enterprises” shall include employee benefit plans.

(c) “Serving at the request of the corporation” shall include any service as a director, officer, employee, or agent of the corporation which imposes duties on, or involves services by, the director, officer, employee, or agent with respect to an employee benefit plan, its participants, or its beneficiaries.

(d) A person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be considered to have acted in a manner “not opposed to the best interests of the corporation or its shareholders” as referred to in sections 561 and 562.

**History:** Add. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

## CHAPTER 6
## AMENDMENTS TO ARTICLES OF INCORPORATION

### 450.1601 General power of amendment.

Sec. 601. (1) A corporation may amend its articles of incorporation if the amendment contains only provisions that might lawfully be contained in original articles of incorporation filed at the time of making the amendment.

(2) A corporation may amend its articles of incorporation to become a nonprofit corporation by adopting restated articles in accordance with section 641 which shall so amend the articles to contain only those provisions that might be lawfully contained in original articles of a nonprofit corporation formed under the


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nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws. The amendment does not constitute a dissolution of the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1602 Specific powers of amendment.

Sec. 602. Without limiting the general power of amendment granted by section 601, a corporation may amend its articles of incorporation to do any of the following:

(a) Change its corporate name.

(b) Enlarge, limit, or otherwise change its corporate purposes or powers.

(c) Change the duration of the corporation.

(d) Increase or decrease the aggregate number of shares, or shares of any class or series of any class, which the corporation has authority to issue.

(e) Exchange, classify, reclassify, or cancel any of its issued or unissued shares.

(f) Change the designation of any of its issued or unissued shares, and change the preferences, limitations, and relative rights in respect of any of its issued or unissued shares.

(g) Change the issued or unissued shares of any class or series into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series.

(h) Create new classes or series of shares having rights and preferences superior or inferior to, or equal with, the issued or unissued shares of any class or series then authorized.

(i) Cancel or otherwise affect the right of the holders of the shares of any class or series to receive dividends that have accrued but have not been declared.

(j) Divide any class of issued or unissued shares into series and fix the designations of the series and the preferences, limitations, and relative rights of the shares of the series.

(k) Authorize the board to divide authorized but unissued shares of any class into series and fix the designations and number of shares of the series and the preferences, limitations, and relative rights of the shares of the series.

(*l*) Authorize the board to fix or change the designation, number of, preferences, limitations, or relative rights of the shares of an established series the shares of which have not been issued.

(m) Revoke, diminish, or enlarge the authority of the board to take any action set forth in subdivisions (k) and (*l*).

(n) Limit, deny, or grant to shareholders of a class the preemptive right to acquire shares of the corporation.

(o) Change its registered office or change its resident agent.

(p) Strike out, change, or add any provision for management of the business and conduct of the affairs of the corporation, or creating, defining, limiting, and regulating the powers of the corporation, its directors and shareholders, or any class of shareholders, including any provision that under this act is required or permitted to be set forth in the bylaws.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1611 Articles of incorporation; amendment procedure.

Sec. 611. (1) In addition to amendment under subsection (2) or (3), subject to subsection (7), either of the following may amend the articles of incorporation:

(a) Before the first meeting of the board, the incorporators.

(b) If the corporation has not yet issued shares or accepted any written subscription for shares, the board of directors.

(2) Unless the articles of incorporation provide otherwise, subject to subsection (7), the board may adopt 1 or more of the following amendments to the corporation's articles of incorporation without shareholder action:

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

(b) Delete the names and addresses of the initial directors.

(c) Delete the name and address of the initial resident agent or registered office, if a statement of change is on file with the administrator.

(d) Change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding.

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


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(f) Any other change that this act expressly permits without shareholder action.

(3) Subject to subsection (7), any amendments of the articles of incorporation that are not described in subsection (1) or (2), except as otherwise provided in this act, shall be proposed by the board and approved by the shareholders as provided in this section. The board may condition its submission of the amendment to the shareholders on any basis.

(4) Notice of a meeting setting forth a proposed amendment to the articles of incorporation or a summary of the changes the proposed amendment will make shall be given to each shareholder of record entitled to vote on the proposed amendment within the time and in the manner provided in this act for giving notice of meetings of shareholders.

(5) At a meeting described in subsection (4), a vote of shareholders entitled to vote shall be taken on the proposed amendment to the articles of incorporation. The proposed amendment is adopted if it receives the affirmative vote of a majority of the outstanding shares entitled to vote on the proposed amendment and, in addition, if any class or series of shares is entitled to vote on the proposed amendment as a class, the affirmative vote of a majority of the outstanding shares of that class or series. The voting requirements of this section are subject to any higher voting requirements provided in this act for specific amendments or provided in the articles of incorporation.

(6) The shareholders may act on any number of amendments to the articles of incorporation at a meeting described in subsection (4).

(7) If an amendment to the articles of incorporation is made, a certificate of amendment must be filed as provided in section 631.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2006, Act 64, Imd. Eff. Mar. 20, 2006;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1615 Class vote on amendment.

Sec. 615. (1) The holders of the outstanding shares of a class may vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the articles of incorporation, if the amendment would increase or decrease the aggregate number of authorized shares of the class, or alter or change the powers, preferences or special rights of the shares of the class or other classes so as to affect the class adversely.

(2) If a proposed amendment would alter or change the powers, preferences or special rights of a class so as to affect adversely 1 or more series of a class, but not the entire class, then only the shares of the 1 or more series affected by the amendment shall as a group be considered a single class for the purposes of this section.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1621 Dissent of shareholder to amendment; payment to dissenting shareholder.

Sec. 621. (1) A holder of adversely affected shares who does not vote for or consent in writing to a proposed amendment may dissent, pursuant to section 762, and receive payment for the shares, if the amendment does either of the following:

(a) Materially alters or abolishes a preferential right of the shares having preferences.

(b) Creates, alters, or abolishes a material provision or right in respect of the redemption of the shares or a sinking fund for the redemption or purchase of the shares.

(2) A dissenting shareholder shall not receive payment in excess of the sum payable upon redemption of the shares or liquidation of the corporation, whichever is less.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1631 Certificate of amendment.

Sec. 631. (1) If an amendment to the articles of incorporation is made as under section 611(1)(a), a certificate of amendment signed by a majority of the incorporators shall be filed on behalf of the corporation, setting forth the amendment and certifying that the amendment was adopted by unanimous consent of the incorporators before the first meeting of the board.

(2) If an amendment to the articles of incorporation is made under section 611(1)(b) or (2), a certificate of amendment must be filed on behalf of the corporation, setting forth the amendment and certifying that it was adopted by the board of directors.

(3) If an amendment to the articles of incorporation is made under section 611(3), except as otherwise provided in this act, a certificate of amendment must be executed and filed on behalf of the corporation, setting forth the amendment and certifying that the adoption of the amendment complied with section 611(3).

(4) A certificate of amendment to the articles of incorporation shall set forth the entire article being amended. However, if the article being amended is divided into separately identified sections, the certificate of amendment need only set forth the section of the article being amended.


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**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1641 Adoption of restated articles of incorporation; amendment.

Sec. 641. (1) A corporation may integrate into a single instrument the provisions of its articles of incorporation that are then in effect and operative, as amended, and at the same time may also further amend its articles of incorporation, by adopting restated articles of incorporation.

(2) Any of the following may adopt restated articles of incorporation for a corporation, as applicable:

(a) Before the first meeting of the board, all of the incorporators, by complying with the provisions of sections 611(1)(a), 642, and 643(1).

(b) If the restated articles of incorporation merely restate and integrate, but do not further amend the articles as amended, the restated articles of incorporation may be adopted by the board without a vote of the shareholders.

(c) If the restated articles of incorporation restate, integrate, and also further amend the articles of incorporation, but the amendments include only amendments adopted under section 611(1)(b) or (2), the board may adopt the restated articles of incorporation without a vote of the shareholders.

(d) If the restated articles of incorporation restate, integrate, and amend the articles of incorporation and subdivisions (a), (b), and (c) do not apply, the shareholders must adopt the restated articles of incorporation under section 611.

(3) An amendment made to the articles of incorporation in connection with the restatement and integration of the articles of incorporation is subject to any other provision of this act, not inconsistent with this section, that would apply if a certificate of amendment were filed to effect that amendment.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1642 Designation and contents of restated articles; omission.

Sec. 642. (1) Restated articles of incorporation must meet all of the following, as applicable:

(a) Include the designation "restated articles of incorporation" in the heading.

(b) In the heading or in an introductory paragraph, state the corporation's present name, and, if it has been changed, all of its former names and the date of filing of its original articles.

(c) If adopted by the incorporators, state that they were duly adopted by unanimous consent of the incorporators before the first meeting of the board under section 611(1)(a). If adopted by the board without a vote of the shareholders, state both of the following:

(*i*) That they only restate and integrate and do not further amend the articles as amended; or that the restated articles only restate and integrate the articles and include only amendments adopted under section 611(1)(b) or (2).

(*ii*) There is no material discrepancy between the provisions of the articles of incorporation as amended and the provisions of the restated articles.

(d) If adopted by the shareholders, state that they were duly adopted by the shareholders under section 611(3).

(2) Restated articles of incorporation may omit any provisions of the original articles that named the incorporators, the initial board, or original subscribers for shares, and the omission shall not be considered a further amendment to the articles of incorporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1643 Signing and filing restated articles; execution; original articles superseded; status of restated articles.

Sec. 643. (1) Restated articles of incorporation adopted under section 641(2)(a) shall be signed by the majority of incorporators and filed in accordance with section 131.

(2) Restated articles of incorporation adopted under section 641(2)(b), (c), or (d) shall be executed on behalf of the corporation and filed in accordance with section 131.

(3) When the filing of restated articles of incorporation becomes effective, the corporation's original articles of incorporation, as amended, are superseded; and the restated articles, including any further amendments made by the restatement of the articles, are the articles of incorporation of the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1651 Abandonment of amendment; certificate of abandonment.

Sec. 651. Before the effective date of an amendment to the articles of incorporation for which shareholder


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approval is required by this act, the amendment may be abandoned pursuant to provisions therefor, if any, set forth in the resolution of the shareholders approving the amendment. If a certificate of amendment has been filed by the corporation, it shall file a certificate of abandonment, but not later than the proposed effective date within 10 days after the abandonment.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

## CHAPTER 7
## CORPORATE COMBINATIONS AND DISPOSITIONS

### 450.1701 Merger of domestic corporations; adoption and contents of plan of merger.

Sec. 701. (1) Two or more domestic corporations may merge into 1 of the corporations pursuant to a plan of merger approved in the manner provided by this act.

(2) The board of each corporation proposing to participate in a merger shall adopt a plan of merger, setting forth all of the following:

(a) The name of each constituent corporation and the name of the constituent corporation that will be the surviving corporation.

(b) As to each constituent corporation, the designation and number of outstanding shares of each class and series, specifying the classes and series entitled to vote; each class and series entitled to vote as a class; and, if the number of shares is subject to change before the effective date of the merger, the manner in which the change may occur.

(c) The terms and conditions of the proposed merger, including the manner and basis of converting the shares of each constituent corporation into shares, bonds, or other securities of the surviving corporation, or into cash or other consideration, which may include shares, bonds, rights, or other property or securities of a corporation whether or not a party to the merger, or into a combination thereof.

(d) A statement of any amendment to the articles of incorporation of the surviving corporation to be effected by the merger or any restatement of the articles as provided in section 641(1), which shall be in the form of restated articles as provided in section 642.

(e) Other provisions with respect to the proposed merger as the board considers necessary or desirable.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1702 Plan of share exchange; approval; contents; power of corporation not limited.

Sec. 702. (1) A corporation may acquire all of the outstanding shares of 1 or more classes or series of another corporation pursuant to a plan of share exchange approved in the manner provided by this act.

(2) The board of each corporation proposing to participate in a share exchange shall adopt a plan of share exchange setting forth all of the following:

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

(b) The terms and conditions of the exchange, including the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or part.

(c) Other provisions with respect to the proposed exchange as the board considers necessary or desirable.

(3) This section does not limit the power of a corporation to acquire all or part of the shares of 1 or more classes or series of another corporation through a voluntary exchange or otherwise.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1703 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to plan of merger or consolidation.

### 450.1703a Plan of merger or share exchange; approval.

Sec. 703a. (1) A plan of merger or share exchange adopted by the board of each constituent corporation shall, except as provided in subsection (2)(e) and (f), be submitted for approval at a meeting of the shareholders.

(2) All of the following apply to the approval of a plan of merger or share exchange under this section:

(a) The board must recommend the plan of merger or share exchange to the shareholders, unless section 529 applies or the board determines that because of conflict of interest, events occurring after the board adopts the plan, contractual obligations, or other special circumstances it should make no recommendation. If the board does not recommend the plan of merger or share exchange to the shareholders, or recommends against the plan of merger or share exchange, in either case because 1 or more of the exceptions described in this subdivision apply, the board must communicate to the shareholders the basis for its decision.


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(b) The board may condition its submission of the proposed merger or share exchange on any basis.

(c) Notice of the shareholder meeting shall be given to each shareholder of record, whether or not entitled to vote at the meeting, within the time and in the manner provided in this act for giving notice of meetings of shareholders. The notice shall include or be accompanied by all of the following:

(*i*) A copy or summary of the plan of merger or share exchange. If a summary of the plan is given, the notice shall state that a copy of the plan is available on request.

(*ii*) A statement informing shareholders that are entitled to dissent under section 762 that they have the right to dissent and to be paid the fair value of their shares by complying with the procedures set forth in sections 764 to 772.

(d) At the meeting, the shareholders shall vote on the proposed plan of merger or share exchange. The plan is approved if it receives the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote on the plan, and if a class or series is entitled to vote on the plan as a class, the affirmative vote of the holders of a majority of the outstanding shares of the class or series. A class or series of shares is entitled to vote as a class in the case of a merger, if the plan of merger contains a provision that, if contained in a proposed amendment to the articles of incorporation, would entitle the class or series of shares to vote as a class, or, in the case of a share exchange, if the class or series is included in the exchange. A class or series of shares is not entitled to vote as a class in the case of a merger or share exchange, if the board of directors determines on a reasonable basis that the class or series is to receive consideration under the plan of merger or share exchange that has a fair value that is not less than the fair value of the shares of the class or series on the date of adoption of the plan.

(e) Except as provided in section 754 or unless required by the articles of incorporation, action by the shareholders of the surviving corporation on a plan of merger is not required if all of the following apply:

(*i*) The articles of incorporation of the surviving corporation will not differ from its articles of incorporation before the merger.

(*ii*) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after the merger.

(f) Except as provided in section 754, action by the shareholders of the acquiring corporation on a plan of share exchange is not required.

(g) A plan of merger or share exchange may provide for differing forms of consideration for holders of shares in the same class based on the election of the holders, the amount of shares held, or another reasonable basis.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1704 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to authorization of merger.

### 450.1706 Merger with domestic or foreign corporation; execution of certificate by incorporators; compliance.

Sec. 706. (1) A domestic corporation that has not commenced business, has not issued any shares, and has not elected a board may merge with any domestic or foreign corporation by unanimous consent of its incorporators.

