Chapter 65

2009 EDITION

Nonprofit Corporations

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GENERAL PROVISIONS

(Definitions)

65.001 Definitions. As used in this chapter, unless otherwise specifically provided:

(1) "Anniversary" means that day each year exactly one or more years after the date of filing by the Office of the Secretary of State of the articles of incorporation in the case of a domestic corporation or the date of filing by the Office of the Secretary of State of an application for authority to transact business in the case of a foreign corporation. An event that would otherwise cause an anniversary to fall on February 29 shall be deemed to have occurred on February 28.

(2) "Approved by the members" or "approval by the members" means approved or ratified by the members entitled to vote on the issue through either:

(a) The affirmative vote of a majority of the votes of such members represented and voting at a duly held meeting at which a quorum is present or the affirmative vote of such greater proportion including the votes of any required proportion of the members of any class as the articles, bylaws or this chapter may provide for specified types of member action; or

(b) A written ballot or written consent in conformity with this chapter.

(3) "Articles of incorporation" or "articles" include amended and restated articles of incorporation and articles of merger, and corrections thereto.

(4) "Board" or "board of directors" means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated, except that no individual or group of individuals are the board of directors because of powers delegated to that individual or group pursuant to ORS 65.301.

(5) "Bylaws" means the code or codes of rules, other than the articles adopted pursuant to this chapter or the laws governing a foreign corporation, for the regulation or management of the affairs of the domestic or foreign corporation, irrespective of the name or names by which such rules are designated.

(6) "Class" means a group of memberships that have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights are the same if the rights are determined by a formula applied uniformly.

(7) "Contact address" means a mailing address at which a person affiliated with the organization will receive and transmit to the organization notices intended for the foreign or domestic corporation either when sending such notices to the registered agent is not practical or when a duplicate notice is desirable. The contact address may be the principal place of business, if any, or the business or residence address of any person associated with the corporation or foreign corporation who has consented to serve, but shall not be the address of the registered agent.

(8) "Corporation" or "domestic corporation" means a nonprofit corporation that is not a foreign corporation, and that is incorporated under or subject to the provisions of this chapter.

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

(10) "Deliver" includes mail.

(11) "Directors" means individuals designated in the articles or bylaws or elected by the incorporators to act as members of the board, and their successors.

(12) "Distribution" means the payment of a dividend or any part of the income or profit of a corporation to the corporation's members, directors or officers, other than payment of value for property received or services performed or payment of benefits in furtherance of the corporation's purposes.

(13) "Domestic business corporation" means a for profit corporation incorporated under ORS chapter 60.

(14) "Domestic limited liability company" means an entity that is an unincorporated association having one or more members and that is organized under ORS chapter 63.

(15) "Domestic professional corporation" means a corporation organized under ORS chapter 58 for the purpose of rendering professional services and for the purposes provided under ORS chapter 58.

(16) "Effective date of notice" has the meaning given that term in ORS 65.034.

(17) "Employee" includes an officer or director who is employed by the corporation with compensation for services beyond those encompassed by board membership.

(18) "Entity" includes a corporation, foreign corporation, business corporation and foreign business corporation, profit and nonprofit unincorporated association, corporation sole, business trust, partnership, two or more persons having a joint or common economic interest, any state, the United States, a federally recognized Native American or American Indian tribal government and any foreign government.

(19) "File," "filed" or "filing" means reviewed, accepted and entered in the Office of the Secretary of State.

(20) "Foreign business corporation" means a for profit corporation incorporated under laws other than the laws of this state.

(21) "Foreign corporation" means a corporation organized under laws other than the laws of this state that would be a nonprofit corporation if formed under the laws of this state.

(22) "Foreign limited liability company" means an entity that is an unincorporated association organized under laws other than the laws of this state and that is organized under a statute under which an association may be formed that affords to each of the entity's members limited liability with respect to liabilities of the entity.

(23) "Foreign professional corporation" means a professional corporation organized under laws other than the laws of this state.

(24) "Governmental subdivision" includes an authority, county, district and municipality.

(25) "Includes" denotes a partial definition.

(26) "Individual" means a natural person and includes the guardian of an incompetent individual.

(27) "Means" denotes an exhaustive definition.

(28)(a) "Member" means a person or persons entitled, pursuant to a domestic or foreign corporation's articles or bylaws, without regard to what the person is called in the articles or bylaws, to vote on more than one occasion for the election of a director or directors.

(b) A person is not a member by virtue of any of the following rights the person has:

(A) As a delegate;

(B) To designate or appoint a director or directors;

(C) As a director; or

(D) As a holder of an evidence of indebtedness issued or to be issued by the corporation.

(c) Notwithstanding the provisions of paragraph (a) of this subsection, a person is not a member if the person's membership rights have been eliminated as provided in ORS 65.164 or 65.167.

(29) "Membership" refers to the rights and obligations a member has under this chapter.

(30) "Mutual benefit corporation" means a domestic corporation that is formed as a mutual benefit corporation pursuant to ORS 65.044 to 65.067, is designated a mutual benefit corporation by a statute or does not come within the definition of public benefit or religious corporation.

(31) "Nonprofit corporation" means mutual benefit corporations, public benefit corporations and religious corporations.

(32) "Notice" has the meaning given that term in ORS 65.034.

(33) "Office" when used to refer to the administrative unit directed by the Secretary of State, means the Office of the Secretary of State.

(34) "Person" includes any individual or entity.

(35) "Principal office" means the place in or out of this state so designated in the most recent annual report filed pursuant to ORS 65.787 or, if no annual report is on file, as designated in the articles of incorporation or the application for authority to transact business in this state, that is the place where the principal executive offices of a domestic or foreign corporation are located or, if none, the contact address.

(36) "Proceeding" includes civil, criminal, administrative and investigatory action.

(37) "Public benefit corporation" means a domestic corporation that:

(a) Is formed as a public benefit corporation pursuant to ORS 65.044 to 65.067, is designated as a public benefit corporation by a statute, is recognized as tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 or is otherwise organized for a public or charitable purpose;

(b) Is restricted so that on dissolution the corporation must distribute the corporation's assets to an organization organized for a public or charitable purpose, a religious corporation, the United States, a state or a person that is recognized as exempt under section 501 (c) (3) of the Internal Revenue Code of 1986; and

(c) Does not come within the definition of "religious corporation."

(38) "Record date" means the date established under ORS 65.131 to 65.177 or 65.201 to 65.254 on which a corporation determines the identity of the corporation's members and their membership rights for the purposes of this chapter. The determinations shall be made as of the time of close of transactions on the record date unless another time for doing so is specified at the time the record date is fixed.

(39) "Religious corporation" means a domestic corporation that is formed as a religious corporation pursuant to ORS 65.044 to 65.067, is designated a religious corporation

by a statute or is organized primarily or exclusively for religious purposes.

(40) "Secretary," when used in the context of a corporate official, means the corporate officer to whom the board of directors has delegated responsibility under ORS 65.371 for preparing the minutes of the directors' and members' meetings and for authenticating the records of the corporation.

(41) "State" when referring to a part of the United States, includes a state, commonwealth, territory and insular possession of the United States and the agencies and governmental subdivisions of the state, commonwealth, territory or insular possession.

(42) "Uncompensated officer" means an individual who serves in an office without compensation for personal service. For purposes of this subsection, payment solely for actual expenses in performing duties of the officer or a stipend that is paid only to compensate the average expenses the individual incurs over the course of a year is not compensation.

(43) "United States" includes district, authority, bureau, commission, department and any other agency of the United States.

(44) "Vote" includes authorization by written ballot and written consent, where permitted.

(45) "Voting power" means the total number of votes entitled to be cast on the issue at the time the determination of voting power is made, excluding a vote that is contingent upon the happening of a condition or event that has not occurred at the time. When a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors. [1989 c.1010 §14; 1991 c.231 §1; 2001 c.315 §35; 2005 c.107 §4; 2009 c.14 §4; 2009 c.294 §7]

(Filing Documents)

65.004 Filing requirements. (1) A document must satisfy the requirements of this section, except as any other provision of this chapter modifies these requirements, to be entitled to filing by the Secretary of State under authority of this chapter.

