

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 422 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Committee: Financial Services

Date Completed: 10-8-01

RATIONALE

In 1972, the Business Corporation Act was passed to regulate the manner in which corporations must be organized, operated, and dissolved, among other matters. Certain sections of the Act overlap an older law, the Revised Judicature Act. Since 1973, the State Bar of Michigan and the Legislature have been working on repealing and amending those sections of the Revised Judicature Act. According to the Business Law Section of the State Bar of Michigan, two sections dealing with the dissolution of corporations should be repealed, as one is duplicative and the other is inconsistent with the Business Corporation Act.

CONTENT

The bill would repeal the following two sections of the Revised Judicature Act (RJA) dealing with corporations.

Section 3520 details the manner in which certain corporations are dissolved. If a corporation is organized under the general acts or any special act of the Legislature authorizing its organization for the purpose of mining, smelting, or manufacturing, and the charter on the corporation has expired, a stockholder or creditor may bring a suit to dissolve the corporation. The Act specifies that nothing can prohibit the corporation from legally reorganizing, from extending the renewal of its corporate term, or from exercising its legal property rights. In the case of dissolution, the circuit court may appoint a vested receiver of the corporation's property.

Section 3615 states that an incorporated company that has remained insolvent for one

year, or has neglected to pay its debt for one year, must be dissolved.

MCL 600.3520 & 600.3615

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Section 3520 of the RJA is covered under Section 805 of the Business Corporation Act. This section specifies that a shareholder may, if the articles of incorporation in question contain such a provision, file a certificate of dissolution on behalf of the corporation. Section 3520 of the Revised Judicature Act should be repealed because it is duplicative.

Section 3615 of the RJA contains a one-year time limit on an insolvent corporation, after which it must dissolve. Section 801 of the Business Corporation Act, however, states, "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 proceedings." This does not specify a deadline for the dissolution. According to a representative of the Business Law Section of the State Bar of Michigan, the conflict between the two Acts creates problems for the courts; therefore, repealing this section from the Revised Judicature Act would be a sensible way to resolve the inconsistency.

Legislative Analyst: C. Layman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analysts: B. Bowerman

M. Tyszkiewicz

A0102\422a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.