(2) In order to effect the merger, the majority of incorporators shall execute a certificate of merger in accordance with section 707.

(3) The other domestic or foreign corporations participating in the merger shall comply with the provisions of this act dealing with mergers that are applicable to them.

**History:** Add. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1707 Certificate of merger or share exchange.

Sec. 707. (1) After a plan of merger or share exchange is approved, a certificate of merger or share exchange shall be executed and filed on behalf of each corporation. The certificate shall set forth the following:

(a) In the case of a merger, the statements required by section 701(2)(a), (b), and (d), and the manner and basis of converting shares of each constituent corporation as set forth in the plan of merger.

(b) In the case of a share exchange, the statement required by section 702(2)(a), and the manner and basis of exchanging the shares to be acquired as set forth in the plan of exchange.


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(c) A statement that the plan of merger or share exchange has been adopted by the boards in accordance with section 701 or 702.

(d) A statement that the plan of merger or share exchange will be furnished by the surviving or acquiring corporation, on request and without cost, to any shareholder of any constituent corporation.

(e) If approval of the shareholders of 1 or more corporations party to the merger or share exchange was required, a statement that the plan was approved by the shareholders in accordance with section 703a.

(f) In the case of a merger governed by section 706, a statement that the merging corporation has not commenced business, has not issued any shares, has not elected a board, and that the plan of merger was approved by the unanimous consent of the incorporators.

(g) A statement of any assumed names of merging corporations transferred to the surviving corporation as authorized by section 217(3), specifying each transferred assumed name and the name of the corporation from which it is transferred. The certificate may include a statement of corporate names or assumed names of merging corporations that are to be treated as newly filed assumed names of the surviving corporation pursuant to section 217(4).

(2) The certificate of merger or share exchange shall become effective in accordance with section 131.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1711 Merger of parent and subsidiary corporations; approval; mailing copy or summary of plan of merger to minority shareholders; waiver; compliance; effectuation of merger under other provisions.

Sec. 711. (1) A domestic corporation owning not less than 90% of the outstanding shares of each class of another domestic corporation or corporations may merge the other corporation or corporations into itself, or may merge itself, or itself and any such subsidiary corporation or corporations, into any such subsidiary corporation, without approval of the shareholders of any of the corporations, except as provided in section 713. The board of the parent corporation shall approve a plan of merger setting forth those matters required to be set forth in a plan of merger under section 701. Approval by the board of any such subsidiary corporation is not required.

(2) If the parent corporation owns less than 100% of the outstanding shares of any constituent subsidiary corporation, the parent corporation shall mail promptly after the filing of the certificate of merger to each minority shareholder of record of each such subsidiary corporation, unless waived in writing, a copy or summary of the plan of merger and shall comply with the provisions of this chapter respecting dissenters' rights.

(3) The grant of power to merge under this section does not preclude the effectuation of a merger as elsewhere provided in this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1712 Merger of parent and subsidiary corporations; certificate of merger.

Sec. 712. (1) After a plan of merger is adopted as provided in section 711, a certificate of merger shall be executed and filed on behalf of the parent corporation and shall set forth all of the following:

(a) The statements required by section 701(2)(a) and (d) and the manner and basis of converting shares of each constituent corporation as set forth in the plan of merger.

(b) The number of outstanding shares of each class of each subsidiary corporation that is a party to the merger and the number of shares of each class owned by the parent corporation.

(c) A statement of any assumed names of merging corporations transferred to the surviving corporation as authorized by section 217(3), specifying each transferred assumed name and the name of the corporation from which it is transferred. The certificate may include a statement of corporate names or assumed names of merging corporations that are to be treated as newly filed assumed names of the surviving corporation pursuant to section 217(4).

(2) The merger shall become effective in accordance with section 131.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1713 Merger of parent and subsidiary corporations; approval of shareholders.

Sec. 713. (1) Approval by shareholders of a subsidiary corporation shall be obtained pursuant to its articles of incorporation, if the articles require approval of a merger by the affirmative vote of holders of more than the percentage of the shares of any class or series of the corporation then owned by the parent corporation.

(2) Approval of the shareholders of the parent corporation shall be obtained in either of the following


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cases:

(a) If its articles require shareholder approval of the merger.

(b) Pursuant to section 703a, if the plan of merger contains a provision which would amend any part of the articles of the parent corporation into which a subsidiary corporation is being merged, or a subsidiary corporation is to be the surviving corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1721-450.1723 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed sections pertained to surviving or new corporation, the effect of merger or consolidation on articles of incorporation.

### 450.1724 Merger; applicable provisions; share exchange.

Sec. 724. (1) When a merger takes effect, all of the following apply:

(a) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation party to the merger except the surviving corporation ceases.

(b) The title to all real estate and other property and rights owned by each corporation party to the merger are vested in the surviving corporation without reversion or impairment.

(c) The surviving corporation may use the corporate name and the assumed names of any merging corporation, if the filings required under section 217(3) and (4) are made.

(d) The surviving corporation has all liabilities of each corporation party to the merger.

(e) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

(f) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger.

(g) The shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1731-450.1734 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed sections pertained to merger or consolidation of foreign and domestic corporations, and application of MCL 450.1704 to surviving domestic corporation.

### 450.1735 Foreign corporations and domestic corporations; merger or share exchange; compliance; liability; power of foreign corporation not limited.

Sec. 735. (1) One or more foreign corporations may merge or enter into a share exchange with 1 or more domestic corporations if all of the following that apply are met:

(a) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger. If the parent corporation in a merger conducted pursuant to section 711 is a foreign corporation, it shall comply, notwithstanding the provisions of the laws of its jurisdiction of incorporation, with both of the following:

(*i*) Section 711(2) with respect to notice to shareholders of a domestic subsidiary corporation that is a party to the merger.

(*ii*) Section 712 with respect to the certificate of merger.

(b) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated.

(c) Each domestic corporation complies with the applicable provisions of sections 701 through 713.

(d) Each foreign corporation authorized to transact business in this state complies with section 1021 or 1035, as applicable.

(2) If the surviving corporation of a merger or the acquiring corporation in a share exchange is to be governed by the laws of a jurisdiction other than this state, it shall comply with the provisions of this act with respect to foreign corporations if it is to transact business in this state. The surviving corporation in a merger is liable, and is subject to service of process in a proceeding in this state, for the enforcement of an obligation of a domestic corporation that is party to the merger, and in a proceeding for the enforcement of a right of a dissenting shareholder of a domestic corporation against the surviving corporation.

(3) This section does not limit the power of a foreign corporation to acquire all or part of the shares of 1 or


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more classes or series of a domestic corporation through a voluntary exchange or otherwise.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2006, Act 72, Imd. Eff. Mar. 20, 2006.

**Compiler's note:** Former MCL 450.1735, which pertained to certificate of merger or consolidation of domestic and foreign corporations, was repealed by Act 303 of 1974, Imd. Eff. Oct. 21, 1974.

### 450.1736 Merger of domestic corporation with business organization.

Sec. 736. (1) As used in this section:

(a) "Business organization" means a domestic or foreign limited liability company, limited partnership, general partnership, or any other type of domestic or foreign business enterprise, incorporated or unincorporated, except a domestic corporation.

(b) "Entity" means a business organization or domestic corporation.

(c) "Obligated person" means a general partner of a limited partnership, a partner of a general partnership, or a participant in or an owner of an interest in any other type of business enterprise who, under applicable law, is generally liable for the obligations of the business enterprise.

(2) One or more domestic corporations may merge with 1 or more business organizations if the requirements of this section are satisfied. If all of the business organizations are foreign corporations, the merger shall proceed under section 735, without regard to this section.

(3) The merger is permitted by the law of the jurisdiction in which each constituent business organization is organized and each constituent business organization complies with that law in effecting the merger, and each foreign constituent business organization transacting business in this state complies with the applicable laws of this state.

(4) The board of each domestic corporation proposing to participate in a merger shall adopt a plan of merger, setting forth all of the following:

(a) The name of each constituent entity, the name of the constituent entity that will be the surviving entity, the street address of the surviving entity's principal place of business, and the type of organization of the surviving entity.

(b) For the domestic corporation, the designation and number of outstanding shares of each class and series, specifying the classes and series entitled to vote, each class and series entitled to vote as a class, and, if the number of shares is subject to change before the effective date of the merger, the manner in which the change may occur.

(c) The terms and conditions of the proposed merger, including the manner and basis of converting the shares, partnership interests, membership interests, or other ownership interests of each constituent entity into ownership interests or obligations of the surviving entity, or into cash or other consideration, which may include ownership interests or obligations of an entity not a party to the merger, or into a combination thereof.

(d) If the surviving entity is to be a domestic corporation, a statement of any amendment to the articles of incorporation of the surviving corporation to be effected by the merger or any restatement of the articles as provided in section 641(1), which shall be in the form of restated articles as provided in section 642.

(e) Other provisions with respect to the proposed merger as the board considers necessary or desirable.

(5) A plan of merger adopted by the board of each constituent domestic corporation shall be submitted for approval at a meeting of the shareholders as provided in section 703a(2).

(6) A domestic corporation that has not commenced business, has not issued any shares, and has not elected a board may merge with any domestic or foreign entity by unanimous consent of its incorporators. To effect the merger, the majority of the incorporators shall execute a certificate of merger in accordance with subsection (7).

(7) After a plan of merger is approved, a certificate of merger shall be executed and filed on behalf of each domestic corporation. The certificate shall set forth all of the following:

(a) A statement of the requirements set forth in subsection (4)(a), (b), and (d), and the manner and basis of converting the ownership interests of each constituent entity as set forth in the plan of merger.

(b) A statement that the plan of merger has been adopted by the board in accordance with subsection (4).

(c) A statement that the plan of merger will be furnished by the surviving entity, on request and without cost, to any shareholder of the domestic corporation.

(d) If approval of the shareholders of the domestic corporation was required, a statement that the plan was approved by the shareholders in accordance with subsection (5).

(e) In the case of a merger governed by subsection (6), a statement that the corporation has not commenced business, has not issued any shares, has not elected a board, and that the plan of merger was approved by the unanimous consent of the incorporators.

(f) A statement of any assumed names of merging entities transferred to the surviving entity as authorized


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by section 217(3), specifying each transferred assumed name and the name of the entity from which it is transferred. If the surviving entity is a domestic corporation or a foreign corporation authorized to transact business in this state, the certificate may include a statement of the names or assumed names of merging entities that are to be treated as newly filed assumed names of the surviving corporation pursuant to section 217(4).

(8) The certificate of merger shall become effective in accordance with section 131.

(9) When a merger takes effect, all of the following apply:

(a) Every other entity party to the merger merges into the surviving entity and the separate existence of every entity party to the merger except the surviving entity ceases.

(b) The title to all real estate and other property and rights owned by each entity party to the merger are vested in the surviving entity without reversion or impairment.

(c) The surviving entity may use the name and the assumed names of any merging entity, if the filings required by section 217(3) or (4) or other applicable statute are made.

(d) The surviving entity has all liabilities of each constituent entity. This section does not affect the liability, if any, of a person who was an obligated person with respect to a merging entity for acts or omissions that occurred before the merger.

(e) A proceeding pending against any entity party to the merger may be continued as if the merger did not occur, or the surviving entity may be substituted in the proceeding for the entity whose existence ceased.

(f) The articles of incorporation of a surviving domestic corporation are amended to the extent provided in the plan of merger.

(g) The ownership interests of each entity party to the merger that are to be converted into ownership interests or obligations of the surviving entity or into cash or other property are converted.

(10) If the surviving entity is a foreign business organization, it is subject to the laws of this state pertaining to the transaction of business in this state if it transacts business in this state. The surviving entity is liable, and is subject to service of process in a proceeding in this state, for the enforcement of an obligation of a domestic corporation that is party to the merger, and in a proceeding for the enforcement of a right of a dissenting shareholder of a domestic corporation against the surviving entity.

**History:** Add. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1741 Abandonment of merger or share exchange.

Sec. 741. At any time before the effective date of a certificate of merger or share exchange, the merger or share exchange may be abandoned, subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board. If a certificate of merger or share exchange has been filed by a corporation, it shall file a certificate of abandonment within 10 days after the abandonment, but not later than the proposed effective day.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1745 Conversion of domestic corporation into business organization; requirements; "business organization" and "entity" defined.

Sec. 745. (1) A domestic corporation may convert into a business organization if all of the following requirements are satisfied:

(a) The conversion is permitted by the law that will govern the internal affairs of the business organization after conversion and the surviving business organization complies with that law in converting.

(b) Unless subdivision (d) applies, the board of the domestic corporation proposing to convert adopts a plan of conversion that includes all of the following:

(*i*) The name of the domestic corporation, the name of the business organization into which the domestic corporation is converting, the type of business organization into which the domestic corporation is converting, identification of the statute that will govern the internal affairs of the surviving business organization, the street address of the surviving business organization, the street address of the domestic corporation if different from the street address of the surviving business organization, and the principal place of business of the surviving business organization.

(*ii*) For the domestic corporation, the designation and number of outstanding shares of each class and series, specifying the classes and series entitled to vote, each class and series entitled to vote as a class, and, if the number of shares is subject to change before the effective date of the conversion, the manner in which the change may occur.

(*iii*) The terms and conditions of the proposed conversion, including the manner and basis of converting the shares into ownership interests or obligations of the surviving business organization, into cash, into other


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consideration that may include ownership interests or obligations of an entity that is not a party to the conversion, or into a combination of cash and other consideration.

(*iv*) The terms and conditions of the organizational documents that are to govern the surviving business organization.

(*v*) Any other provisions with respect to the proposed conversion that the board considers necessary or desirable.

(c) If the board adopts the plan of conversion under subdivision (b), the plan of conversion is submitted for approval in the same manner required for a merger under section 703a(2), including the procedures pertaining to dissenters' rights if any shareholder has the right to dissent under section 762.

(d) If the domestic corporation has not commenced business, has not issued any shares, and has not elected a board, subdivisions (b) and (c) do not apply and the incorporators may approve of the conversion of the corporation into a business organization by unanimous consent. To effect the conversion, the majority of the incorporators must execute and file a certificate of conversion under subdivision (e).

(e) After the plan of conversion is approved under subdivisions (b) and (c) or the conversion is approved under subdivision (d), the domestic corporation files any formation documents required to be filed under the laws governing the internal affairs of the surviving business organization, in the manner prescribed by those laws, and files a certificate of conversion with the administrator. The certificate of conversion shall include all of the following:

(*i*) Unless subdivision (d) applies, all of the information described in subdivision (b)(*i*) and (*ii*) and the manner and basis of converting the shares of the domestic corporation contained in the plan of conversion.

(*ii*) Unless subdivision (d) applies, a statement that the board has adopted the plan of conversion by the board under subdivision (c), or if subdivision (d) applies to the conversion, a statement that the domestic corporation has not commenced business, has not issued any shares, and has not elected a board and that the plan of conversion was approved by the unanimous consent of the incorporators.

(*iii*) A statement that the surviving business organization will furnish a copy of the plan of conversion, on request and without cost, to any shareholder of the domestic corporation.