(2) The document must be one required or permitted to be filed in the Office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may contain other information as well.

(4) The document must be legible.

(5) The document must be written in the alphabet used to write the English language, but may include Arabic or Roman numerals and incidental punctuation. The certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(6) The document must be executed:

(a) By a fiduciary, receiver or trustee, if the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary;

(b) By an incorporator, if directors have not been selected or its execution is before the organizational meeting;

(c) By the person specified in any section of this chapter that required the document be filed; or

(d) By the chairperson of the board of directors of a domestic or foreign corporation, its president or otherwise by another of its officers.

(7) The document shall state beneath or opposite the signature the name of the person and the capacity in which the person signs. The document may, but is not required to, contain:

(a) The corporate seal;

(b) An attestation by the secretary or an assistant secretary; or

(c) An acknowledgment, verification or proof.

(8) If the Secretary of State has prescribed a mandatory form for a document under ORS 65.016, the document must be in or on the prescribed form.

(9) The document must be delivered to the Office of the Secretary of State for filing and must be accompanied by the correct filing fee.

(10) A document is deemed filed or effective only as provided in ORS 56.080, 65.001, 65.011, 65.014 and 65.017. [Amended by 1999 c.486 §10]

65.007 Filing, service, copying and certification fees. The Secretary of State shall collect the fees described in ORS 56.140 for each document delivered for filing under this chapter and for process served on the secretary under this chapter. The secretary may collect the fees described in ORS 56.140 for copying any public record under this chapter, certifying the copy or certifying to other facts of record under this chapter. [1989 c.1010 §§5,5a; 1991 c.132 §5; 1999 c.652 §12]

65.011 Effective time and date of document. (1) Except as provided in subsection (2) of this section, ORS 56.080 and 65.014, a document accepted for filing after review is effective:

(a) On the date it is filed by the Secretary of State; and

(b) At the time, if any, specified in the document as its effective time or at 12:01

a.m. on that date if no effective time is specified.

(2) If a document specifies a delayed effective time and date, the document becomes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective at 12:01 a.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed. [1989 c.1010 §6]

65.014 Correcting filed document. (1) A domestic or foreign corporation may correct a document filed by the Secretary of State other than an annual report, if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified or acknowledged.

(2) Errors in annual reports may be corrected as provided in ORS 65.787.

(3) A domestic or foreign corporation seeking to correct a document shall deliver the articles of correction to the Office of the Secretary of State for filing. The articles shall include the following:

(a) A description of the incorrect document, including its filing date or a copy of the document;

(b) A description of the incorrect statement and the reason it is incorrect or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective; and

(c) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(4) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed by the Secretary of State.

(5) An incorrect document with a delayed effective date may also be corrected by withdrawal and new filing pursuant to the provisions of ORS 56.080. [1989 c.1010 §7]

65.016 Forms; rules. Upon request, the Secretary of State may furnish forms for documents required or permitted to be filed by this chapter. The Secretary of State may by rule require the use of the forms. [1989 c.1010 §4; 1995 c.215 §13]

65.017 Filing duty of Secretary of State. (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of ORS 65.004, the Secretary of State shall file it.

(2) The Secretary of State files a document by indicating thereon that it has been filed by the Secretary of State and the date of filing. The time of filing shall be deemed to be 12:01 a.m. on that date. After filing a document, except those referred to in ORS 65.114, 65.671, 65.674, 65.724 and 65.787, the Secretary of State shall return an acknowledgment of filing to the domestic or foreign corporation or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the domestic or foreign corporation or its representative within 10 business days after the document was received by the Office of the Secretary of State, together with a brief written explanation of the reason or reasons for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial. The Secretary of State is not required to verify or inquire into the legality or truth of any matter included in any document delivered to the Office of the Secretary of State for filing. Except as provided elsewhere in this chapter, the Secretary of State's filing or refusing to file a document does not:

(a) Affect the validity or invalidity of the document in whole or in part except as provided in ORS 65.051; or

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

(5) The Secretary of State's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1989 c.1010 §8; 1999 c.486 §11]

65.021 Appeal from Secretary of State's refusal to file document. If the Secretary of State refuses to file a document delivered to the Office of Secretary of State for filing, the domestic or foreign corporation, in addition to any other legal remedy which may be available, shall have the right to appeal from such final order pursuant to the provisions of ORS 183.484. [1989 c.1010 §9]

65.024 Evidentiary effect of certified copy of filed document or secretary's certificate. (1) A certificate bearing the Secretary of State's signature, which may be in facsimile, and attached to a copy of a document is conclusive evidence that the original document or a facsimile thereof is on file with the Office of the Secretary of State.

(2) The following shall be received in all courts, public offices and official bodies of this state as prima facie evidence of the facts stated therein, unless a greater evidentiary effect is provided in ORS 65.027 and 65.051 or elsewhere in this chapter or it is shown that the document was thereafter corrected

or withdrawn from the files of the Office of the Secretary of State:

(a) All facts stated in certificates issued by the Office of the Secretary of State with respect to its business registry functions including a certificate of compliance or noncompliance of a document with filing requirements or other provisions of law administered by the Office of the Secretary of State, or a certificate as to the existence or nonexistence of facts which would appear from presence or absence of documents in the files of the Office of the Secretary of State; and

(b) All facts stated in documents certified as filed by the Office of the Secretary of State, but only to the extent the specific items were required to be included in the document by this chapter or ORS chapter 61 (1987 Replacement Part). [1989 c.1010 §10]

65.027 Certificate of existence or authorization. (1) Anyone may apply to the Office of the Secretary of State to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

(2) A certificate of existence or authorization, when issued, means that:

(a) The domestic corporation's corporate name or the foreign corporation's corporate name is of active record in this state;

(b) The domestic corporation is duly incorporated under the law of this state or the foreign corporation is authorized to transact business in this state;

(c) All fees payable to the Secretary of State under this chapter have been paid, if nonpayment affects the existence or authorization of the domestic or foreign corporation;

(d) An annual report if required by ORS 65.787 has been filed by the Secretary of State within the preceding 14 months; and

(e) Articles of dissolution or an application for withdrawal have not been filed by the Secretary of State.

(3) A person may apply to the Secretary of State to issue a certificate covering any fact of record.

(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this state. [1989 c.1010 §11]

(Secretary of State)

65.031 Powers. The Secretary of State has the power reasonably necessary to perform the duties required of the Office of the Secretary of State by this chapter. [1989 c.1010 §13]

(Notice)

65.034 Notice. (1) Notice may be oral or written unless otherwise specified for a particular kind of notice.

(2) Notice may be communicated in person, by telephone, telegraph, teletype or other form of wire or wireless communication, or by mail or private carrier, including publication in a newsletter or similar document mailed to a member's or director's address. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where the meeting is to be held, or by radio, television or other form of public broadcast communication.

(3) Written notice by a domestic or foreign corporation to its member, if in a comprehensible form, is effective when mailed if it is mailed postpaid and is correctly addressed to the member's address shown in the corporation's current records of members.

(4) Oral notice is effective when communicated if communicated in a comprehensible manner.

(5) Except as provided in subsection (3) of this section, personal written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) When received;

(b) Five days after its postmark, if mailed by United States mail correctly addressed and with first class postage affixed;

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee;

(d) Thirty days after its deposit in the United States mail if mailed correctly addressed and with other than first class, registered or certified postage affixed; or

(e) The date specified by the articles of incorporation or bylaws with respect to notice to directors.

(6)(a) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

(b) A written notice or report delivered as part of a newsletter, magazine or other publication sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same ad-

dress in the corporation's current list of members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

(c) Written notice is correctly addressed to a domestic or foreign corporation authorized to transact business in this state, other than in its capacity as a member, if addressed to its registered agent or, if none is of record, to its principal office shown in its most recent annual report or, if none, in the articles of incorporation or its application for a certificate of authority to do business.