(*iv*) If approval of the shareholders of the domestic corporation was required, a statement that the plan was approved by the shareholders under subdivision (c).

(*v*) A statement specifying each assumed name of the domestic corporation to be used by the surviving business organization and authorized under section 217(5).

(2) Section 131 applies in determining when a certificate of conversion under this section becomes effective.

(3) When a conversion under this section takes effect, all of the following apply:

(a) The domestic corporation converts into the surviving business organization, and the articles of incorporation of the domestic corporation are canceled. Except as otherwise provided in this section, the surviving business organization is organized under and subject to the organizational laws of the jurisdiction of the surviving business organization as stated in the certificate of conversion.

(b) The surviving business organization has all of the liabilities of the domestic corporation. The conversion of the domestic corporation into a business organization under this section shall not be considered to affect any obligations or liabilities of the domestic corporation incurred before the conversion or the personal liability of any person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the domestic corporation with respect to matters arising before the conversion.

(c) The title to all real estate and other property and rights owned by the domestic corporation remain vested in the surviving business organization without reversion or impairment. The rights, privileges, powers, and interests in property of the domestic corporation, as well as the debts, liabilities, and duties of the domestic corporation, shall not be considered, as a consequence of the conversion, to have been transferred to the surviving business organization to which the domestic corporation has converted for any purpose of the laws of this state.

(d) The surviving business organization may use the name and the assumed names of the domestic corporation if the filings required under section 217(5) or any other applicable statute are made and the laws regarding use and form of names are followed.

(e) A proceeding pending against the domestic corporation may be continued as if the conversion had not occurred, or the surviving business organization may be substituted in the proceeding for the domestic corporation.

(f) The surviving business organization is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the domestic corporation was originally incorporated.


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(g) The shares of the domestic corporation that were to be converted into ownership interests or obligations of the surviving business organization or into cash or other property are converted.

(h) Unless otherwise provided in a plan of conversion adopted in accordance with this section, the domestic corporation is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute a dissolution of the domestic corporation.

(4) If the surviving business organization of a conversion under this section is a foreign business organization, it is subject to the laws of this state pertaining to the transaction of business in this state if it transacts business in this state. The surviving business organization is liable, and is subject to service of process in a proceeding in this state, for the enforcement of an obligation of the domestic corporation, and in a proceeding for the enforcement of a right of a dissenting shareholder of the domestic corporation against the surviving business organization.

(5) As used in this section and section 746, "business organization" and "entity" mean those terms as defined in section 736(1).

**History:** Add. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1746 Conversion of business organization into domestic corporation; requirements.

Sec. 746. (1) A business organization may convert into a domestic corporation if all of the following requirements are satisfied:

(a) The conversion is permitted by the law that governs the internal affairs of the business organization and the business organization complies with that law in converting.

(b) The business organization proposing to convert into a domestic corporation adopts a plan of conversion that includes all of the following:

(*i*) The name of the business organization, the type of business organization that is converting, identification of the statute that governs the internal affairs of the business organization, the name of the surviving domestic corporation into which the business organization is converting, the street address of the surviving domestic corporation, and the principal place of business of the surviving domestic corporation.

(*ii*) A description of all of the ownership interests in the business organization, specifying the interests entitled to vote, any rights those interests have to vote collectively or as a class, and if the ownership interests are subject to change before the effective date of the conversion, the manner in which the change may occur.

(*iii*) The terms and conditions of the proposed conversion, including the manner and basis of converting the ownership interests of the business organization into shares or obligations of the surviving domestic corporation, into cash, into other consideration that may include ownership interests or obligations of an entity that is not a party to the conversion, or into a combination of cash and other consideration.

(*iv*) The terms and conditions of the articles and bylaws that are to govern the surviving domestic corporation.

(*v*) Any other provisions with respect to the proposed conversion that the business organization considers necessary or desirable.

(c) If a plan of conversion is adopted by the business organization under subdivision (b), the plan of conversion is submitted for approval in the manner required by the law governing the internal affairs of that business organization.

(d) After the plan of conversion is approved under subdivisions (b) and (c), the business organization files a certificate of conversion with the administrator. The certificate of conversion shall include all of the following:

(*i*) All of the information described in subdivision (b)(*i*) and (*ii*) and the manner and basis of converting the ownership interests of the business organization contained in the plan of conversion.

(*ii*) A statement that the business organization has adopted the plan of conversion under subdivision (c).

(*iii*) A statement that the surviving business corporation will furnish a copy of the plan of conversion, on request and without cost, to any owner of the business organization.

(*iv*) A statement specifying each assumed name of the business organization to be used by the surviving domestic corporation and authorized under section 217(6).

(*v*) Articles of incorporation for the surviving domestic corporation that meet all of the requirements of this act applicable to articles of incorporation.

(2) Section 131 applies in determining when a certificate of conversion under this section becomes effective.

(3) When a conversion under this section takes effect, all of the following apply:

(a) The business organization converts into the surviving domestic corporation. Except as otherwise provided in this section, the surviving domestic corporation is organized under and subject to this act.

(b) The surviving domestic corporation has all of the liabilities of the business organization. The


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conversion of the business organization into a domestic corporation under this section shall not be considered to affect any obligations or liabilities of the business organization incurred before the conversion or the personal liability of any person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the business organization with respect to matters arising before the conversion.

(c) The title to all real estate and other property and rights owned by the business organization remain vested in the surviving domestic corporation without reversion or impairment. The rights, privileges, powers, and interests in property of the business organization, as well as the debts, liabilities, and duties of the business organization, shall not be considered, as a consequence of the conversion, to have been transferred to the surviving domestic corporation to which the business organization has converted for any purpose of the laws of this state.

(d) The surviving domestic corporation may use the name and the assumed names of the business organization if the filings required under section 217(6) or any other applicable statute are made and the laws regarding use and form of names are followed.

(e) A proceeding pending against the business organization may be continued as if the conversion had not occurred, or the surviving domestic corporation may be substituted in the proceeding for the business organization.

(f) The surviving domestic corporation is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the business organization was originally organized.

(g) The ownership interests of the business organization that were to be converted into shares or obligations of the surviving domestic corporation or into cash or other property are converted.

(h) Unless otherwise provided in a plan of conversion adopted in accordance with this section, the business organization is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute a dissolution of the business organization.

**History:** Add. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1751 Disposition of corporate property and assets; approval by shareholders.

Sec. 751. (1) A corporation may take any of the following actions upon the terms and conditions and for a consideration, which may consist in whole or in part of cash or other property, including shares, bonds, or other securities of any other domestic or foreign corporation authorized by its board of directors:

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

(b) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property and assets following shareholder approval of dissolution under section 804 if either of the following applies:

(*i*) The shares held by the shareholders who would be entitled to vote on a sale of assets under section 753 satisfy the requirements of section 762(2)(a) on the effective date of the dissolution.

(*ii*) The disposition of assets is pursuant to a plan of dissolution providing for the distribution of substantially all of the corporation's net assets to shareholders in accordance with their respective interests within 1 year after the date of the closing of the sale or other disposition, and the disposition is for cash or for shares that satisfy the requirements of section 762(2)(a) on the date of closing, or for any combination thereof.

(c) Transfer any or all of its property and assets to another corporation all of the shares of which are owned, or to another entity wholly owned, by the corporation, whether or not in the usual and regular course of business.

(d) Mortgage or pledge any or all of its property and assets whether or not in the usual and regular course of business.

(2) Unless otherwise provided in the articles of incorporation, approval by the shareholders of a transaction described in subsection (1) is not required.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1753 Disposition of corporate property and assets not in usual and regular course of business; recommendation and submission of transaction; notice; authorization; abandonment; disposition by second corporation; transaction as distribution.

Sec. 753. (1) Except as provided in section 751, a corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property and assets, with or without the goodwill, if not in the usual and regular course of its business as conducted by the corporation, on terms and conditions and for a consideration, which may consist in whole or in part of cash or other property, including shares, bonds, or other securities of any other corporation, domestic or foreign, as authorized under this section. A corporation


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has not disposed of all or substantially all of its property and assets if it retains a significant continuing business activity. For purposes of this subsection, it is conclusively presumed that a corporation has retained a significant continuing business activity if the corporation retains a business activity that represented at least 25% of total assets at the end of the most recently completed fiscal year, and 25% of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis.

(2) The board must recommend a transaction described in subsection (1) to the shareholders unless section 529 applies or the board determines that because of conflict of interest, events occurring after the board adopts the plan, contractual obligations, or other special circumstances it should make no recommendation. If the board does not recommend the transaction described in subsection (1) to the shareholders, or recommends against the transaction, in either case because 1 or more of the exceptions described in this subsection apply, the board must communicate to the shareholders the basis for its decision.

(3) The board may condition its submission of a transaction described in subsection (1) on any basis.

(4) A transaction described in subsection (1) shall be submitted for approval at a meeting of shareholders. Notice of the meeting shall be given to each shareholder of record whether or not entitled to vote at the meeting within the time and in the manner provided in this act for giving notice of meetings of shareholders. The notice shall include or be accompanied by both of the following:

(a) A statement summarizing the principal terms of the transaction or a copy of any documents containing the principal terms.

(b) A statement informing shareholders that are entitled to dissent under section 762 that they have the right to dissent and to be paid the fair value of their shares by complying with the procedures set forth in sections 762 to 772.

(5) At the meeting described in subsection (4), the shareholders may authorize the transaction described in subsection (1) and may fix, or may authorize the board to fix, any term or condition and the consideration to be received by the corporation. The authorization requires the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote on the transaction.

(6) Notwithstanding authorization by the shareholders, the board may abandon a transaction described in subsection (1), subject to the rights of third parties under any contracts relating to the sale, lease, exchange, or other disposition, without further action or approval by shareholders.

(7) A sale, lease, exchange, or other disposition of all, or substantially all, of the property and assets of a corporation or other entity a majority of the shares or beneficial interests of which are owned by a second corporation, including a change in shares of the corporation or beneficial interest in another entity held by the second corporation because of a merger or share exchange, is a disposition by the second corporation of its pro rata share of the property and assets of the corporation or other entity on a consolidated basis for purposes of this section.

(8) A transaction that is a distribution is governed by section 345 and not by this section or section 751.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1754 Rights of shareholders.

Sec. 754. Shareholders of a corporation that proposes to issue, directly or through a subsidiary, its shares, obligations, or securities in the course of a merger, acquisition of some or all of the outstanding shares of another corporation or interests in another entity, or acquisition of some or all of the assets other than cash of a corporation or other entity, have the rights to receive notice and to vote on the proposed merger or acquisition provided in section 703a(2) and to receive dissenters' rights as provided in section 762 if both of the following apply:

(a) The securities to be issued or delivered in the acquisition are or may be converted into shares of the acquiring corporation's common stock.

(b) The number of the acquiring corporation's common shares to be issued or delivered, plus those initially issuable upon conversion or exchange of any other securities to be issued or delivered, will exceed 100% of the number of its common shares outstanding immediately prior to the acquisition plus the number of its common shares, if any, initially issuable upon conversion or exchange of any other securities then outstanding.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1761 Definitions.

Sec. 761. As used in sections 762 to 774:

(a) “Beneficial shareholder” means the person who is a beneficial owner of shares held by a nominee as the


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record shareholder.

(b) “Corporation” means the issuer of the shares held by a dissenter before the corporate action, or the surviving corporation by merger of that issuer.

(c) “Dissenter” means a shareholder who is entitled to dissent from corporate action under section 762 and who exercises that right when and in the manner required by sections 764 through 772.

(d) “Fair value”, with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

(e) “Interest” means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(f) “Record shareholder” means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(g) “Shareholder” means the record or beneficial shareholder.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1988, Act 58, Eff. Apr. 1, 1988;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

**Compiler's note:** Section 2 of Act 58 of 1988 provides: “This amendatory act shall not apply to any domestic corporation before June 1, 1989, unless the corporation's board of directors adopts a resolution, pursuant to this section, electing to have this act apply to the corporation. The resolution shall specify the date after January 1, 1988 and before June 1, 1989 on which this act will apply to the corporation. The resolution shall be filed with the department of commerce, corporation and securities bureau, on or before the date that the act will apply to the corporation.”

### 450.1762 Right of shareholder to dissent and obtain payment for shares.

Sec. 762. (1) A shareholder is entitled to dissent from, and obtain payment of the fair value of his, her, or its shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party if shareholder approval is required for the merger under section 703a or 736(5) or the articles of incorporation and the shareholder is entitled to vote on the merger, or the corporation is a subsidiary that is merged with its parent under section 711.

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan.

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution but not including a sale pursuant to court order.

(d) Consummation of a plan of conversion to which the corporation is a party as the corporation that is being converted, if the shareholder is entitled to vote on the plan. However, any rights provided under this section are not available if that corporation is converted into a foreign corporation and the shareholder receives shares that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the corporation, as the shares held by the shareholder before the conversion.

(e) An amendment of the articles of incorporation giving rise to a right to dissent under section 621.

(f) A transaction giving rise to a right to dissent under section 754.

(g) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) Unless otherwise provided in the articles of incorporation, bylaws, or a resolution of the board, a shareholder may not dissent from any of the following:

(a) Any corporate action set forth in subsection (1)(a) to (f) as to shares that are listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, on the record date fixed to vote on the corporate action or on the date the resolution of the parent corporation's board is adopted in the case of a merger under section 711 that does not require a shareholder vote under section 713.

(b) A transaction described in subsection (1)(a) in which shareholders receive cash, shares that satisfy the requirements of subdivision (a) on the effective date of the merger, or any combination of cash and those shares.

(c) A transaction described in subsection (1)(b) in which shareholders receive cash, shares that satisfy the requirements of subdivision (a) on the effective date of the share exchange, or any combination of cash and those shares.


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(d) A transaction described in subsection (1)(c) that is conducted pursuant to a plan of dissolution providing for distribution of substantially all of the corporation's net assets to shareholders in accordance with their respective interests within 1 year after the date of closing of the transaction, if the transaction is for cash, shares that satisfy the requirements of subdivision (a) on the date of closing, or any combination of cash and those shares.

(e) A transaction described in subsection (1)(d) in which shareholders receive cash, shares that satisfy the requirements of subdivision (a) on the effective date of the conversion, or any combination of cash and those shares.

(3) A shareholder entitled to dissent and obtain payment for shares under subsection (1)(a) to (f) may not challenge the corporate action creating that entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

(4) A shareholder that exercises a right to dissent and seek payment for shares under subsection (1)(g) may not challenge the corporate action creating that entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1988, Act 58, Eff. Apr. 1, 1988;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

**Compiler's note:** Section 2 of Act 58 of 1988 provides: "This amendatory act shall not apply to any domestic corporation before June 1, 1989, unless the corporation's board of directors adopts a resolution, pursuant to this section, electing to have this act apply to the corporation. The resolution shall specify the date after January 1, 1988 and before June 1, 1989 on which this act will apply to the corporation. The resolution shall be filed with the department of commerce, corporation and securities bureau, on or before the date that the act will apply to the corporation."

### 450.1763 Rights of partial dissenter; assertion of dissenters' rights by beneficial shareholder.

Sec. 763. (1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in his or her name only if he or she dissents with respect to all shares beneficially owned by any 1 person and notifies the corporation in writing of the name and address of each person on whose behalf he or she asserts dissenters' rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he or she dissents and his or her other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on his or her behalf only if all of the following apply:

(a) He or she submits to the corporation the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights.

(b) He or she does so with respect to all shares of which he or she is the beneficial shareholder or over which he or she has power to direct the vote.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1764 Corporate action creating dissenters' rights; vote of shareholders; notice.

Sec. 764. (1) If proposed corporate action creating dissenters' rights under section 762 is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this act and shall be accompanied by a copy of sections 761 to 774.

(2) If corporate action creating dissenters' rights under section 762 is taken without a vote of shareholders, the corporation shall notify in writing all shareholders entitled to assert dissenters' rights that the action was taken and send them the dissenters' notice described in section 766. A shareholder who consents to the corporate action is not entitled to assert dissenters' rights.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1765 Notice of intent to demand payment for shares.

Sec. 765. (1) If proposed corporate action creating dissenters' rights under section 762 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must deliver to the corporation before the vote is taken written notice of his or her intent to demand payment for his or her shares if the proposed action is effectuated and must not vote his or her shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) is not entitled to payment for his or her shares under this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1766 Dissenters' notice; delivery to shareholders; contents.

Sec. 766. (1) If proposed corporate action creating dissenters' rights under section 762 is authorized at a shareholders' meeting, the corporation shall deliver a written dissenters' notice to all shareholders who


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satisfied the requirements of section 765.

(2) The dissenters' notice must be sent no later than 10 days after the corporate action was taken, and must provide all of the following:

(a) State where the payment demand must be sent and where and when certificates for shares represented by certificates must be deposited.

(b) Inform holders of shares without certificates to what extent transfer of the shares will be restricted after the payment demand is received.

(c) Supply a form for the payment demand that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether he or she acquired beneficial ownership of the shares before the date.

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than 30 nor more than 60 days after the date the subsection (1) notice is delivered.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1767 Duties of shareholder sent dissenter's notice; retention of rights; failure to demand payment or deposit share certificates.

Sec. 767. (1) A shareholder sent a dissenter's notice described in section 766 must demand payment, certify whether he or she acquired beneficial ownership of the shares before the date required to be set forth in the dissenters' notice pursuant to section 766(2)(c), and deposit his or her certificates in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits his or her share certificates under subsection (1) retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

(3) A shareholder who does not demand payment or deposit his or her share certificates where required, each by the date set in the dissenters' notice, is not entitled to payment for his or her shares under this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1985, Act 76, Imd. Eff. July 5, 1985;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1768 Restriction on transfer of shares without certificates; retention of rights.

Sec. 768. (1) The corporation may restrict the transfer of shares without certificates from the date the demand for their payment is received until the proposed corporate action is taken or the restrictions released under section 770.

(2) The person for whom dissenters' rights are asserted as to shares without certificates retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1985, Act 76, Imd. Eff. July 5, 1985;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1768a Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to referees.

### 450.1769 Payment by corporation to dissenter; accompanying documents.

Sec. 769. (1) Except as provided in section 771, within 7 days after the proposed corporate action is taken or a payment demand is received, whichever occurs later, the corporation shall pay each dissenter who complied with section 767 the amount the corporation estimates to be the fair value of his or her shares, plus accrued interest.

(2) The payment must be accompanied by all of the following:

(a) The corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and if available the latest interim financial statements.

(b) A statement of the corporation's estimate of the fair value of the shares.

(c) An explanation of how the interest was calculated.

(d) A statement of the dissenter's right to demand payment under section 772.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1770 Return of deposited certificates and release of transfer restrictions; effect of corporation taking proposed action.

Sec. 770. (1) If the corporation does not take the proposed action within 60 days after the date set for demanding payment and depositing share certificates, the corporation shall return the deposited certificates and release the transfer restrictions imposed on shares without certificates.


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(2) If after returning deposited certificates and releasing transfer restrictions, the corporation takes the proposed action, it must send a new dissenters' notice under section 766 and repeat the payment demand procedure.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1771 Election to withhold payment from dissenter; offer to pay estimated fair value of shares, plus accrued interest; statements; explanation.

Sec. 771. (1) A corporation may elect to withhold payment required by section 769 from a dissenter unless he or she was the beneficial owner of the shares before the date set forth in the dissenters' notice pursuant to section 766(2)(c).

(2) To the extent the corporation elects to withhold payment under subsection (1), after taking the proposed corporate action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who shall agree to accept it in full satisfaction of his or her demand. The corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment under section 772.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1772 Demand for payment of dissenter's estimate or rejection of corporation's offer and demand for payment of fair value and interest due; waiver.

Sec. 772. (1) A dissenter may notify the corporation in writing of his or her own estimate of the fair value of his or her shares and amount of interest due, and demand payment of his or her estimate, less any payment under section 769, or reject the corporation's offer under section 771 and demand payment of the fair value of his or her shares and interest due, if any 1 of the following applies:

(a) The dissenter believes that the amount paid under section 769 or offered under section 771 is less than the fair value of his or her shares or that the interest due is incorrectly calculated.

(b) The corporation fails to make payment under section 769 within 60 days after the date set for demanding payment.

(c) The corporation, having failed to take the proposed action, does not return the deposited certificates or release the transfer restrictions imposed on shares without certificates within 60 days after the date set for demanding payment.

(2) A dissenter waives his or her right to demand payment under this section unless he or she notifies the corporation of his or her demand in writing under subsection (1) within 30 days after the corporation made or offered payment for his or her shares.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1773 Petitioning court to determine fair value of shares and accrued interest; failure of corporation to commence proceeding; venue; parties; service; jurisdiction; appraisers; discovery rights; judgment.

Sec. 773. (1) If a demand for payment under section 772 remains unsettled, the corporation shall commence a proceeding within 60 days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The corporation shall commence the proceeding in the circuit court of the county in which the corporation's principal place of business or registered office is located. If the corporation is a foreign corporation without a registered office or principal place of business in this state, it shall commence the proceeding in the county in this state where the principal place of business or registered office of the domestic corporation whose shares are to be valued was located.

(3) The corporation shall make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their shares and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) is plenary and exclusive. The court may appoint 1 or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which


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the court finds the fair value of his or her shares, plus interest, exceeds the amount paid by the corporation or for the fair value, plus accrued interest, of his or her after-acquired shares for which the corporation elected to withhold payment under section 771.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1773a Referee; appointment; powers; compensation; duties; objections to report; application to court for action; adoption, modification, or recommitment of report; further evidence; judgment; review.

Sec. 773a. (1) In a proceeding brought pursuant to section 773, the court may, pursuant to the agreement of the parties, appoint a referee selected by the parties and subject to the approval of the court. The referee may conduct proceedings within the state, or outside the state by stipulation of the parties with the referee's consent, and pursuant to the Michigan court rules. The referee shall have powers that include, but are not limited to, the following:

(a) To hear all pretrial motions and submit proposed orders to the court. In ruling on the pretrial motion and proposed orders, the court shall consider only those documents, pleadings, and arguments that were presented to the referee.

(b) To require the production of evidence, including the production of all books, papers, documents, and writings applicable to the proceeding, and to permit entry upon designated land or other property in the possession or control of the corporation.

(c) To rule upon the admissibility of evidence pursuant to the Michigan rules of evidence.

(d) To place witnesses under oath and to examine witnesses.

(e) To provide for the taking of testimony by deposition.

(f) To regulate the course of the proceeding.

(g) To issue subpoenas, when a written request is made by any of the parties, requiring the attendance and testimony of any witness and the production of evidence including books, records, correspondence, and documents in the possession of the witness or under his or her control, at a hearing before the referee or at a deposition convened pursuant to subdivision (e). In case of a refusal to comply with a subpoena, the party on whose behalf the subpoena was issued may file a petition in the court for an order requiring compliance.

(2) The amount and manner of payment of the referee's compensation shall be determined by agreement between the referee and the parties, subject to the court's allocation of compensation between the parties at the end of the proceeding pursuant to equitable principles, notwithstanding section 774.

(3) The referee shall do all of the following:

(a) Make a record and reporter's transcript of the proceeding.

(b) Prepare a report, including proposed findings of fact and conclusions of law, and a recommended judgment.

(c) File the report with the court, together with all original exhibits and the reporter's transcript of the proceeding.

(4) Unless the court provides for a longer period, not more than 45 days after being served with notice of the filing of the report described in subsection (3), any party may serve written objections to the report upon the other party. Application to the court for action upon the report and objections to the report shall be made by motion upon notice. The court, after hearing, may adopt the report, may receive further evidence, may modify the report, or may recommit the report to the referee with instructions. Upon adoption of the report, judgment shall be entered in the same manner as if the action had been tried by the court and shall be subject to review in the same manner as any other judgment of the court.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1774 Costs of appraisal proceeding.

Sec. 774. (1) The court in an appraisal proceeding commenced under section 773 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under section 772.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable in the following manner:

(a) Against the corporation and in favor of any or all dissenters if the court finds the corporation did not substantially comply with the requirements of sections 764 through 772.

(b) Against either the corporation or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with


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respect to the rights provided by this act.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to those counsel reasonable fees paid out of the amounts awarded the dissenters who were benefited.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989.

CHAPTER 7A

### 450.1775 Meanings of words and phrases; inconsistent provisions.

Sec. 775. (1) For purposes of this chapter, the words and phrases in sections 776, 777, 778, and 779 have the meanings ascribed to them in those sections.

(2) To the extent that the provisions of this chapter alter voting rights or are otherwise inconsistent with other provisions of this act, the provisions of this chapter shall control.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984.

### 450.1776 Definitions; A, B.

Sec. 776. (1) "Affiliate" or "affiliated person" means a person that directly, or indirectly through 1 or more intermediaries, controls, is controlled by, or is under common control with a specified person.

(2) "Announcement date" means the first general public announcement or the first communication generally to shareholders of a corporation, whichever is earlier, of the proposal or intention to make a proposal concerning a business combination.

(3) "Associate", when used to indicate a relationship with any person, means any 1 of the following:

(a) Any corporation or organization, other than the corporation or a subsidiary of the corporation, in which the person is an officer, director, or partner, or is, directly or indirectly, the beneficial owner of 10% or more of any class of equity securities.

(b) Any trust or other estate in which the person has a beneficial interest of 10% or more or as to which the person serves as trustee or in a similar fiduciary capacity in connection with the trust or estate.

(c) Any relative or spouse of the person, or any relative of the spouse, who has the same home as the person or who is a director or officer of the corporation or any of its affiliates.

(4) "Beneficial owner", when used with respect to any voting stock, means a person that meets any of the following:

(a) Individually or with any of its affiliates or associates, beneficially owns voting stock, directly or indirectly.

(b) Individually or with any of its affiliates or associates, has any 1 of the following:

(*i*) The right to acquire voting shares, whether the right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise. A person is not considered the beneficial owner of voting shares that are tendered pursuant to a tender or exchange offer made by the person, or an affiliate or associate of the person, until the tendered voting shares are accepted for purchase or exchange.

(*ii*) The right to vote voting shares pursuant to any agreement, arrangement, or understanding. A person is not considered the beneficial owner of voting shares if the person's right to vote the shares under this subparagraph arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation to 10 or more persons.

(*iii*) Except as provided in subparagraph (*ii*), any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of voting shares with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the voting shares.

(5) "Business combination" means any 1 or more of the following:

(a) Any merger, conversion, consolidation, or share exchange of the corporation or any subsidiary that alters the contract rights of the shares as expressly set forth in the articles of incorporation or that changes or converts, in whole or in part, the outstanding shares of the corporation with either:

(*i*) Any interested shareholder.

(*ii*) Any other corporation, whether or not itself an interested shareholder, that is, or after the merger, conversion, consolidation, or share exchange would be, an affiliate of an interested shareholder that was an interested shareholder before the transaction.

(b) Any sale, lease, transfer, or other disposition, except in the usual and regular course of business, in 1 transaction or a series of transactions in any 12-month period, to any interested shareholder or any affiliate of any interested shareholder, other than the corporation or any of its subsidiaries, of any assets of the


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corporation or any subsidiary having, measured at the time the transaction or transactions are approved by the board of directors of the corporation, an aggregate book value as of the end of the corporation's most recently ended fiscal quarter of 10% or more of its net worth.

(c) The issuance or transfer by the corporation, or any subsidiary, in 1 transaction or a series of transactions, of any equity securities of the corporation or any subsidiary that have an aggregate market value of 5% or more of the total market value of the outstanding shares of the corporation to any interested shareholder or any affiliate of any interested shareholder, other than the corporation or any of its subsidiaries, except pursuant to the exercise of warrants or rights to purchase securities offered pro rata to all holders of the corporation's voting shares or any other method affording substantially proportionate treatment to the holders of voting shares.

(d) The adoption of any plan or proposal for the liquidation or dissolution of the corporation in which anything other than cash will be received by an interested shareholder or any affiliate of any interested shareholder.

(e) Any reclassification of securities, including any reverse stock split, or recapitalization of the corporation, or any merger, conversion, consolidation, or share exchange of the corporation with any of its subsidiaries that has the effect, directly or indirectly, in 1 transaction or a series of transactions, of increasing by 5% or more of the total number of outstanding shares, the proportionate amount of the outstanding shares of any class of equity securities of the corporation or any subsidiary that is directly or indirectly owned by any interested shareholder or any affiliate of any interested shareholder.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984;—Am. 1989, Act 31, Imd. Eff. May 24, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1777 Definitions; C, D.

Sec. 777. (1) “Common stock” means any stock other than preferred or preference stock.

(2) “Control”, “controlling”, “controlled by”, or “under common control with” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. The beneficial ownership of 10% or more of the voting shares of a corporation shall create a presumption of control.

(3) “Determination date” means the date on which an interested shareholder first became an interested shareholder.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984.

### 450.1778 Definitions; E to S.

Sec. 778. (1) "Equity security" means any 1 of the following:

(a) Any stock or similar security, certificate of interest, or participation in any profit sharing agreement, voting trust certificate, or voting share.

(b) Any security that is convertible, with or without consideration, into an equity security, or any warrant or other security that carries any right to subscribe to or purchase an equity security.

(c) Any put, call, straddle, or other option or privilege of buying an equity security from or selling an equity security to another person without being bound to do so.

(2) Subject to subsection (3), "interested shareholder" means any person, other than the corporation or any subsidiary, that is either of the following:

(a) The beneficial owner, directly or indirectly, of 10% or more of the voting power of the outstanding voting shares of the corporation.

(b) An affiliate of the corporation and at any time within the 2-year period immediately before the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding voting shares of the corporation.

(3) Both of the following apply for the purpose of determining whether a person is an interested shareholder under subsection (2)(a) or (b):

(a) The number of shares of voting shares considered to be outstanding includes all voting shares that are owned by the person except for those shares that are issuable under any agreement, arrangement, or understanding, or on the exercise of conversion rights, warrants or options, or otherwise.