(7) If ORS 65.214 or any other provision of this chapter prescribes different notice requirements for particular circumstances, those requirements govern. If articles or bylaws prescribe different notice requirements, not less stringent than the provisions of this section or other provisions of this chapter, those requirements govern. [1989 c.1010 §15]

(Private Foundations)

65.036 Private foundations. Except where otherwise determined by a court of competent jurisdiction, a corporation which is a private foundation as defined in section 509 of the Internal Revenue Code of 1986 shall:

(1) Distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Internal Revenue Code of 1986;

(2) Not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code of 1986;

(3) Not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code of 1986;

(4) Not make any investments in such a manner as to subject the corporation to taxes on investments which jeopardize charitable purposes as provided in section 4944 of the Internal Revenue Code of 1986; and

(5) Not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code of 1986. [1989 c.1010 §16]

(Judicial Relief)

65.038 Judicial relief. (1) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent in the manner prescribed by its articles, bylaws or this chapter, then upon petition of a director, officer, delegate, member or the Attorney General, the circuit court for the State of Oregon for the county in which the principal office designated on the last filed annual report, articles or application for authority to transact business is located, or if none, within Oregon, Marion County, may order that such a meeting be called. The court may also order that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

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

(3) The order issued pursuant to this section may for good cause shown dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement that would otherwise be imposed by the articles, bylaws or this chapter as to quorum or as to the number or percentage of votes needed for approval of an act.

(4) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent judicially authorized to those items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. An order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger or sale of assets.

(5) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this chapter. [1989 c.1010 §17]

(Attorney General)

65.040 Notice to Attorney General; effect of failure to notify. (1) The Attorney General shall be given notice of the commencement of any proceeding which ORS 65.038, 65.084, 65.207, 65.327, 65.661 or 65.751 or any other provision of this chapter authorize the Attorney General to bring but which has been commenced by another person.

(2) Whenever any provision of this chapter requires that notice be given to the Attorney General before or after commencing a proceeding or permits the Attorney General to commence a proceeding:

(a) If no proceeding has been commenced, the Attorney General may take appropriate action including, but not limited to, seeking injunctive relief; or

(b) If a proceeding has been commenced by a person other than the Attorney General, the Attorney General, as of right, may intervene in such proceeding. [1989 c.1010 §18]

(Religious Corporations)

65.042 Religious corporations; constitutional protections. If religious doctrine or practice governing the affairs of a religious corporation is inconsistent with the provisions of this chapter on the same subject, the religious doctrine or practice shall control to the extent required by the Constitution of the United States or the Constitution of this state, or both. [1989 c.1010 §19]

INCORPORATION

65.044 Incorporators. One or more individuals 18 years of age or older, a domestic or foreign corporation, a partnership or an association may act as incorporators of a corporation by delivering articles of incorporation to the Secretary of State for filing. [1989 c.1010 §20]

65.047 Articles of incorporation. (1) The articles of incorporation formed pursuant to this chapter subsequent to October 3, 1989, shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of ORS 65.094;

(b) One of the following statements or words of similar import:

(A) This corporation is a public benefit corporation;

(B) This corporation is a mutual benefit corporation; or

(C) This corporation is a religious corporation;

(c) The address, including street and number, of the corporation's initial registered office and the name of its initial registered agent at that location;

(d) The name and address of each incorporator;

(e) An alternate corporate mailing address which shall be that of the principal office, as defined in ORS 65.001, to which notices, as required by this chapter, may be mailed until the principal office of the corporation has been designated by the corporation in its annual report;

(f) Whether or not the corporation will have members as that term is defined in this chapter; and

(g) Provisions regarding the distribution of assets on dissolution.

(2) The articles of incorporation may set forth:

(a) The names and addresses of the initial directors;

(b) Provisions regarding:

(A) The purpose or purposes for which the corporation is organized;

(B) Managing and regulating the affairs of the corporation;

(C) Defining, limiting and regulating the powers of the corporation, its board of directors, and members or any class of members; and

(D) The characteristics, qualifications, rights, limitations and obligations attaching to each or any class of members;

(c) A provision eliminating or limiting the personal liability of a director or uncompensated officer to the corporation or its members for monetary damages for conduct as a director or officer, provided that no such provision shall eliminate or limit the liability of a director or officer for any act or omission occurring prior to the date when such provision becomes effective, and such provision shall not eliminate or limit the liability of a director or officer for:

(A) Any breach of the director's or officer's duty of loyalty to the corporation or its members;

(B) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;

(C) Any unlawful distribution;

(D) Any transaction from which the director or officer derived an improper personal benefit; and

(E) Any act or omission in violation of ORS 65.361 to 65.367; and

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

(3) The incorporator or incorporators must sign the articles and before including the name of any individual as a director shall state that they have obtained the consent of each director named to serve.

(4) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter but may restrict them in order to meet federal tax code requirements or other purposes. [1989 c.1010 §21]

65.051 Incorporation. (1) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are reviewed, accepted and filed by the Secretary of State.

(2) The Secretary of State's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation applicable at the time of incorporation except as provided in ORS 56.080 or in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation. [1989 c.1010 §22]

65.054 Liability for preincorporation transactions. All persons purporting to act as or on behalf of a corporation organized or subject to the authority of this chapter, knowing there was no incorporation under this chapter at the relevant time, may be held to be jointly and severally liable for all liabilities created while so acting if, under the circumstances, it is equitable to do so. [1989 c.1010 §23]

65.057 Organization of corporation. (1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting at the call of a majority of the directors, with notice as provided in ORS 65.344, to complete the organization of the corporation by appointing officers, adopting bylaws and carrying on any other business brought before the meeting.

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators with equivalent notice to that specified in ORS 65.344:

(A) To complete the organization of the corporation and to elect directors, unless the organization is a corporation sole; or

(B) To elect a board of directors which shall complete the organization of the corporation.

(2) Action required or permitted by this chapter to be taken by incorporators or directors at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator or director, in accordance with the procedures of ORS 65.341.

(3) An organizational meeting may be held in or out of this state. [1989 c.1010 §24]

65.061 Bylaws. (1) The incorporators or board of directors of a corporation, whichever completes the organization of the corporation at its organizational meeting, shall adopt initial bylaws for the corporation.

(2) The bylaws may contain any provision for managing and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation. [1989 c.1010 §25]

65.064 Emergency bylaws and powers. (1) Unless the articles provide otherwise, the board of directors of a corporation may adopt, amend or repeal bylaws to be effective only in an emergency as defined in subsection (4) of this section. The emergency bylaws, which are subject to amendment or repeal by the members, may provide special procedures necessary for managing the corporation during the emergency, including:

(a) Procedures for calling a meeting of the board of directors;

(b) Quorum requirements for the meeting; and

(c) Designation of additional or substitute directors.

(2) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(3) Corporate action taken in good faith in accordance with the emergency bylaws binds the corporation. A corporate director, officer, employee or agent shall not be liable for deviation from normal procedures if the conduct was authorized by emergency bylaws adopted as provided in this section.

(4) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some present or imminent catastrophic event. [1989 c.1010 §26]

65.067 Corporation sole. (1) Any individual may, in conformity with the constitution, canons, rules, regulations and disciplines of any church or religious denomination, form a corporation hereunder to be a corporation sole. Such corporation shall be a form of religious corporation and will differ from other such corporations organized hereunder only in that it shall have no board of directors, need not have officers and shall be managed by a single director who shall be the individual constituting the corporation and its incorporator or the successor of the incorporator.

(2) The name of such corporation shall be the same as the office within the church or religious denomination held by the

incorporator, and shall be followed by the words "and successors, a corporation sole."

(3) All of the provisions of ORS 65.044 to 65.067 shall apply to such corporation. If the corporation has no officers, the director may perform any act required by or permitted by an officer in the same manner and with the same effect as though such act were performed by one or more officers of the corporation. [1989 c.1010 §27]

PURPOSES AND POWERS

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

(2) A corporation that is subject to regulation under another statute of this state may not be incorporated under this chapter if such organization is required to be organized under such other statute. [1989 c.1010 §28]

65.077 General powers. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs, including, without limitation, power to:

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

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

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

(4) Purchase, take by gift, devise or bequest, receive, lease or otherwise acquire, and own, hold, improve, use and otherwise deal with, real or personal property or any interest in property, wherever located.