(b) Voting shares acquired by the person from the corporation or acquired in a public offering by or on behalf of the corporation, whether acquired before or after the effective date of the amendatory act that added this subdivision, are not considered to be outstanding or beneficially owned by that person, unless the corporation determines otherwise by a resolution of the board adopted before the person acquired those voting shares.

(4) "Market value" means either of the following:


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(a) With respect to shares, the highest closing sale price during the 30-day period immediately preceding the date in question of a share that is listed on any of the following:

(*i*) The composite tape for New York stock exchange—listed securities.

(*ii*) If not listed under subparagraph (*i*), the New York stock exchange.

(*iii*) If not listed under subparagraph (*i*) or (*ii*), the principal United States security exchange registered under the securities exchange act of 1934, 15 USC 78a to 78pp.

(*iv*) If not listed under subparagraph (*i*), (*ii*), or (*iii*), the highest closing bid quotation during the 30-day period preceding the date in question as listed on the national association of securities dealers, inc. automated quotations system or any other system then in use.

(*v*) If a listing is not available under subparagraphs (*i*) to (*iv*), the fair market value of the shares, on the date in question, as determined in good faith by the corporation's board of directors.

(b) With respect to property other than cash or shares, the fair market value of the property on the date in question, as determined in good faith by the corporation's board of directors.

(5) "Subsidiary" means a legal entity of which a majority of the voting shares are owned, directly or indirectly, by another person.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984;—Am. 1989, Act 31, Imd. Eff. May 24, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2013, Act 123, Imd. Eff. Oct. 1, 2013.

### 450.1779 Definitions; V.

Sec. 779. (1) “Valuation date” means:

(a) In a business combination voted upon by shareholders, the day prior to the date of the shareholders vote or the day which is 20 calendar days prior to the consummation of the business combination, whichever is later.

(b) In a business combination not voted upon by shareholders, the date of the consummation of the business combination.

(2) “Voting shares” means those shares of a corporation entitled to vote generally in the election of directors.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984.

### 450.1780 Advisory statement and approval.

Sec. 780. In addition to any vote otherwise required by law or the articles of the corporation, a business combination shall require an advisory statement from the board of directors and approval by an affirmative vote of both of the following:

(a) Not less than 90% of the votes of each class of stock entitled to be cast by the shareholders of the corporation.

(b) Not less than 2/3 of the votes of each class of stock entitled to be cast by the shareholders of the corporation other than voting shares beneficially owned by the interested shareholder who is, or whose affiliate is, a party to the business combination or an affiliate or associate of the interested shareholder.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984;—Am. 1989, Act 31, Imd. Eff. May 24, 1989.

### 450.1781 Conditions for inapplicability of vote to business combination; inapplicability of certain provisions.

Sec. 781. (1) The vote required by section 780 shall not apply to a business combination if each of the following conditions are met:

(a) The aggregate amount of the cash and the market value as of the valuation date of consideration other than cash to be received per share by holders of common stock in the business combination is at least equal to the highest of the following:

(*i*) The highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees, and appropriately adjusted to account for any stock dividend, stock split, combination, or similar recapitalization affecting the shares, paid by the interested shareholder for any shares of common stock of the same class or series acquired by the interested shareholder within the 2-year period immediately before the announcement date of the proposal of the business combination, or in the transaction in which the shareholder became an interested shareholder, whichever is higher.

(*ii*) The market value per share of common stock of the same class or series on the announcement date or on the determination date, whichever is higher.

(b) The aggregate amount of the cash and the market value as of the valuation date for consideration other than cash to be received per share by holders of shares of any class or series of outstanding stock other than common stock is at least equal to the highest of the following, whether or not the interested shareholder has


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previously acquired any shares of a particular class or series of stock:

(*i*) The highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees, and appropriately adjusted to account for any stock dividend, stock split, combination, or similar recapitalization affecting the shares, paid by the interested shareholder for any shares of the class of stock acquired by it within the 2-year period immediately preceding the announcement date of the proposal of the business combination, or in the transaction in which it became an interested shareholder, whichever is higher.

(*ii*) The highest preferential amount per share to which the holders of shares of the class of stock are entitled in the event of any voluntary or involuntary liquidation, dissolution, or winding up of the corporation.

(*iii*) The market value per share of the class of stock on the announcement date or on the determination date, whichever is higher.

(c) The consideration to be received by holders of any class or series of outstanding stock shall be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series of stock. If the interested shareholder has paid for shares of any class of stock with varying forms of consideration, the form of consideration for the class of stock shall be either cash or the form used to acquire the largest number of shares of the class or series of stock previously acquired by the interested shareholder.

(d) After the interested shareholder has become an interested shareholder and before the consummation of a business combination, all of the following conditions are met:

(*i*) Any full periodic dividends, whether or not cumulative, on any outstanding preferred stock of the corporation are declared and paid at the regular date for those payments.

(*ii*) The annual rate of dividends paid on any class or series of stock of the corporation that is not preferred stock, except as necessary to reflect any subdivision of the stock, is not reduced, and the annual rate of dividends is increased as necessary to reflect any reclassification, including any reverse stock split, recapitalization, reorganization, or any similar transaction which has the effect of reducing the number of outstanding shares of the stock.

(*iii*) After the interested shareholder becomes an interested shareholder, the interested shareholder does not receive the benefit, directly or indirectly, except proportionately as a shareholder, of any loans, advances, guarantees, pledges, or other financial assistance or any tax credits or other tax advantages provided by the corporation or any of its subsidiaries, whether in anticipation of or in connection with the business combination or otherwise.

(*iv*) The interested shareholder does not become the beneficial owner of any additional shares of the corporation except as part of the transaction that resulted in the interested shareholder becoming an interested shareholder or by virtue of proportionate stock splits or stock dividends.

(*v*) There has been at least 5 years between the date of becoming an interested shareholder and the date the business combination is consummated.

(2) Subparagraphs (*i*) and (*ii*) of subsection (1)(d) do not apply if an interested shareholder or an affiliate or associate of the interested shareholder did not vote as a director of the corporation in a manner inconsistent with those subparagraphs and the interested shareholder, within 10 days after any act or failure to act inconsistent with those subparagraphs, notifies the board of directors of the corporation in writing that the interested shareholder disapproves of the act or failure to act and requests in good faith that the board of directors rectify the act or failure to act.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984;—Am. 1989, Act 31, Imd. Eff. May 24, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1782 Applicability of MCL 450.1780; resolution.

Sec. 782. (1) Whether or not a business combination is authorized or consummated in whole or in part after the effective date of this chapter or after the interested shareholder became an interested shareholder, the requirements of section 780 shall not apply to business combinations that specifically, generally, or generally by types, as to specifically identified or unidentified existing or future interested shareholders or their affiliates, have been approved or exempted from the requirements of section 780 by resolution of the board of directors of the corporation pursuant to either of the following:

(a) Not later than 4 months after the effective date of this chapter or an earlier date as may be irrevocably established by resolution of the board of directors.

(b) If involving transactions with a particular interested shareholder or its existing or future affiliates, at any time prior to the time that the interested shareholder first became an interested shareholder.

(2) Unless by its terms a resolution adopted under this section is made irrevocable, the resolution may be altered or repealed by the board of directors, but this action shall not affect any business combinations that have been consummated, or which are the subject of an existing agreement entered into, prior to the alteration or repeal.


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**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984.

### 450.1783 Applicability of MCL 450.1780; interested shareholder; resolution; election.

Sec. 783. (1) Unless the articles or bylaws of a corporation specifically provide otherwise, the requirements of section 780 shall not apply to business combinations of a corporation that on the effective date of this chapter had an existing interested shareholder, whether the business combination is with the existing shareholder, with any other person that becomes an interested shareholder after the effective date of this chapter, or a present or future affiliate of an existing interested shareholder. However, at any time after the effective date of this chapter, the board of directors of the corporation may elect by resolution to be subject, in whole or in part, as to specifically identified or unidentified interested shareholders, to the requirements of section 780.

(2) The articles or bylaws of a corporation may provide that if the board of directors adopts a resolution under subsection (1), the resolution shall be subject to approval of the shareholders in the manner and by the vote specified in the articles or bylaws.

(3) An election under this section may be added to but may not be altered or repealed except by an amendment to the articles of incorporation which was adopted by a vote of shareholders pursuant to the requirements of section 784(1)(b).

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984.

### 450.1784 Certain business corporations excepted from requirements of MCL 450.1780; shareholders considered as single beneficial owner.

Sec. 784. (1) Unless a corporation's articles of incorporation provide otherwise, the requirements of section 780 do not apply to any business combination of any of the following:

(a) A corporation that does not have a class of voting stock registered with the securities and exchange commission pursuant to section 12 of the securities exchange act of 1934, 15 USC 78*l*.

(b) A corporation whose original articles of incorporation contain a provision or whose shareholders adopt an amendment to the articles of the corporation after May 29, 1984 by a vote of not less than 90% of the votes of each class of stock entitled to be cast by the shareholders of the corporation and not less than 2/3 of the votes of each class of stock entitled to be cast by the shareholders of the corporation other than voting shares beneficially owned by interested shareholders of the corporation, that expressly elects not to be governed by this chapter.

(c) An investment company registered under the investment company act of 1940, 15 USC 80a-1 to 80a-64.

(2) For purposes of subsection (1)(a), all shareholders of a corporation that have executed an agreement to which the corporation is an executing party that governs the purchase and sale of shares of the corporation or a voting trust agreement that governs shares of the corporation are considered a single beneficial owner of the shares covered by the agreement.

**History:** Add. 1984, Act 115, Imd. Eff. May 29, 1984;—Am. 1989, Act 31, Imd. Eff. May 24, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

## CHAPTER 7B
## CONTROL SHARE ACQUISITIONS

### 450.1790-450.1799 Repealed. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

## CHAPTER 8
## DISSOLUTION

### 450.1801 Methods of dissolution.

Sec. 801. (1) A corporation may be dissolved in any of the following ways:

(a) Automatically by expiration of a period of duration to which the corporation is limited by its articles of incorporation.

(b) By action of the incorporators or directors under section 803.

(c) By action of the board and the shareholders under section 804.

(d) Pursuant to an agreement under section 488, effected by filing a certificate under section 805.

(e) By a judgment of the circuit court in an action brought under this act or otherwise.

(f) Automatically, under section 922, for failure to file an annual report or pay the filing fee.

(2) A corporation whose assets have been wholly disposed of under court order in receivership or bankruptcy proceedings may be summarily dissolved by order of the court having jurisdiction of the


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proceedings. A copy of the order shall be filed by the clerk of the court with the administrator.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1803 Conditions to dissolution by incorporators or directors; certificate of dissolution.

Sec. 803. (1) A corporation may be dissolved by action of its incorporators or directors, if the corporation complies with all of the following conditions:

(a) Has not commenced business.

(b) Has not issued any shares.

(c) Has no debts or other liabilities.

(d) Has received no payments on subscriptions for its shares, or, if it has received payments, has returned them to those entitled thereto, less any part thereof disbursed for expenses.

(2) The dissolution of the corporation shall be effected by a majority of the incorporators or directors, executing and filing a certificate of dissolution stating:

(a) The name of the corporation.

(b) That the corporation has not commenced business and has issued no shares, and has no debts or other liabilities.

(c) That the corporation has received no payments on subscriptions to its shares, or, if it has received payments, has returned them to those entitled thereto, less any part thereof disbursed for expenses.

(d) That a majority of the incorporators or directors have elected that the corporation be dissolved.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1804 Dissolution by action of board and shareholders; certificate of dissolution.

Sec. 804. (1) A corporation may be dissolved by action of its board and shareholders as provided in this section.

(2) A corporation's board may propose dissolution of a corporation for action by the shareholders.

(3) If it proposes a dissolution, the board must recommend the dissolution to the shareholders unless section 529 applies or the board determines that because of conflict of interest or other special circumstances it should make no recommendation. If the board does not recommend the dissolution to the shareholders, or recommends against the dissolution, in either case because 1 or more of the exceptions described in this subsection apply, the board must communicate to the shareholders the basis for its decision.

(4) A board may condition its submission of the proposal for dissolution of a corporation to the shareholders on any basis.

(5) A proposed dissolution of a corporation shall be submitted for approval at a meeting of shareholders. Notice shall be given to each shareholder of record whether or not entitled to vote at the meeting within the time and in the manner as provided in this act for the giving of notice of meetings of shareholders, and shall state that a purpose of the meeting is to vote on dissolution of the corporation.

(6) At the meeting described in subsection (5), the shareholders shall vote on the proposed dissolution. The dissolution is approved if it receives the affirmative vote of the holders of a majority of the outstanding shares of the corporation entitled to vote on the dissolution.

(7) If the dissolution of a corporation is approved, it shall be effected by the execution and filing of a certificate of dissolution on behalf of the corporation that states all of the following:

(a) The name of the corporation.

(b) The date and place of the meeting of shareholders at which the dissolution was approved.

(c) A statement that dissolution was proposed and approved by the requisite vote of the board and shareholders.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1805 Dissolution; execution and filing certificate.

Sec. 805. Dissolution pursuant to an agreement under section 488 is effected by executing and filing a certificate of dissolution on behalf of the corporation, stating the name of the corporation and that the corporation is dissolved pursuant to an agreement under section 488.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1806 Certificate of dissolution; filing; time of effectiveness; conditions; date stamp as evidence.

Sec. 806. (1) A certificate of dissolution filed with the administrator is effective at the time the certificate is first received by the administrator, not the date of filing, if all of the following are met:


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(a) The dissolution is pursuant to an agreement under section 488 or is commenced under section 804.

(b) The administrator receives the certificate of dissolution after June 21, 2003 and before June 30, 2003.

(c) The corporation published notice of dissolution of the corporation under section 842a after June 21, 2003 and before June 30, 2003.

(d) The certificate does not set forth a subsequent effective time, not later than 90 days after the date the certificate is received by the administrator.

(2) For purposes of subsection (1), the administrator's date stamp on the certificate of dissolution is evidence of the date the administrator received the certificate. If there are multiple date stamps on the certificate, the earliest date stamp is evidence of the date the administrator first received the certificate.

**History:** Add. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.1811 Revocation of dissolution proceedings; certificate of revocations.

Sec. 811. (1) Dissolution proceedings commenced pursuant to section 488 or 804 may be revoked before complete distribution of assets, if a proceeding pursuant to section 851 is not pending, by filing a certificate of revocation executed, in person or by proxy, by all the shareholders, stating that revocation is effective pursuant to this section and that all the shareholders of the corporation have executed the certificate in person or by proxy.

(2) Dissolution proceedings commenced pursuant to section 804 may also be revoked before complete distribution of assets, if a proceeding pursuant to section 851 is not pending, in the following manner:

(a) The board of directors shall adopt a resolution revoking the dissolution. The proposed revocation shall be submitted for approval at a meeting of shareholders. The shareholders shall be given the same notice of the meeting and the revocation shall be approved by the same vote as required by section 804 for the approval of dissolution.