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

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

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

(8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by ORS 65.364.

(9) Be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other entity.

(10) Conduct its activities, locate offices and exercise the powers granted by this chapter within or without this state.

(11) Elect or appoint directors, officers, employees, and agents of the corporation, define their duties and fix their compensation, if any.

(12) Pay pensions and establish pension plans, pension trusts and other benefit and incentive plans for any or all of its current or former directors, officers, employees and agents.

(13) Unless otherwise provided in the articles of incorporation, make donations not inconsistent with law for the public welfare or for charitable, benevolent, religious, scientific or educational purposes and for other purposes that further the corporate interest.

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

(15) Establish conditions for admission of members, admit members and issue memberships.

(16) Carry on a business.

(17) Do any other act, not inconsistent with law, that furthers the activities and affairs of the corporation.

(18) Dissolve, merge or reorganize as provided in this chapter. [1989 c.1010 §29]

65.081 Emergency powers. (1) During an emergency defined in subsection (4) of this section, the board of directors or a corporation may:

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

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

(2) During an emergency defined in subsection (4) of this section, unless emergency bylaws provide otherwise:

(a) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication or radio; and

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

(3) Corporate action taken in good faith under this section to further the affairs of the corporation during an emergency binds the corporation. A corporate director, officer, employee or agent shall not be liable for deviation from normal procedures if the conduct was authorized by emergency powers provided in this chapter.

(4) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some present or imminent catastrophic event. [1989 c.1010 §30]

65.084 Challenge of corporate authority; remedy. (1) Except as provided in subsection (2) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(2) A corporation's power to act may be challenged:

(a) In a proceeding by a member or members, a director or the Attorney General against the corporation to enjoin the act;

(b) In a proceeding by the corporation, directly, derivatively or through a receiver, a trustee or other legal representative, including the Attorney General in the case of a public benefit corporation, against an incumbent or former director, officer, employee or agent of the corporation; or

(c) In a proceeding under ORS 65.664.

(3) In a proceeding under subsection (2)(a) of this section to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss other than anticipated profits suffered by the corporation or another party because of enjoining the unauthorized act. [1989 c.1010 §31]

NAME

65.094 Corporate name. (1) A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by ORS 65.074 and the articles of incorporation.

(2) A corporate name shall not contain the word "cooperative" or the phrase "limited partnership."

(3) A corporate name shall be written in the alphabet used to write the English language but may include Arabic and Roman numerals and incidental punctuation.

(4) Except as authorized by subsection (5) of this section, a corporate name shall be distinguishable upon the records of the Office of the Secretary of State from any other corporate name, professional corporate name, business corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the Office of the Secretary of State.

(5) The corporate name need not satisfy the requirement of subsection (4) of this section if the applicant delivers to the Office of the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction that finds that the applicant has a prior or concurrent right to use the corporate name in this state.

(6) The provisions of this section do not prohibit a corporation from transacting business under an assumed business name.

(7) The provisions of this section do not:

(a) Abrogate or limit the law governing unfair competition or unfair trade practices; or

(b) Derogate from the common law, the principles of equity or the statutes of this state or of the United States with respect to the right to acquire and protect trade names. [1989 c.1010 §32]

65.097 Reserved name. (1) A person may apply to the Office of the Secretary of State to reserve a corporate name. The application must set forth the name and address of the applicant and the name proposed to be reserved.

(2) If the Secretary of State finds that the corporate name applied for conforms to ORS 65.094, the Secretary of State shall reserve the name for the applicant for a 120-day period, following which the applicant may reapply for it on the same basis as other applicants.

(3) A person may transfer the reservation of a corporate name to another person by delivering to the Office of the Secretary of State a notice of the transfer executed by the person for whom the name was reserved and specifying the name and address of the transferee. [1989 c.1010 §33]

65.101 Registered name. (1) A foreign corporation may apply to the Office of the Secretary of State to register its corporate name.

(2) The application must set forth the corporate name, the state or country of its incorporation, the date of its incorporation, a brief description of the nature of the activities in which it is engaged and a statement that it is not carrying on or doing business in the State of Oregon. The application must be accompanied by a certificate of existence or a document of similar import current within 60 days of delivery, duly authenticated by the official having custody of

corporate records in the state or country under whose law it is incorporated.

(3) If the Secretary of State finds that the name conforms to ORS 65.094, the Secretary of State shall register the name effective for one year.

(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application which complies with the requirements of this section prior to the lapse of the previous registration. Filing of the renewal application renews the registration for an additional year from its prior expiration.

(5) A foreign corporation whose registration is effective may thereafter qualify to do business in this state as a foreign corporation under that name or transfer the registered name to another applicant for the name by the procedures provided in ORS 65.097 (3) with respect to reserved names. Filing of such a consent terminates the prior registration and operates as a reservation in the name of the transferee, if it does not simultaneously file under that name. [1989 c.1010 §34]

OFFICE AND AGENT

65.111 Registered office and registered agent. Each corporation shall continuously maintain in this state both:

(1) A registered agent, who shall be:

(a) An individual who resides in this state;

(b) A corporation, domestic business corporation, domestic limited liability company or domestic professional corporation with an office in this state; or

(c) A foreign corporation, foreign business corporation, foreign limited liability company or foreign professional corporation authorized to transact business in this state with an office in this state; and

(2) A registered office of the corporation, which shall be the residence or office address of the registered agent. [1989 c.1010 §35; 2001 c.315 §29]

65.114 Change of registered office or registered agent. (1) A corporation may change its registered office or registered agent by delivering to the Office of the Secretary of State for filing a statement of change that sets forth:

(a) The name of the corporation;

(b) If the current registered office is to be changed, the address, including the street and number, of the new registered office;

(c) If the current registered agent is to be changed, the name of the new registered agent and a statement that the new agent has consented to the appointment; and

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

(2) If the registered agent changes the street address of the agent's designated office or residence, the registered agent shall change the street address of the registered office of any corporation for which the registered agent is the registered agent by notifying the corporation in writing of the change and by signing, either manually or in facsimile, and delivering to the Office of the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

(3) The filing by the Secretary of State of a statement submitted under this section shall terminate the existing registered office or agent, or both, on the effective date of the filing and establish the newly appointed registered office or agent, or both, as that of the corporation. [1989 c.1010 §36]

65.117 Resignation of registered agent. (1) A registered agent may resign as registered agent upon delivering a signed statement to the Office of the Secretary of State and giving notice in the form of a copy of the statement to the corporation for filing. The statement may include a statement that the registered office is also discontinued.

(2) Upon delivery of the signed statement, the Secretary of State shall file the resignation statement. The copy of the statement given to the corporation under subsection (1) of this section shall be addressed to the corporation at its principal office as shown in the most recent annual report filed pursuant to ORS 65.787 or if none, the address specified in the articles of incorporation.

(3) The agency appointment is terminated, and the registered office discontinued if so provided, on the 31st day after the date on which the statement was filed by the Secretary of State, unless the corporation shall sooner appoint a successor registered agent as provided in ORS 65.114 thereby terminating the capacity of the prior agent. [1989 c.1010 §37; 1993 c.190 §5]

65.121 Service on the corporation. The provisions of ORS 60.121 shall apply to corporations organized under or subject to the provisions of this chapter. [1989 c.1010 §38; 1991 c.67 §12]

MEMBERS AND MEMBERSHIPS

(Admission of Members)

65.131 Admission. (1) The articles or bylaws may establish criteria or procedures for admission of members.

(2) No person shall be admitted as a member without consent of the person, express or implied. [1989 c.1010 §39]

65.134 Consideration. Except as provided in its articles or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board. [1989 c.1010 §40]

65.137 No requirement for members. A corporation is not required to have members. A corporation shall have no members if its articles of incorporation or bylaws include a statement that "the corporation shall have no members" or words of similar import. [1989 c.1010 §41]

(Members' Rights and Obligations)

65.144 Differences in rights and obligations of members. All members shall have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. All members shall have the same rights and obligations with respect to any other matters, except as set forth in or authorized by the articles or bylaws. [1989 c.1010 §42]

65.147 Transfers. (1) Except as provided in ORS 65.231 pertaining to proxies or as set forth in or authorized by the articles or bylaws, no member may transfer a membership or any right arising therefrom.

(2) No member of a public benefit or religious corporation may transfer for value a membership or any right arising therefrom, unless the transferring member is a public benefit or religious corporation.

(3) Where transfer rights have been provided, no restriction on them shall be binding with respect to a member holding a membership issued prior to the adoption of the restriction unless the restriction is approved by the members and the affected member. [1989 c.1010 §43]

65.151 Member's liability to third parties. A member of a corporation is not personally liable for the acts, debts, liabilities or obligations of the corporation merely by reason of being a member. [1989 c.1010 §44]

65.154 Member's liability for dues, assessments and fees. A member may become liable to the corporation for dues, assessments or fees. An article or bylaw provision or a resolution adopted by the board authorizing or imposing dues, assessments or fees does not, of itself, create liability to pay the obligation, but nonpayment may constitute grounds for expelling or suspending the member or suspending or terminating the membership. [1989 c.1010 §45]

65.157 Creditor's action against member. (1) No proceeding may be brought by a creditor to reach the liability, if any, of a member to the corporation arising from membership unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless obtaining such judgment and execution would be useless.

(2) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (1) of this section to reach and apply unpaid amounts due the corporation. Any or all members who owe amounts to the corporation arising from membership may be joined in such proceeding. [1989 c.1010 §46]

(Resignation and Termination)

65.164 Resignation. (1) A member may resign at any time.

(2) The resignation of a member does not relieve the member from any obligations the member may have to the corporation as a result of obligations incurred or commitments made prior to resignation. [1989 c.1010 §47]

65.167 Termination, expulsion or suspension. (1) No member of a public benefit or mutual benefit corporation may be expelled or suspended, and no membership or memberships in such corporations may be terminated or suspended, except pursuant to a procedure that is fair and reasonable and is carried out in good faith.

(2) A procedure is fair and reasonable when either:

(a) The articles or bylaws set forth a procedure that provides:

(A) Not less than 15 days' prior written notice of the expulsion, suspension or termination and the reasons therefor; and

(B) An opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or persons authorized to decide that the proposed expulsion, termination or suspension not take place; or

(b) It is fair and reasonable taking into consideration all of the relevant facts and circumstances.

(3) Any written notice given by mail must be given by first class or certified mail

sent to the last address of the member shown on the corporation's records.

(4) Any proceeding challenging an expulsion, suspension or termination, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the expulsion, suspension or termination.

(5) A member who has been expelled or suspended, or whose membership has been suspended or terminated, may be liable to the corporation for dues, assessments or fees as a result of obligations incurred by the member prior to expulsion, suspension or termination. [1989 c.1010 §48; 2005 c.22 §44]

65.171 Acquiring memberships. (1) A public benefit or religious corporation may not acquire for value any of its memberships or any right arising therefrom, unless the member is a public benefit or religious corporation.

(2) A mutual benefit corporation may acquire the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles or bylaws.

(3) No acquisition of memberships shall be made in violation of ORS 65.551 or 65.554. [1989 c.1010 §49]

(Derivative Suits)

65.174 Derivative suits. (1) A proceeding may be brought in the right of a domestic or foreign corporation to procure a judgment in its favor by:

(a) Any member or members having two percent or more of the voting power or by 20 members, whichever is less; or

(b) Any director.

(2) In any such proceeding, each member complainant shall have been a member when the transaction complained of occurred.

(3) A complaint in a proceeding brought in the right of a corporation must allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why a demand was not made. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(4) The complainants shall notify the Attorney General within 10 days after commencing any proceeding under this section if the proceeding involves a public benefit corporation or assets held in charitable trust by a mutual benefit corporation.

(5) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's members or a class of members, the court shall direct that notice be given the members affected. [1989 c.1010 §50]

(Delegates)

65.177 Delegates. (1) A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members.

(2) The articles or bylaws may set forth provisions relating to:

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

(b) Providing notice to and calling, holding and conducting meetings of delegates; and

(c) Carrying on corporate activities during and between meetings of delegates. [1989 c.1010 §51]

MEMBERSHIP MEETINGS AND VOTING

(Meetings and Action Without Meetings)

65.201 Annual and regular meetings. (1) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

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

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

(4) At the annual meeting:

(a) The president, and any other officer the board of directors or the president may designate, shall report on the activities and financial condition of the corporation; and

(b) The members shall consider and act upon such other matters as may be raised consistent with the notice requirements of ORS 65.214.

(5) At regular meetings the members shall consider and act upon such matters as may be raised consistent with the notice requirements of ORS 65.214.

(6) The failure to hold an annual or regular meeting at a time stated in or fixed in

accordance with a corporation's bylaws does not affect the validity of any corporate action. [1989 c.1010 §52]

65.204 Special meeting. (1) A corporation with members shall hold a special meeting of members:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) Except as provided in the articles or bylaws, if the holders of at least five percent of the voting power of any corporation sign, date and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(2) If not otherwise fixed under ORS 65.207 or 65.221, the record date for members entitled to demand a special meeting is the date the first member signs the demand.

(3) If a notice for a special meeting demanded under subsection (1)(b) of this section is not given pursuant to ORS 65.214 within 30 days after the date the written demand or demands are delivered to the corporation's secretary then, regardless of the requirements of subsection (4) of this section, a person signing the demand or demands may set the time and place of the meeting and give notice pursuant to ORS 65.214.

(4) Special meetings of members may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(5) Only matters within the purpose or purposes described in the meeting notice required by ORS 65.214 may be conducted at a special meeting of members. [1989 c.1010 §53]

65.207 Court-ordered meeting; attorney fees. (1) The circuit court of the county where a corporation's principal office is located, or, if the principal office is not in this state, where the registered office of the corporation is or was last located, may summarily order a meeting to be held:

(a) On application of any member or other person entitled to participate in an annual or regular meeting or, in the case of a public benefit corporation, the Attorney General, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or 15 months after its last annual meeting;

(b) On application of any member or other person entitled to participate in a regular meeting or, in the case of a public benefit corporation, the Attorney General, if a regular meeting is not held within 40 days after the date it was required to be held; or

(c) On application of a member who signed a demand for a special meeting valid under ORS 65.204, a person or persons entitled to call a special meeting or, in the case of a public benefit corporation, the Attorney General, if notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary or the special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of the meeting, determine the members entitled to participate in the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(3)(a) Except as provided in paragraph (b) of this subsection, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(b) The court may not award attorney fees to the state or a political subdivision of the state if the state or political subdivision prevails in an action under this section.

(4) The request shall be set for hearing at the earliest possible time and shall take precedence over all matters, except matters of the same character and hearings on preliminary injunctions under ORCP 79 B(3). No order shall be issued by the court under this section without notice to the corporation at least five days in advance of the time specified for the hearing unless a different period is fixed by order of the court. [1989 c.1010 §54; 1995 c.696 §14]

65.211 Action without meeting. (1) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this chapter to be taken at a members' meeting may be taken without a meeting if the action is taken by all the members entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the members entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. Action taken under this section is effective when the last member signs the consent, unless the consent specifies an earlier or later effective date.

(2) If not otherwise determined under ORS 65.207 or 65.221, the record date for determining members entitled to take action without a meeting is the date the first mem-

ber signs the consent under subsection (1) of this section.

(3) A consent signed under this section has the effect of a meeting vote and may be described as such in any document. [1989 c.1010 §55]

65.214 Notice of meeting. (1) A corporation shall give notice consistent with its bylaws of meetings of members in a fair and reasonable manner. The corporation is required to give notice to members entitled to vote at the meeting and to any other person specified in this chapter, the articles of incorporation or the bylaws.

(2) Any notice which conforms to the requirements of subsection (3) of this section is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered, provided, however, that notice of matters referred to in subsection (3)(b) of this section must be given as provided in subsection (3) of this section.