(b) A certificate of revocation, stating that dissolution is revoked pursuant to this section, and giving the information required by section 804(7), shall be executed and filed on behalf of the corporation.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1815 Renewal of corporate existence; manner.

Sec. 815. A corporation whose term has expired may renew its corporate existence, if a proceeding pursuant to section 851 is not pending, in the following manner:

(a) The board shall adopt a resolution that the corporate existence be renewed. The proposed renewal shall be submitted for approval at a meeting of shareholders. Notice shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner provided in this act for the giving of notice of meetings of shareholders, and shall state that a purpose of the meeting is to vote on the renewal of corporate existence.

(b) At the meeting a vote of shareholders entitled to vote on the renewal shall be taken on the proposed renewal which shall be adopted upon receiving the affirmative vote of holders of a majority of the outstanding shares.

(c) If renewal of the corporate existence is approved, a certificate of renewal shall be executed and filed on behalf of the corporation, setting forth all of the following:

(*i*) The name of the corporation.

(*ii*) The date and place of the meeting of shareholders approving the renewal of existence.

(*iii*) A statement that renewal was approved by the requisite vote of directors and shareholders.

(*iv*) The duration of the corporation if other than perpetual.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1817 Effective date of revocation of dissolution or renewal of corporate existence; accrued penalty or liability unaffected; adoption of corporate name; rights of corporation.

Sec. 817. (1) When the certificate of revocation of dissolution or of renewal of existence is filed, the revocation of the dissolution proceedings or the renewal of the corporate existence becomes effective, and the corporation may again transact its business.

(2) Revocation of dissolution or renewal of corporate existence does not relieve the corporation of any penalty or liability accrued against it under any law of this state, and the corporation shall file any report and pay any fee required under this act for any year for which a report was not filed or a fee was not paid.

(3) Upon filing a certificate of revocation of dissolution or renewal of existence, the administrator may require the corporation to adopt a corporate name that conforms to the requirements of section 212.

(4) Upon compliance with the provisions of this section, the rights of the corporation are the same as though a dissolution or expiration of term had not occurred, and all contracts entered into and other rights


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acquired during the interval are valid and enforceable.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1821 Action by attorney general for dissolution; grounds.

Sec. 821. (1) The attorney general may bring an action in the circuit court of the county in which the principal place of business or registered office of the corporation is located for dissolution of a corporation upon the ground that the corporation has committed any of the following acts:

(a) Procured its organization through fraud.

(b) Repeatedly and willfully exceeded the authority conferred upon it by law.

(c) Repeatedly and willfully conducted its business in an unlawful manner.

(2) The enumeration in this section of grounds for dissolution does not exclude any other statutory or common law action by the attorney general for dissolution of a corporation or revocation or forfeiture of its corporate franchises.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1823 Action by director or shareholder for dissolution; judgment; proof.

Sec. 823. A corporation may be dissolved by a judgment entered in an action brought in the circuit court of the county in which the principal place of business or registered office of the corporation is located by 1 or more directors or by 1 or more shareholders entitled to vote in an election of directors of the corporation, upon proof of both of the following:

(a) The directors of the corporation, or its shareholders if an agreement among the shareholders authorized by section 488 is in effect, are unable to agree by the requisite vote on material matters respecting management of the corporation's affairs, or the shareholders of the corporation are so divided in voting power that they have failed to elect successors to any director whose term has expired or would have expired upon the election and qualification of his or her successor.

(b) As a result of a condition stated in subdivision (a), the corporation is unable to function effectively in the best interests of its creditors and shareholders.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2006, Act 63, Imd. Eff. Mar. 20, 2006.

### 450.1825 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to action by shareholder for dissolution and liquidation.

### 450.1831 Occurrences dissolving corporation.

Sec. 831. A corporation is dissolved when any of the following occurs:

(a) The period of duration stated in the corporation's articles of incorporation expires.

(b) A certificate of dissolution is filed pursuant to sections 803 to 805.

(c) A judgment of forfeiture of corporate franchises or of dissolution is entered by a court of competent jurisdiction and a copy of a judicial order of dissolution shall be forwarded promptly to the administrator by the receiver or other person designated by the court.

(d) Failure to file an annual report or pay an annual filing fee as provided in section 922.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1833 Corporate existence continued for purpose of winding up affairs.

Sec. 833. Except as a court may otherwise direct, a dissolved corporation shall continue its corporate existence but shall not carry on business except for the purpose of winding up its affairs by:

(a) Collecting its assets.

(b) Selling or otherwise transferring, with or without security, assets which are not to be distributed in kind to its shareholders.

(c) Paying its debts and other liabilities.

(d) Doing all other acts incident to liquidation of its business and affairs.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1834 Functions of dissolved corporation and its officers, directors, and shareholders continued.

Sec. 834. Subject to section 833 and except as otherwise provided by court order, a dissolved corporation, its officers, directors and shareholders shall continue to function in the same manner as if dissolution had not occurred. Without limiting the generality of this section:

(a) The directors of the corporation are not deemed to be trustees of its assets and shall be held to no


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greater standard of conduct than that prescribed by section 541a.

(b) Title to the corporation's assets remains in the corporation until transferred by it in the corporate name.

(c) The dissolution does not change quorum or voting requirements for the board or shareholders, and does not alter provisions regarding election, appointment, resignation or removal of, or filling vacancies among, directors or officers, or provisions regarding amendment or repeal of bylaws or adoption of new bylaws.

(d) Shares may be transferred.

(e) The corporation may sue and be sued in its corporate name and process may issue by and against the corporation in the same manner as if dissolution had not occurred.

(f) An action brought against the corporation before its dissolution does not abate because of the dissolution.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1841 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to notice to creditors of dissolved corporation.

### 450.1841a Notice to existing claimants of dissolution; contents; notice as recognition of validity of claim; conditions barring claim; "existing claim" defined; effective date of notice.

Sec. 841a. (1) The dissolved corporation may notify its existing claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice shall include all of the following:

(a) A description of the information that must be included in a claim. The corporation may demand sufficient information to permit it to make a reasonable judgment whether the claim should be accepted or rejected.

(b) A mailing address where a claim may be sent.

(c) The deadline, which may not be less than 6 months from the effective date of the written notice, by which the dissolved corporation must receive the claim.

(d) A statement that the claim will be barred if not received by the deadline.

(2) The giving of notice described above does not constitute recognition that a person to whom the notice is directed has a valid claim against the corporation.

(3) A claim against the dissolved corporation is barred if either of the following applies:

(a) If a claimant who was given written notice under subsection (1) does not deliver the claim to the dissolved corporation by the deadline.

(b) If a claimant whose claim was rejected by a written notice of rejection by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the written notice of rejection.

(4) For purposes of this section and section 842a, "existing claim" means any claim or right against the corporation, liquidated or unliquidated. It does not mean a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(5) For purposes of this section, the effective date of the written notice is the earliest of the following:

(a) The date it is received.

(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if it is mailed postpaid and correctly addressed.

(c) The date shown on the return receipt, if the notice is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1842 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to notice to creditors of dissolved corporation.

### 450.1842a Publication of notice of dissolution; requirements; claimants commencing proceedings within 1 year of notice.

Sec. 842a. (1) A dissolved corporation may also publish notice of dissolution at any time after the effective date of dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(2) The notice must be in accord with both of the following:

(a) Be published 1 time in a newspaper of general circulation in the county where the dissolved corporation's principal office, or if there is no principal office in this state, its registered office, is or was last located.


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(b) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within 1 year after the publication date of the newspaper notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 1 year after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under section 841a.

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on.

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) Notwithstanding subsection (3), a claimant having an existing claim known to the corporation at the time of publication in accordance with subsection (2) and who did not receive written notice under section 841a is not barred from commencing a proceeding until 6 months after the claimant has actual notice of the dissolution.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1843 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to rejection of creditor's claim.

### 450.1851 Judicial supervision of corporate affairs and liquidation of assets; permitting creditor to file claim or commence proceeding.

Sec. 851. (1) After a corporation has been dissolved in any manner, the corporation, a creditor, or a shareholder may apply at any time to the circuit court of the county in which the principal place of business or registered office of the corporation is located for a judgment that the affairs of the corporation and the liquidation of its assets continue under supervision of the court. The court shall make orders and judgments as may be required, including, but not limited to, continuance of the liquidation of the corporation's assets by its officers and directors under supervision of the court, or the appointment of a receiver of the corporation to be vested with powers as the court designates to liquidate the affairs of the corporation.

(2) For good cause shown, and so long as a corporation has not made complete distribution of its assets, the court may permit a creditor who has not delivered his or her claim or commenced a proceeding to enforce his or her claim within the time limits provided in sections 841a and 842a to file the claim or to commence a proceeding within the time as the court directs.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1855 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to distribution of assets to shareholders.

### 450.1855a Provision for debts, obligations, and liabilities; distribution of remaining assets.

Sec. 855a. Before making a distribution of assets to shareholders in dissolution, a corporation shall pay or make provision for its debts, obligations, and liabilities. Compliance with this section requires that, to the extent that a reasonable estimate is possible, provision be made for those debts, obligations, and liabilities anticipated to arise after the effective date of dissolution. Provision need not be made for any debt, obligation, or liability that is or is reasonably anticipated to be barred under section 841a or 842a. The fact that corporate assets are insufficient to satisfy claims arising after a dissolution does not create a presumption that the corporation has failed to comply with this section. Adequate provision is deemed to have been made for any debt, obligation, or liability of the corporation if payment has been assumed or guaranteed in good faith by 1 or more financially responsible corporations, persons, or the United States government or agency of the United States government, and the provision, including the financial responsibility of the corporations or other persons, was determined in good faith and with reasonable care by the board to be adequate. After payment or adequate provision has been made for the corporation's debts, obligations, or liabilities, the remaining assets shall be distributed, except as otherwise provided in this section, in cash, in kind, or both in cash and in kind, to shareholders according to their respective rights and interests. A shareholder beneficially owning less than 5% of the outstanding shares may be paid in cash only, even if a shareholder beneficially owning 5% or more of the outstanding shares receives a distribution in kind, if the ownership of all shareholders receiving cash instead of distributions in kind without their written consent does not exceed 10% of all outstanding shares.

**History:** Add. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.1861 Implementation of judicially confirmed plan of reorganization.


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Sec. 861. A corporation for which a plan of reorganization has been confirmed by the judgment of a court of competent jurisdiction pursuant to any applicable law of this state or the United States may put into effect and carry out the plan without action by its directors or shareholders. Such action may be taken, as directed in the judgment, by the receiver or trustee of the corporation appointed in the reorganization proceedings, or by any other person designated by the court.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1862 Powers of corporation under judicially confirmed plan of reorganization.

Sec. 862. (1) The corporation, in the manner provided in section 861 but without limiting the generality or effect of that section, may amend or repeal its bylaws; constitute or reconstitute and classify or reclassify its board of directors, and name, constitute or appoint directors and officers in place of, or in addition to any director or officer then in office; amend its articles of incorporation, and make any change in its capital or capital stock, or any other amendment, change or alteration, or provision, authorized by this act; be dissolved, transfer any part of its assets, and merge or consolidate as permitted by this act, but in any of these cases a shareholder does not have a statutory right of appraisal of his shares; change the location of its registered office and remove or appoint a resident agent; authorize and fix the terms, manner and conditions of the issuance of bonds, debentures or other obligations, whether or not convertible into shares of its capital stock of any class, or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of its capital stock of any class; and lease its property and franchises.

(2) Irrespective of any other provision of this act, the corporation may issue its shares of capital stock and its bonds for the consideration specified in the plan of reorganization after confirmation of the plan.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1863 Certificate or document filed or recorded pursuant to plan of reorganization.

Sec. 863. A certificate or other document required or permitted by law to be filed or recorded to accomplish any corporate purpose, sought to be accomplished pursuant to the plan of reorganization, shall be made, executed and acknowledged, as may be directed by such judgment by the persons designated in section 861. The certificate or document shall certify that provision for the making of the certificate or document is contained in the plan of reorganization or in a judgment of a court having jurisdiction of the proceeding, under such applicable statute of this state or of the United States for the reorganization of the corporation, and that the plan has been confirmed, as provided by such applicable statute, with the title and venue of the proceeding and the date of the judgment confirming the plan. The certificate or other document shall be filed as provided in section 131 and upon such filing becomes effective in accordance with the terms thereof and the provisions of sections 861 to 864.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.1864 Additional certificate or document filed to conform to plan of reorganization as finally confirmed; effect of filing; fees.

Sec. 864. (1) If after the filing of a certificate or other document the order of confirmation of the plan of reorganization is reversed or vacated or the plan is modified, other or further certificates or documents shall be filed as required to conform to the plan of reorganization as finally confirmed or to the judgment of the court.

(2) Except as otherwise provided in sections 861 to 864, a certificate or other document filed pursuant to this section or section 863 is not deemed to confer on a corporation any power, privilege or franchise, except those permitted to be conferred on a corporation formed or existing under this act.

(3) On the filing of a certificate or other document pursuant to this section or any other section of this act, the same fees shall be paid to the administrator as are payable by a corporation not in reorganization upon filing like certificates or documents.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

## CHAPTER 9
## REPORTS

### 450.1901 Financial report.

Sec. 901. (1) Each domestic corporation at least once in each year shall cause a financial report of the corporation for the preceding fiscal year to be made and distributed to each shareholder thereof within 4 months after the end of the fiscal year. The report shall include the corporation's statement of income, its year-end balance sheet, its statement of source and application of funds if prepared by the corporation, and any other information as may be required by this act.


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(2) The financial report required by subsection (1) may be distributed electronically, either by electronic transmission of the report or by making the report available for electronic transmission. If the report is distributed electronically under this subsection, the corporation shall provide the report in written form to a shareholder on request.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2001, Act 57, Imd. Eff. July 23, 2001.

### 450.1911 Annual report; filing date; contents; exception; information unchanged.

Sec. 911. (1) A domestic corporation and each foreign corporation subject to chapter 10 shall file a report with the administrator no later than May 15 of each year. The report shall be on a form approved by the administrator, signed by an authorized officer or agent of the corporation, and contain all of the following information:

(a) The name of the corporation.

(b) The name of its resident agent and address of its registered office in this state.

(c) The names and addresses of its president, secretary, treasurer, and directors.

(d) General nature and kind of business in which the corporation is engaged.

(e) For each foreign corporation authorized to transact business in this state, the total number of authorized shares and the most recent percentage used in computation of the tax required by the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(f) For each professional corporation, the names and addresses of its shareholders and a certification that both of the following are met:

(*i*) Each shareholder is a licensed person in 1 or more of the professional services provided by the professional corporation.

(*ii*) The corporation meets the other requirements of chapter 2A.

(2) A corporation formed or authorized to do business on or after January 1 and before May 16 of a calendar year is not required to file the report described in subsection (1) for that calendar year.

(3) If there are no changes in the information provided in the last filed report required under subsection (1), the corporation may file a report that certifies to the administrator that no changes in the required information have occurred since the last filed report. A report filed under this subsection shall be on a form approved by the administrator and filed no later than the date required under section 911.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1977, Act 36, Eff. Oct. 1, 1977;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1996, Act 196, Eff. May 17, 1996;—Am. 1996, Act 197, Imd. Eff. May 17, 1996;—Am. 2007, Act 182, Imd. Eff. Dec. 21, 2007;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.1913 Destruction or disposition of corporate documents by county clerk.