(3) Notice is fair and reasonable if:

(a) The corporation notifies its members of the place, date and time of each annual, regular and special meeting of members no fewer than seven days, or if notice is mailed by other than first class or registered mail, no fewer than 30 nor more than 60 days before the meeting;

(b) Notice of an annual or regular meeting includes a description of any matter or matters which must be approved by the members under ORS 65.361, 65.404, 65.414 (1)(a), 65.437, 65.464, 65.487, 65.534 or 65.624; and

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

(4) Unless the bylaws require otherwise, if an annual, regular or special meeting of members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under ORS 65.221, however, notice of the adjourned meeting must be given under this section to the persons who are members as of the new record date. [1989 c.1010 §56; 1991 c.231 §2]

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

(2) A member's attendance at a meeting waives objection to:

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

(b) Consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented. [1989 c.1010 §57]

65.221 Record date. (1) The bylaws may fix or provide the manner of fixing the record date in order to determine the members entitled to notice of a members' meeting, to demand a special meeting, to vote or to take any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board of directors may fix a future date as the record date. If no such record date is fixed, then:

(a) To determine the members entitled to notice of a members' meeting, the record date shall be the day before the day on which first notice is mailed or otherwise transmitted to members in accordance with ORS 65.034, or if notice is waived, the day preceding the day on which the meeting is held.

(b) To determine the members entitled to demand a special meeting, the record date shall be as set forth in ORS 65.204 (2).

(c) To determine the members entitled to take action without a meeting, the record date shall be as set forth in ORS 65.211 (2).

(d) To determine the members entitled to vote at a members' meeting, the record date shall be the date of the meeting.

(e) To determine the members entitled to exercise any rights in respect to any other lawful action, the record date shall be the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later.

(2) A record date fixed under this section may not be more than 70 days before the meeting or action requiring the determination of members.

(3) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new record date, which it must do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(4) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date. [1989 c.1010 §58]

65.222 Action by written ballot. (1) Unless prohibited or limited by the articles or bylaws, any action which may be taken at any annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(2) A written ballot shall:

(a) Set forth each proposed action; and

(b) Provide an opportunity to vote for or against each proposed action.

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

(4) All solicitations for votes by written ballot shall:

(a) Indicate the number of responses needed to meet the quorum requirements;

(b) State the percentage of approvals necessary to approve each matter other than election of directors; and

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

(5) Except as otherwise provided in the articles or bylaws, a written ballot may not be revoked. [1989 c.1010 §59]

(Voting)

65.224 Members' list for meeting; attorney fees. (1) A corporation shall prepare an alphabetical list of the names, addresses and membership dates of all its members. If there are classes of members, the list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but are not part of the main list of members.

(2) The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city or other location where the meeting will be held. A member, the member's agent or the member's attorney is entitled, on written demand setting forth a proper purpose, to inspect and, subject to the requirements of ORS 65.774 and 65.782, to copy the list at a reasonable time and at the member's expense, during the period it is available for inspection.

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

(4) If the corporation refuses to allow a member, the member's agent or the member's attorney to inspect the list of members before or at the meeting or copy the list as permitted by subsection (2) of this section, on application of the member, the circuit court of the county where the corporation's principal office, or if the principal office is not in this state, where its registered office is or was last located, may enter a temporary restraining order or preliminary injunction pursuant to ORCP 79 ordering the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete. The court may award reasonable attorney fees to the prevailing party in an action under this subsection. The party initiating such a proceeding shall not be required to post an undertaking pursuant to ORCP 82 A.

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

(6) The articles or bylaws of a religious corporation may limit or abolish the rights of a member under this section to inspect and copy any corporate record.

(7) The articles of a public benefit corporation organized primarily for political or social action, including but not limited to political or social advocacy, education, litigation or a combination thereof, may limit or abolish the right of a member or the member's agent or attorney to inspect or copy the membership list if the corporation provides a reasonable means to mail communications to the other members through the corporation at the expense of the member making the request. [1989 c.1010 §60; 1995 c.618 §41; 2005 c.22 §45]

65.227 Voting entitlement of members. (1) Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members, including each matter on which a member is entitled to vote under this chapter or the articles or bylaws. Except as expressly prohibited in this chapter, the articles or bylaws may provide for different allocations of votes among member classes or exclude the members or some or all member classes from

voting on any issue on which they would otherwise be entitled to vote under this chapter. Persons not retaining a right to vote on more than one occasion for the election of a director or directors shall not be deemed members.

(2) Unless the articles or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, their acts with respect to voting shall have the following effect:

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

(b) If more than one votes, the vote shall be divided on a pro rata basis. [1989 c.1010 §61; 1991 c.231 §3]

65.231 Proxies. (1) Unless the articles or bylaws prohibit or limit proxy voting, a member may appoint a proxy to vote or otherwise act for the member by signing an appointment form either personally or by the member's attorney-in-fact.

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

(3) An appointment of a proxy is revocable by the member.

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

(5) Appointment of a proxy is revoked by the person appointing the proxy:

(a) Attending any meeting and voting in person; or

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

(6) Subject to ORS 65.237 and any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment. [1989 c.1010 §64]

65.234 Adjournment. Unless otherwise provided in the articles of incorporation or bylaws, a majority of votes represented at a meeting of members, whether or not a quorum, may adjourn the meeting from time to time to a different time and place without further notice to any member of any adjournment, except as such notice may be required by ORS 65.214 (4). At the adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting originally held. [1989 c.1010 §68]

65.237 Corporation's acceptance of votes. (1) If the name signed on a vote, consent, waiver or proxy appointment corresponds to the name of a member, the corporation, if acting in good faith, is entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the member.

(2) If the name signed on a vote, consent, waiver or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver or proxy appointment and give it effect as the act of the member if:

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

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

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

(d) In the case of a mutual benefit corporation:

(A) The name signed purports to be that of an administrator, executor, guardian or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver or proxy appointment; or

(B) The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver or proxy appointment.

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

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

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise. [1989 c.1010 §67]

65.241 Quorum requirements. (1) Unless the articles or bylaws provide for a higher quorum, those votes represented at a meeting of members shall constitute a quorum.

(2) An amendment to the articles or bylaws to decrease the quorum for any member action may be approved by the members, or, unless prohibited by the articles or bylaws, by the board.

(3) An amendment to the articles or bylaws to increase the quorum required for any member action must be approved by the members. [1989 c.1010 §62]

65.244 Voting requirements. (1) Unless this chapter, the articles or the bylaws require a greater vote or voting by class, if a quorum is present, the affirmative vote of a majority of the votes represented and voting is the act of the members.

(2) An amendment to the articles or bylaws to add to, change or delete the vote required for any member action must be approved by the members. [1989 c.1010 §63]

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

(2) Cumulative voting is not authorized at a particular meeting unless:

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

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

(3) A director elected by cumulative voting may be removed by the members without cause if the requirements of ORS 65.324 are met unless the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast or, if such action is taken by written ballot, all memberships entitled to vote were voted and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(4) Members may not cumulatively vote if the directors and members are identical. [1989 c.1010 §65]

65.251 Other methods of electing directors. A corporation may provide in its articles or bylaws for election of directors by members or delegates:

(1) On the basis of chapter or other organizational unit;

(2) By region or other geographic unit;

(3) By preferential voting; or

(4) By any other reasonable method. [1989 c.1010 §66]

(Voting Agreements)

65.254 Voting agreements. (1) Two or more members may provide for the manner in which they will vote by signing an agreement for that purpose. Such agreements may be valid for a period of up to 10 years. For public benefit corporations such agreements must have a reasonable purpose not inconsistent with the corporation's public or charitable purposes.

(2) A voting agreement created under this section is specifically enforceable. [1989 c.1010 §69]

DIRECTORS AND OFFICERS

(Board of Directors)

65.301 Requirement for and duties of board. (1) Each corporation shall have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, the board of directors, subject to any limitation set forth in the articles of incorporation and except as provided in subsection (3) of this section.

(3) The articles of incorporation may authorize a person or persons, or the manner of designating a person or persons, authorized to exercise some or all of the powers which would otherwise be exercised by a board. To the extent so authorized any such person or persons shall have the duties and responsibilities of the directors, and the directors shall be relieved to that extent from such duties and responsibilities. [1989 c.1010 §70]

65.304 Qualifications of directors. All directors must be individuals. The articles of incorporation or bylaws may prescribe other qualifications for directors. [1989 c.1010 §71]

65.307 Number of directors. (1) A board of directors must consist of one or more individuals for a mutual benefit or religious corporation and three or more individuals for a public benefit corporation, with the number specified or fixed in accordance with the articles of incorporation or bylaws.

(2) The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed periodically, within the minimum and maximum, by the members or the board of directors. If the articles of incorporation establish a fixed or a variable range for the size of the board of directors and the corporation has members entitled to vote for directors, then only the members may change the range for the size of the board or change from a fixed or a variable-range size board. [1989 c.1010 §72]

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

(2) If the corporation does not have members entitled to vote for directors, all the directors, except the initial directors, shall be elected, appointed or designated as provided in the articles or bylaws. If no method of election, appointment or designation is set forth in the articles or bylaws, the directors, other than the initial directors, shall be elected by the board. [1989 c.1010 §73]

65.314 Terms of directors generally. (1) The articles or bylaws may specify the terms of directors. Except for designated or appointed directors, the terms of directors may not exceed five years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms.

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

(3) Except as provided in the articles or bylaws:

(a) The term of a director filling a vacancy in the office of an elected director expires at the next election of directors; and

(b) The term of a director filling any other vacancy expires at the end of the unexpired term which such director is filling.

(4) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated or appointed and qualifies, or until there is a decrease in the number of directors. [1989 c.1010 §74]

65.317 Staggered terms for directors. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups. The terms of office of the several groups need not be uniform. [1989 c.1010 §75]

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

(2) A resignation is effective when the notice is effective under ORS 65.034 unless the notice specifies a later effective date.

(3) Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the board of directors. [1989 c.1010 §76]

65.324 Removal of directors elected by members or directors. (1) The members may remove one or more directors elected by them with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by a class, chapter or other organizational unit or by region or other geographic grouping, only the members of that class, chapter, unit or grouping entitled to vote may participate in the vote to remove the director.

(3) Except as provided in subsection (9) of this section, a director may be removed under subsection (1) or (2) of this section only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

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

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

(6) In computing whether a director is protected from removal under subsections (2)

to (4) of this section, it should be assumed that the votes against removal are cast in an election for the number of directors of the class to which the director to be removed belonged on the date of that director's election.

(7) An entire board of directors may be removed under subsections (1) to (5) of this section.

(8) A director elected by the board of directors may be removed with or without cause, unless the articles of incorporation or bylaws provide that directors may be removed only for cause, by the vote of two-thirds of the directors then in office or such greater number as is set forth in the articles or bylaws. However, a director elected by the board to fill the vacancy of a director elected by the members may be removed by the members, but not the board.

(9) If at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for reasons set forth in the articles or bylaws, the board may remove the director for such reasons. The director may be removed only if a majority of the directors then in office vote for the removal.

(10) The articles or bylaws of a religious corporation may:

(a) Limit the application of this section; and

(b) Set forth the vote and procedures by which the board or any person may remove with or without cause a director elected by the members or the board. [1989 c.1010 §77]

65.327 Removal of directors by judicial proceeding. (1) The circuit court of the county where a corporation's principal office is located, or if the principal office is not in this state where its registered office was last located, may remove any director of the corporation from office in a proceeding commenced either by the corporation, at least 10 percent of the members of any class entitled to vote for directors, or the Attorney General in the case of a public benefit corporation if the court finds that:

(a) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation, or the director has violated a duty set forth in ORS 65.357 to 65.367; and

(b) Removal is in the best interest of the corporation.

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

(3) If members or the Attorney General commence a proceeding under subsection (1) of this section, the corporation shall be made a party defendant.

(4) A public benefit corporation or its members who commence a proceeding under subsection (1) of this section shall give the Attorney General written notice of the proceeding.

(5) The articles or bylaws of a religious corporation may limit or prohibit the application of this section. [1989 c.1010 §79]

65.331 Removal of designated or appointed directors. (1) A designated director may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(2) If a director is appointed:

(a) Except as otherwise provided in the articles or bylaws, the director may be removed with or without cause by the person appointing the director;

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

(c) A removal is effective when the notice is effective under ORS 65.034 unless the notice specifies a future effective date. [1989 c.1010 §78]

65.334 Vacancy on board. (1) Unless the articles or bylaws provide otherwise, and except as provided in subsections (2) and (3) of this section, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(a) The members entitled to vote for directors, if any, may fill the vacancy. If the vacant office was held by a director elected by a class, chapter or other organizational unit or by region or other geographic grouping, only members of the class, chapter, unit or grouping are entitled to vote to fill the vacancy if it is filled by the members;

(b) The board of directors may fill the vacancy; or

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

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

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

(4) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under ORS 65.321 (2) or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs. [1989 c.1010 §80]

65.335 Compensation of directors. Unless the articles or bylaws provide otherwise, the board of directors may fix the compensation of directors. [1989 c.1010 §81]

(Meetings and Action of Board)

65.337 Regular and special meetings. (1) If the time and place of a director's meeting is fixed by the bylaws or is regularly scheduled by the board of directors, the meeting is a regular meeting. All other meetings are special meetings.

(2) The board of directors may hold regular or special meetings in or out of this state.

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

(a) All directors participating may simultaneously hear or read each other's communications during the meeting; or

(b) All communications during the meeting are immediately transmitted to each participating director, and each participating director is able to immediately send messages to all other participating directors.

(4) If a meeting is conducted through the use of any means described in subsection (3) of this section:

(a) All participating directors shall be informed that a meeting is taking place at which official business may be transacted; and

(b) A director participating in the meeting by this means is deemed to be present in person at the meeting. [1989 c.1010 §82; 2005 c.161 §1]

65.341 Action without meeting. (1) As used in this section:

(a) "Electronic" has the meaning given that term in ORS 84.004.

(b) "Electronic signature" has the meaning given that term in ORS 84.004.

(c) "Sign" includes an electronic signature.

(d) "Written" includes a communication that is transmitted or received by electronic means.

(2) Unless the articles or bylaws provide otherwise, action required or permitted by this chapter to be taken at the board of directors' meeting may be taken without a meeting if the action is taken by all members of the board of directors. The action shall be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

(3) Action taken under this section is effective when the last director signs the consent, unless the consent specifies an earlier or later effective date.

(4) A consent signed under this section has the effect of a meeting vote and may be described as such in any document. [1989 c.1010 §83; 2005 c.161 §2]

65.344 Call and notice of meetings. (1) Unless the articles, bylaws or this chapter provide otherwise, regular meetings of the board may be held without notice of the date, time, place or purpose of the meeting.

(2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board must be preceded by at least two days' notice to each director of the date, time and place of the meeting. Unless this chapter provides otherwise, the notice need not describe the purposes of the special meeting unless required by the articles of incorporation or bylaws.

(3) Unless the articles or bylaws provide otherwise, the presiding officer of the board, the president or 20 percent of the directors then in office may call and give notice of a meeting of the board. [1989 c.1010 §84]

65.347 Waiver of notice. (1) A director may at any time waive any notice required by this chapter, the articles of incorporation or bylaws. Except as provided in subsection (2) of this section, the waiver must be in writing, must be signed by the director entitled to the notice, must specify the meeting for which notice is waived and must be filed with the minutes or the corporate records.

(2) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting. [1989 c.1010 §85]

65.351 Quorum and voting. (1) Unless the articles of incorporation or bylaws require a greater number or a lesser number as authorized under subsection (2) of this section, a quorum of a board of directors consists of:

(a) If the corporation has a fixed board size, a majority of the fixed number of directors; or

(b) If the corporation has a variable-range size board, a majority of the number of directors prescribed, or if no number is prescribed, a majority of the number in office immediately before the meeting begins.

(2) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors determined under subsection (1) of this section.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present when the act is taken is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors. A director is considered present regardless of whether the director votes or abstains from voting.