Sec. 913. The county clerk may destroy the copies of the corporate documents of a domestic or foreign corporation which were forwarded to his or her office in accordance with Act No. 327 of the Public Acts of 1931, as amended, being sections 450.62 to 450.192 of the Michigan Compiled Laws, and its predecessor act. The clerk may destroy or dispose of these records in accordance with section 5 of Act No. 271 of the Public Acts of 1913, as amended, being section 399.5 of the Michigan Compiled Laws.

**History:** Add. 1975, Act 286, Imd. Eff. Dec. 4, 1975;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1915 Repealed. 2003, Act 106, Imd. Eff. July 24, 2003.

**Compiler's note:** The repealed section pertained to annual report and filing fee.

### 450.1921 Neglecting or refusing to file report or pay fee; penalty; exception; waiver.

Sec. 921. (1) If a domestic or foreign corporation neglects or refuses to file a report or pay a fee required by this act within the time specified, the corporation, in addition to its liability for the fee, is subject to a penalty of $10.00 for each month or part of a month that the corporation is delinquent, not to exceed $50.00.

(2) The penalty prescribed in this section shall not apply during an extension granted pursuant to section 923.

(3) As to penalties assessed under this section, the administrator may waive the assessment of the penalties in whole or in part where it appears the assessment of the penalties would constitute an improper and inequitable imposition upon the corporation and the administrator finds the waiver of such penalties to be in the public interest.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1975, Act 11, Imd. Eff. Mar. 25, 1975;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983.


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### 450.1922 Dissolution of corporation or revocation of certificate of authority for neglecting or refusing to file reports or pay fee or penalty; notice of dissolution; right to certificate of good standing.

Sec. 922. (1) If a domestic corporation neglects or refuses to file any annual report or pay any annual filing fee or a penalty added to the fee required by law, and the neglect or refusal continues for a period of 2 years from the date on which the annual report or filing fee was due, the corporation shall be automatically dissolved 60 days after the expiration of the 2-year period. The administrator shall notify the corporation of the impending dissolution not later than 90 days before the 2-year period has expired. Until a corporation has been dissolved, it is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly incorporated as a domestic corporation and that it is validly in existence under laws of this state.

(2) If a foreign corporation neglects or refuses for 1 year to file the annual report or pay the annual filing fee or a penalty added to the fee required by law, its certificate of authority is subject to revocation in accordance with section 1042. Until revocation of its certificate of authority, or its withdrawal from this state or termination of its existence, the foreign corporation is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly authorized to transact business in this state and that it holds a valid certificate of authority to transact business in this state.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.1923 Extension of time for filing report; report to attorney general; action for imposition of penalties; notice of failure to file report.

Sec. 923. (1) If good cause is shown, the administrator may extend the time for filing a report for not more than 1 year from the due date of the filing.

(2) The administrator may report promptly to the attorney general any failure or neglect under sections 921, 922, 931, and 932, and the attorney general may bring an action for imposition of the prescribed penalties. If a domestic or foreign corporation neglects or refuses to file its report within the time prescribed by this act, the administrator shall notify the corporation of that fact by mail directed to its registered office not later than 90 days after the due date of the filing.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1924 Annual reports due or deficient; penalties and interest.

Sec. 924. Annual reports due or deficient prior to the date of this amendatory act shall be subject to the penalties and interest in effect at the statutory filing date. Interest shall accrue at such rates until the filing is completed.

**History:** Add. 1978, Act 32, Imd. Eff. Feb. 24, 1978.

### 450.1925 Renewal of corporate existence or certificate of authority by filing reports and paying fees and penalties; adoption of corporate name; effect of compliance.

Sec. 925. (1) A domestic corporation which has been dissolved under subsection (1) of section 922, or a foreign corporation whose certificate of authority has been revoked under subsection (2) of section 922 or section 1042, may renew its corporate existence or its certificate of authority by filing the reports and paying the fees for the years for which they were not filed and paid, and for every subsequent intervening year, together with the penalties provided by section 921. Upon filing the reports and payment of the fees and penalties, the corporate existence or the certificate of authority is renewed. The administrator may require the corporation to adopt or use within this state a corporate name that conforms to the requirements of section 212.

(2) Upon compliance with the provisions of this section, the rights of the corporation shall be the same as though a dissolution or revocation had not taken place, and all contracts entered into and other rights acquired during the interval shall be valid and enforceable.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1931 Wilful false statement in report; penalty.

Sec. 931. If a domestic or foreign corporation which is required to file a report as provided in section 911 wilfully makes a false statement in the report, it is subject to an additional penalty of $1,000.00.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978.


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### 450.1932 False or fraudulent report, certificate, or statement; falsification or alteration of books, records, or accounts; penalties.

Sec. 932. (1) A person who knowingly makes or files or a person who knowingly assists in the making or filing of a false or fraudulent report, certificate, or other statement required by this act to be filed by a domestic or foreign corporation with a public officer of this state, or a person knowing the same to be false or fraudulent, who procures, counsels, or advises the making or filing of a report, certificate, or statement, is guilty of a misdemeanor and is subject to a fine of not to exceed $1,000.00 for each offense.

(2) An officer or agent of a corporation who knowingly falsifies or wrongfully alters the books, records, or accounts of a corporation is guilty of a misdemeanor and is subject to a fine of not to exceed $1,000.00 for each such offense.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.1935 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to liability to creditor or shareholder for false representation or alteration.

## CHAPTER 10
## FOREIGN CORPORATIONS

### 450.2001 Foreign corporation transacting business in state on effective date of act.

Sec. 1001. A foreign corporation which is authorized to transact business in this state on the effective date of this act, for a purpose for which a corporation might secure such authority under this act, has the rights and privileges applicable to a foreign corporation which receives a certificate of authority to transact business in this state under this act. From the effective date of this act the corporation is subject to the duties, restrictions, penalties and liabilities prescribed herein for a foreign corporation which receives a certificate of authority to transact business in this state under this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2002 Foreign corporation with certificate of authority.

Sec. 1002. (1) A foreign corporation that receives a certificate of authority under this act, until a certificate of revocation or of withdrawal is issued under this act, has the same rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which the certificate of authority is issued. Except as otherwise provided in this act, the corporation is subject to the same duties, restrictions, penalties, and liabilities of a similar domestic corporation.

(2) This act does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009.

### 450.2003 Foreign corporation without certificate of authority.

Sec. 1003. A foreign corporation which transacts business in this state without a certificate of authority under this act is subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a foreign corporation which receives such certificate of authority, in addition to any other penalty or liability imposed by law.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2011 Certificate of authority as prerequisite to transacting business; scope of authority.

Sec. 1011. A foreign corporation shall not transact business in this state until it has procured a certificate of authority to transact business from the administrator. A foreign corporation may be authorized to transact business in this state that may be transacted lawfully in this state by a domestic corporation, to the extent that it is authorized to transact that business in the jurisdiction where it is organized, but no other business.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.2012 Activities not constituting transaction of business; applicability of section.

Sec. 1012. (1) Without excluding other activities which may not constitute transacting business in this state, a foreign corporation is not considered to be transacting business in this state, for the purposes of this act, solely because it is carrying on in this state any 1 or more of the following activities:

(a) Maintaining, defending, or settling any proceeding.

(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs.

(c) Maintaining bank accounts.


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(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities.

(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 real or personal property.

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(i) Owning, without more, real or personal property.

(j) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of like nature.

(k) Transacting business in interstate commerce.

(2) This section does not apply in determining the contacts or activities which may subject a foreign corporation to service of process or taxation in this state or to regulation under any other act of this state.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.2013 Loans.

Sec. 1013. A foreign corporation may acquire or, through another person entitled to transact business in this state, may make loans, or participations or interests therein, insured or guaranteed in whole or in part by the federal housing administration or the veterans' administration or a successor or similar agency of the federal government, which are secured in whole or in part by mortgages of real property located in this state, and a foreign corporation may purchase a loan, or participation or interest therein, secured in whole or in part by a mortgage of real property located in this state, without maintaining authority to transact business in this state under this act or any other law of this state relating to such qualification or authority and without paying fees with respect thereto. Neither the failure, heretofore or hereafter, of such a foreign corporation to qualify or maintain authority to transact business in this state under this act or any such other law of this state nor its failure, heretofore or hereafter, to pay fees with respect thereto affects or impairs its ownership of such loans or participations or interests therein, whether heretofore or hereafter made or acquired, or its right to collect and service the same through another person entitled to transact business in this state, or its right to enforce the same or to acquire, hold, protect, convey, lease and otherwise contract and deal with respect to the property mortgaged as security therefor.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2014 Applicability of MCL 450.2001 to 450.2055.

Sec. 1014. (1) Sections 1001 through 1055 shall apply to all of the following:

(a) A foreign corporation organized not for pecuniary profit.

(b) A foreign joint stock company.

(c) A foreign common law or statutory trust, by whatever term or designation known, having any of the powers or privileges of a corporation not possessed by an individual or partnership.

(2) Sections 1001 through 1055 shall not apply to either of the following:

(a) A foreign corporation permitted to do business in this state by license issued by the commissioner of insurance according to the provisions of law.

(b) The government of any state or political subdivision of the state or of the United States or of any foreign nation or any political subdivision of the United States or a foreign nation, or any corporation organized as an instrumentality of the government of any of the foregoing.

**History:** Add. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.2015 Certificate of authority to transact business; application; filing; contents.

Sec. 1015. To procure a certificate of authority to transact business in this state, a foreign corporation shall file with the administrator an application setting forth all of the following:

(a) The name of the corporation and the jurisdiction of its incorporation.

(b) The date of incorporation and the period of duration of the corporation.

(c) The street address, and the mailing address if different from the street address, of its main business or headquarters office.

(d) The street address of its registered office in this state, the mailing address if different from the street address, and the name of its resident agent in this state at the address, together with a statement that the resident agent is an agent of the corporation upon whom process against the corporation may be served.

(e) The character of the business it is to transact in this state, together with a statement that it is authorized


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to transact such business in the jurisdiction of its incorporation.

(f) Any additional information as the administrator may require in order to determine whether the corporation is entitled to a certificate of authority to transact business in this state and to determine the fees and taxes prescribed by law.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.2016 Foreign corporation; application; attaching certificate of good standing; fees; issuance of certificate of authority; duration of authority.

Sec. 1016. (1) A certificate setting forth that the corporation is in good standing under the laws of the jurisdiction of its incorporation, executed by the official of the jurisdiction who has custody of the records pertaining to corporations and dated not earlier than 30 days before filing of the application, shall be attached to the application of a foreign corporation. If the certificate is in a foreign language, a translation of the certificate under oath of the translator shall be attached to the certificate.

(2) Upon filing of the application, accompanied by the filing and franchise fees prescribed by law, the administrator shall issue to the foreign corporation a certificate of authority to transact business in this state. Upon the issuance of a certificate of authority, the foreign corporation is authorized to transact in this state any business of the character set forth in its application, which a domestic corporation formed under this act may lawfully transact. The authority continues so long as the foreign corporation retains its authority to transact such business in the jurisdiction of its incorporation and its authority to transact business in this state has not been surrendered, suspended, or revoked.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1993, Act 91, Eff. Oct. 1, 1993.

### 450.2021 Foreign corporation; amended application; conditions; contents; corporation as survivor of merger or conversion; increase in authorized shares.

Sec. 1021. (1) Except as otherwise provided in this section, if a foreign corporation authorized to transact business in this state changes its corporate name, enlarges, limits, or otherwise changes the business that the foreign corporation proposes to do in this state, or otherwise affects the information set forth in its application for certificate of authority to transact business in this state, the corporation shall file an amended application with the administrator not later than 30 days after the time that change becomes effective. A foreign corporation may make a change in the registered office or resident agent under section 242. An amended application under this subsection shall set forth all of the following:

(a) The name of the foreign corporation as it appears on the records of the administrator and the jurisdiction of its incorporation.

(b) The date the foreign corporation was authorized to do business in this state.

(c) If the name of the foreign corporation has been changed, a statement of the name relinquished, a statement of the new name, and a statement that the change of name has been effected under the laws of the jurisdiction of its incorporation and the date the change was effected.

(d) If the business the foreign corporation proposes to do in this state is to be enlarged, limited, or otherwise changed, a statement reflecting the change and a statement that the foreign corporation is authorized to do in the jurisdiction of its incorporation the business that it proposes to do in this state.

(e) Any additional information required by the administrator.

(2) If a foreign corporation that is authorized to transact business in this state is the survivor of a merger permitted under the laws of the jurisdiction in which the foreign corporation is incorporated, not later than 30 days after the merger becomes effective, the foreign corporation shall file a certificate issued by the proper officer of the jurisdiction of its incorporation attesting to the occurrence of the merger. If the merger changed the corporate name of the foreign corporation, enlarged, limited, or changed the business the foreign corporation proposes to do in this state, or affected the information set forth in the application, the foreign corporation shall also comply with subsection (1).

(3) If a foreign corporation that is authorized to transact business in this state is the survivor of a conversion permitted under the laws of the jurisdiction in which the foreign corporation is incorporated, not later than 30 days after the conversion becomes effective, the foreign corporation shall file a certificate issued by the proper officer of the jurisdiction of its incorporation attesting to the occurrence of the conversion. If the conversion changed the corporate name of the foreign corporation, enlarged, limited, or changed the business the foreign corporation proposes to do in this state, or affected the information set forth in the application, the foreign corporation shall also comply with subsection (1).

(4) A foreign corporation that has been authorized to transact business in this state and that, after its authorization, increases the number of authorized shares attributable to this state shall file an amended application giving a detailed account of the amount of the increase, and shall pay an additional franchise fee


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on account of the increase attributable to this state as prescribed by law. The amended application shall be filed within 30 days after the end of the corporation's fiscal year. The number of shares attributable to this state shall be determined under section 1062.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.2023 Repealed. 1993, Act 91, Eff. Oct. 1, 1993.

**Compiler's note:** The repealed section pertained to increase by foreign corporation of authorized stock attributable to state.

### 450.2031 Application for withdrawal from state.

Sec. 1031. A foreign corporation authorized to transact business in this state may withdraw from this state upon receiving from the administrator a certificate of withdrawal. The foreign corporation shall file an application for withdrawal setting forth:

(a) The name of the corporation and the jurisdiction of its incorporation.

(b) That the corporation is not transacting business in this state.

(c) That the corporation surrenders its authority to transact business in this state.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2032 Issuance and effect of certificate of withdrawal.

Sec. 1032. Upon filing the application for withdrawal, and payment of the filing fee prescribed by law, the administrator shall issue to the foreign corporation a certificate of withdrawal, and the following shall occur:

(a) The authority of the foreign corporation to transact business in this state shall cease.

(b) The authority of its resident agent in this state to accept service of process against the foreign corporation is revoked.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.2035 Information required to be filed on dissolution, termination, merger, conversion, or consolidation; assessment of unpaid fees; certificate of withdrawal; "business organization" defined.

Sec. 1035. (1) If a foreign corporation authorized to transact business in this state is dissolved, or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, or it is merged into, converted into, or consolidated with another corporation or business organization, it shall file with the administrator any information the administrator requires to determine and assess any unpaid fees payable by the foreign corporation as required by law and either of the following:

(a) A certificate of the official of the jurisdiction of incorporation of the foreign corporation who has custody of the records pertaining to corporations, evidencing the occurrence of the event.

(b) A certified copy of an order or judgment of a court of competent jurisdiction directing dissolution of the foreign corporation, the termination of its existence, or the cancellation of its authority.

(2) If a certificate, order, or judgment described in subsection (1) is filed and the filing fee prescribed by law is paid, the administrator shall issue a certificate of withdrawal that has the same effect as provided under section 1032.

(3) As used in this section, "business organization" means that term as defined in section 736(1).

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.

### 450.2041 Certificate of authority; grounds for revocation.

Sec. 1041. Subject to section 1042, in addition to any other ground for revocation provided by law, the administrator may revoke the certificate of authority of a foreign corporation to transact business in this state on any of the following grounds:

(a) The corporation fails to maintain a resident agent in this state as required under this act.

(b) The corporation, after changing its registered office or resident agent, fails to file a statement of the change as required under this act.

(c) The corporation fails to file an amended application as required under this act.

(d) The corporation, after becoming the survivor to a merger or conversion, fails to file the certificate attesting to the occurrence of the merger or conversion as required under this act.

(e) The corporation fails to file its annual report within the time required under this act, or fails to pay an annual filing fee required under this act.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013.


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### 450.2042 Certificate of authority; revocation; notice; certificate of revocation; effect.

Sec. 1042. (1) The administrator shall revoke a certificate of authority of a foreign corporation only if he or she has given the foreign corporation not less than 90 days' notice that a default under section 1041 exists and that its certificate of authority will be revoked unless the default is cured within 90 days after the notice is mailed, and the corporation fails within 90 days to cure the default.

(2) The notice shall be sent by first class mail to the corporation at its registered office in this state.

(3) Upon revoking a certificate of authority, the administrator shall issue a certificate of revocation and mail a copy to the corporation at its registered office in this state.

(4) Issuing the certificate of revocation has the same force and effect as issuing a certificate of withdrawal under section 1031.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997.

### 450.2051 Action or proceeding by or against foreign corporation without certificate of authority; order of dismissal; recommencement of action; validity of corporate contracts or acts.

Sec. 1051. (1) A foreign corporation transacting business in this state without a certificate of authority shall not maintain an action or proceeding in any court of this state until the corporation has obtained a certificate of authority. An action commenced by a foreign corporation having no certificate of authority shall not be dismissed if a certificate of authority has been obtained before the order of dismissal. Any such order of dismissal shall be without prejudice to the recommencement of such action or proceeding by the foreign corporation after it obtains a certificate of authority. This prohibition applies to:

(a) A successor in interest of the foreign corporation, except a receiver, trustee in bankruptcy, or other representative of creditors of the corporation.

(b) An assignee of the foreign corporation, except an assignee for value who accepts an assignment without knowledge that the foreign corporation should have but has not obtained a certificate of authority in this state.

(2) Failure of a foreign corporation to obtain a certificate of authority to transact business in this state does not impair the validity of a contract or act of the corporation, and does not prevent the corporation from defending an action or proceeding in a court of this state.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1982, Act 407, Eff. Jan. 1, 1983.

### 450.2055 Penalty for transacting business without certificate of authority.

Sec. 1055. In addition to any other liability imposed by law, a foreign corporation transacting business in this state without a certificate of authority shall forfeit to the state a penalty of not less than $100.00, nor more than $1,000.00, for each calendar month, not more than 5 years prior thereto, in which it has transacted business in this state without a certificate of authority. This penalty shall not exceed $10,000.00. The penalty shall be recovered with costs in an action prosecuted by the attorney general.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2056 Registration of corporate name by foreign corporation not authorized to transact business in state; filing; duration; notice; renewal.

Sec. 1056. (1) Any foreign corporation not authorized to transact business in this state and not required to be authorized to transact business in this state may register its corporate name under this act, if permissible under section 212.

(2) Registration shall be made by filing all of the following in the office of the administrator:

(a) An application for registration executed on behalf of the corporation, setting forth the name and the mailing address of the corporation, the jurisdiction of its incorporation, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged.

(b) A certificate dated not earlier than 30 days before filing of the application, setting forth that the corporation is in good standing under the laws of the jurisdiction of its incorporation, executed by the office of the jurisdiction which has custody of the records pertaining to corporations.

(3) Unless sooner terminated by the filing of a certificate of termination, the registration shall be effective until the close of the calendar year in which the application for registration is filed. However, registrations filed after September 30 of a year shall expire at the end of the following calendar year. The administrator shall notify the corporation of the impending expiration not later than 90 days before the expiration of the registration. A foreign corporation which has in effect a registration of its corporate name may renew the


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registration from year to year by filing annually an application for renewal and a certificate of good standing as required for the original registration. A renewal application may be filed between October 1 and December 31 in each year, and shall extend the registration for the following calendar year.

**History:** Add. 1982, Act 407, Eff. Jan. 1, 1983.

### 450.2060 Filing fees.

Sec. 1060. (1) The fees a person shall pay to the administrator when the documents described in this subsection are delivered to him or her for filing are as follows:

(a) Articles of a domestic corporation, $10.00.

(b) Application of a foreign corporation for a certificate of authority to transact business in this state, $10.00.

(c) Amendment to the articles of a domestic corporation, $10.00.

(d) Amended application for a certificate of authority to transact business in this state, $10.00.

(e) Certificate of merger, conversion, or share exchange under chapter 7, $50.00.

(f) Certificate attesting to the occurrence of a merger of a foreign corporation under section 1021, $10.00.

(g) Certificate of dissolution, $10.00.

(h) Application for withdrawal and issuance of a certificate of withdrawal of a foreign corporation, $10.00.

(i) Application for reservation of corporate name, $10.00.

(j) Certificate of assumed name or a certificate of termination of assumed name, $10.00.

(k) Statement of change of registered office or resident agent, $5.00.

(*l*) Restated articles of domestic corporations, $10.00.

(m) Certificate of abandonment, $10.00.

(n) Certificate of correction, $10.00.

(o) Certificate of revocation of dissolution proceedings, $10.00.

(p) Certificate of renewal of corporate existence, $10.00.

(q) For examining a special report required by law, $2.00.

(r) Certificate of registration of corporate name of a foreign corporation, $50.00.

(s) Certificate of renewal of registration of corporate name of a foreign corporation, $50.00.

(t) Certificate of termination of registration of corporate name of a foreign corporation, $10.00.

(u) Report required under section 911, $15.00 if paid after September 30, 2019. Before October 1, 2019, the fee is $25.00.

(2) The fees described in subsection (1) are in addition to any franchise fees prescribed in this act. The administrator shall not refund all or any part of a fee described in this section.

(3) Except as provided in subsection (9), the administrator shall deposit all fees received and collected under this section in the state treasury to the credit of the administrator, who may only use the money credited pursuant to legislative appropriation and only in carrying out those duties of the department required by law.

(4) The fees described in this section apply to documents filed by a domestic or foreign regulated investment company as defined in section 1064.

(5) If any money received by the administrator from fees paid under subsection (1)(u) is not appropriated to the department in that fiscal year, the money remaining from those fees shall revert to the general fund of this state.

(6) A minimum charge of $1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a corporation if a fee for that service is not described in subsection (1). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies the fee established in a schedule of fees adopted by the administrator with the approval of the state administrative board. The administrator shall retain the revenue collected under this subsection, and the department shall use it to defray the costs for its copying and certifying services.

(7) If a domestic or foreign corporation pays fees or penalties by check and the check is dishonored, the fee is unpaid and the administrator shall rescind the filing of all related documents.

(8) The administrator may accept a credit card in lieu of cash or check as payment of a fee under this act. The administrator shall determine which credit cards he or she shall accept for payment.

(9) The administrator may charge a nonrefundable fee of up to $50.00 for any document submitted or certificate sent by facsimile or electronic transmission. The administrator shall retain the revenue collected under this subsection and the department shall use it to carry out its duties required by law.

(10) The administrator shall waive any fee otherwise required under this section if a majority of the shares of the domestic or foreign corporation responsible for paying the fee are, and the corporation provides proof satisfactory to the administrator that those shares are, held by 1 or more honorably discharged veterans of the


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armed forces of the United States.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1974, Act 303, Imd. Eff. Oct. 21, 1974;—Am. 1977, Act 36, Eff. Oct. 1, 1977;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 2001, Act 57, Imd. Eff. July 23, 2001;—Am. 2003, Act 106, Imd. Eff. July 24, 2003;—Am. 2007, Act 83, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009;—Am. 2012, Act 315, Imd. Eff. Oct. 1, 2012;—Am. 2015, Act 66, Eff. Oct. 1, 2015.

### 450.2061 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to franchise fee for nonprofit corporations.

### 450.2062 Organization and admission fee; initial admission fee of foreign corporation for profit and foreign regulated investment company; fees for increase in authorized shares; additional admission fee; determining amount of authorized shares attributable to this state; information relating to determination of fees; "corporation" defined; determination of fee if capital of corporation not divided into shares; domestic corporation resulting from merger or consolidation; admission fees.

Sec. 1062. (1) A domestic corporation or cooperative association, organized for profit, or a domestic regulated investment company, at the time of filing its articles of incorporation, shall pay 1 of the following to the administrator as an initial organization and admission fee:

(a) For 60,000 or fewer authorized shares, $50.00.

(b) For more than 60,000 and fewer than 1,000,001 authorized shares, $100.00.

(c) For more than 1,000,000 and fewer than 5,000,001 authorized shares, $300.00.

(d) For more than 5,000,000 and fewer than 10,000,001 authorized shares, $500.00.

(e) For more than 10,000,000 authorized shares, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(2) The initial admission fee of a foreign corporation for profit and foreign regulated investment company applying for admission to do business in this state is $50.00 and 60,000 shares are considered initially attributable to this state at the time of admission.

(3) Every corporation incorporated under the laws of this state that increases its authorized shares, at the time of filing its amendment to the articles of incorporation, shall pay 1 of the following additional organizational fees:

(a) For an increase of 60,000 or fewer authorized shares, $50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares, $100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares, $300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares, $500.00.

(e) For an increase of more than 10,000,000 authorized shares, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares or portion of 10,000,000 authorized shares in excess of the initial 10,000,000 authorized shares.

(4) A foreign corporation authorized to transact business in this state that increases the number of authorized shares attributable to this state shall file an amended application in accordance with section 1021 and shall pay 1 of the following additional admission fees:

(a) For an increase of 60,000 or fewer authorized shares attributable to this state, $50.00.

(b) For an increase of more than 60,000 and less than 1,000,001 authorized shares attributable to this state, $100.00.

(c) For an increase of more than 1,000,000 and less than 5,000,001 authorized shares attributable to this state, $300.00.

(d) For an increase of more than 5,000,000 and less than 10,000,001 authorized shares attributable to this state, $500.00.

(e) For an increase of more than 10,000,000 authorized shares attributable to this state, $500.00 plus an additional $1,000.00 for each additional 10,000,000 authorized shares attributable to this state or portion of 10,000,000 authorized shares attributable to this state in excess of the initial 10,000,000 authorized shares attributable to this state.

(5) The number of authorized shares attributable to this state is determined by multiplying the total number of authorized shares by the most recent apportionment percentage used in the computation of the tax required by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. If the business activities are confined solely to this state, the total number of authorized shares are considered attributable to this state.


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(6) The administrator is authorized to require a corporation to furnish detailed and exact information relating to the determination of fees before making a final determination of the organization or admission franchise fee to be paid by the corporation.

(7) As used in this section, "corporation" includes a partnership association limited, a cooperative association, a joint association having any of the powers of a corporation, and a common law trust created by a statute of this state, another state, or a country exercising common law powers in the nature of a corporation, whether domestic or foreign, in addition to other corporations as are referred to in this act.

(8) If the capital of a corporation is not divided into shares, a fee for purposes of this section is determined as if the corporation had 60,000 shares.

(9) If a foreign corporation authorized to transact business in this state merges into a domestic corporation or consolidates with 1 or more corporations into a domestic corporation by complying with this act, the resulting domestic corporation shall pay an organization and admission fee for any increase in authorized shares or for any authorized shares as provided in this section, less the amount that the merging or consolidating foreign corporation previously paid to this state under this section as an initial or additional admission fee.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1973, Act 98, Imd. Eff. Aug. 8, 1973;—Am. 1978, Act 32, Imd. Eff. Feb. 24, 1978;—Am. 1982, Act 407, Eff. Jan. 1, 1983;—Am. 1989, Act 121, Eff. Oct. 1, 1989;—Am. 1993, Act 91, Eff. Oct. 1, 1993;—Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997;—Am. 2005, Act 212, Eff. Jan. 1, 2006;—Am. 2007, Act 182, Imd. Eff. Dec. 21, 2007.

### 450.2063 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to valuation of shares without par value as basis for franchise fees.

### 450.2064 “Regulated investment company” defined.

Sec. 1064. A regulated investment company, for purposes of this act, means any domestic or foreign corporation or association, common law or statutory trust, under whatever authority organized, which for any taxable year or period for purposes of federal income tax is registered and regulated under the investment company act of 1940, title I of chapter 686, 54 Stat. 789 and which for such taxable year or period is classified as a regulated investment company as defined in part 1 of subchapter M of chapter 1 of the internal revenue code, 26 U.S.C. 851 to 855.

**History:** 1972, Act 284, Eff. Jan. 1, 1973;—Am. 1989, Act 121, Eff. Oct. 1, 1989.

### 450.2098 Repeals.

Sec. 1098. The following acts and parts of acts are repealed:

(a) Act No. 226 of the Public Acts of 1885, being sections 450.351 to 450.354 of the Compiled Laws of 1948.

(b) Sections 1 to 61, 65 to 80, 82 to 91a and 187b of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.1 to 450.61, 450.65 to 450.80, 450.82 to 450.91a and 450.187b of the Compiled Laws of 1948.

(c) Act No. 16 of the Public Acts of the Extra Session of 1932, being sections 450.361 to 450.363 of the Compiled Laws of 1948.

(d) Act No. 48 of the Public Acts of 1947, as amended, being sections 450.431 and 450.432 of the Compiled Laws of 1948.

(e) Section 2908 of Act No. 236 of the Public Acts of 1961, being section 600.2908 of the Compiled Laws of 1948.

(f) Sections 1 to 3(b) of Act No. 85 of the Public Acts of 1921, as amended, being sections 450.301 to 450.303b of the Compiled Laws of 1948.

**History:** 1972, Act 284, Eff. Jan. 1, 1973.

### 450.2099 Repealed. 1989, Act 121, Eff. Oct. 1, 1989.

**Compiler's note:** The repealed section pertained to effective date of act.


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