(4) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

(a) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding the meeting or transacting the business at the meeting;

(b) The director's dissent or abstention from the action taken is entered in the minutes of the meeting; or

(c) The director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken. [1989 c.1010 §86; 1991 c.231 §4]

65.354 Committees. (1) Unless the articles or bylaws provide otherwise, a board of directors may create one or more committees of the board of directors which exercise the authority of the board of directors and appoint members of the board to serve on them or designate the method of selecting committee members. Each committee shall consist of two or more directors, who serve at the pleasure of the board of directors.

(2) The creation of a committee and appointment of directors to the committee or designation of a method of selecting committee members must be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles or bylaws to take action under ORS 65.351.

(3) ORS 65.337 to 65.351, governing meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and their members as well.

(4) Except as provided in subsection (5) of this section, to the extent specified by the board of directors or in the articles or bylaws, each committee of the board may exercise the authority of the board of directors.

(5) A committee of the board may not:

(a) Authorize distributions;

(b) Approve or recommend to members dissolution, merger or the sale, pledge or transfer of all or substantially all of the corporation's assets;

(c) Elect, appoint or remove directors or fill vacancies on the board or on any of its committees; or

(d) Adopt, amend or repeal the articles or bylaws.

(6) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in ORS 65.357. [1989 c.1010 §87]

(Standards of Conduct)

65.357 General standards for directors. (1) A director shall discharge the duties of a director, including the director's duties as a member of a committee:

(a) In good faith;

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

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

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

(a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

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

(c) A committee of the board of which the director is not a member, as to matters within its jurisdiction, if the director rea-

sonably believes the committee merits confidence; or

(d) In the case of religious corporations, religious authorities and ministers, priests, rabbis or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(3) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) A director is not liable to the corporation, any member or any other person for any action taken or not taken as a director, if the director acted in compliance with this section. The liability of a director for monetary damages to the corporation and its members may be eliminated or limited in the corporation's articles to the extent provided in ORS 65.047 (2)(c).

(5) A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property. [1989 c.1010 §88]

65.361 Director conflict of interest. (1) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction is fair to the corporation at the time it was entered into or is approved as provided in subsection (2) or (3) of this section.

(2) A transaction in which a director of a public benefit or religious corporation has a conflict of interest may be approved:

(a) By the vote of the board of directors or a committee of the board of directors if the material facts of the transaction and the director's interest are disclosed or known to the board of directors or committee of the board of directors; or

(b) By obtaining approval of the:

(A) Attorney General; or

(B) The circuit court in an action in which the Attorney General is joined as party.

(3) A transaction in which a director of a mutual benefit corporation has a conflict of interest may be approved:

(a) In advance by the vote of the board of directors or a committee of the board of directors if the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors; or

(b) If the material facts of the transactions and the director's interest were disclosed or known to the members and they authorized, approved or ratified the transaction.

(4) For the purposes of this section, a director of the corporation has an indirect interest in a transaction if:

(a) Another entity in which the director has a material interest or in which the director is a general partner is a party to the transaction; or

(b) Another entity of which the director is a director, officer or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(5) For purposes of subsections (2) and (3) of this section, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction votes to authorize, approve or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (2)(a) or (3)(a) of this section if the transaction is otherwise approved as provided in subsection (2) or (3) of this section.

(6) For purposes of subsection (3)(b) of this section, a conflict of interest transaction is authorized, approved or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection (4) of this section may be counted in a vote of members to determine whether to authorize, approve or ratify a conflict of interest transaction under subsection (3)(b) of this section. A majority of the members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(7) The articles, bylaws or a resolution of the board may impose additional require-

ments on conflict of interest transactions. [1989 c.1010 §89]

65.364 Loans to or guarantees for directors and officers. (1) Public benefit and religious corporations may not make a loan, guarantee an obligation or modify a preexisting loan or guarantee to or for the benefit of a director or officer of the corporation, except as stated in this section. Unless prohibited by its articles or bylaws, a public benefit or religious corporation may make a loan, guarantee an obligation or modify a preexisting loan or guarantee to or for the benefit of a director or officer as part of a recruitment package, for a total period not to exceed three years, provided that:

(a) Approval of the loan, guarantee or modification is obtained in the manner provided in ORS 65.361 (2) and (5) for approval of issues involving director conflicts of interest;

(b) Notice of the loan, guarantee or modification is given to the members of the corporation in the manner provided in ORS 65.784 for notice of certain acts of indemnification; and

(c) Twenty or more days before the loan, guarantee or modification is to become binding on the corporation, written notice has been given to the Attorney General of the proposed recruitment package for the director or officer, including identification of the amount and character of all items of compensation and a separate statement of the amount and terms of any such loan, guarantee or modification.

(2) A mutual benefit corporation may not lend money to or guarantee the obligation of a director of the corporation unless:

(a) The particular loan or guarantee is approved by a majority of the votes of members entitled to vote, excluding the votes of members under the control of the benefited director; or

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

(3) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan. [1989 c.1010 §90; 1991 c.231 §6]

65.367 Liability for unlawful distributions. (1) Unless a director complies with the applicable standards of conduct described in ORS 65.357, a director who votes for or assents to a distribution made in violation of this chapter or the articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter.

(2) A director held liable for an unlawful distribution under subsection (1) of this section is entitled to contribution:

(a) From every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in ORS 65.357; and

(b) From each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this chapter or the articles of incorporation. [1989 c.1010 §91]

65.369 Liability of qualified directors. (1) The civil liability of a qualified director for the performance or nonperformance of the director's duties shall be limited to gross negligence or intentional misconduct.

(2) This section does not affect the civil liability of the entity which a qualified director serves.

(3) For the purposes of this section, "qualified director" means a person who serves without compensation for personal services as:

(a) A member of a board or commission of the state or a governmental subdivision for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the board or commission but, notwithstanding ORS 30.265 (2), the entity is not thereby rendered immune from liability;

(b) An officer, director or member of an executive board for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of a nonprofit corporation, unincorporated association or nonprofit cooperative corporation that has as its primary purpose:

(A) Religion;

(B) Charity;

(C) Benevolence;

(D) Providing goods or services at no charge to the general public;

(E) Education;

(F) Scientific activity;

(G) Medical or hospital services at reduced costs; or

(H) Engaging in activities of the nature specified in section 501 of the Internal Revenue Code of 1986, as amended;

(c) A director for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of an organization which acts as an

advocate for its members and which has as its members individuals or organizations that are:

(A) Members of a particular trade or industry; or

(B) Members of the business community of a particular municipality or area of the state; or

(d) An officer, director or member of an executive board for the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of a nonprofit corporation, unincorporated association or nonprofit cooperative corporation composed of owners or lessees of units or interests in any condominium submitted to the provisions of ORS 100.005 to 100.625, any planned community as defined in ORS 94.550, any timeshare property as defined in ORS 94.803, any residential cooperative community or any other residential or commercial common interest real estate community.

(4) An otherwise qualified director shall not be considered to be compensated for personal services if the director receives payment only for actual expenses incurred in attending meetings or performing a director's duties or receives a stipend which is paid only to compensate the director for average expenses incurred over the course of a year. [1989 c.1010 §§92,92a; 1991 c.64 §4; 1991 c.81 §1; 1991 c.231 §5; 1999 c.677 §64]

(Officers)

65.371 Required officers. (1) A corporation shall have a president, a secretary and such other officers as are elected or appointed by the board or by any other person as may be authorized in the articles or bylaws, provided that the articles of incorporation or bylaws may designate other titles in lieu of president and secretary.

(2) The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(3) The same individual may simultaneously hold more than one office in a corporation. [1989 c.1010 §93; 1991 c.231 §7]

65.374 Duties and authority of officers. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers. [1989 c.1010 §94]

65.377 Standards of conduct for officers. (1) An officer shall discharge the officer's duties:

(a) In good faith;

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

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

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

(a) One or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented;

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

(c) In the case of religious corporations, religious authorities and ministers, priests, rabbis or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

(3) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

(4) An officer is not liable to the corporation, any member or other person for any action taken or not taken as an officer if the officer acted in compliance with this section. The liability of the officer for monetary damages to the corporation and its members may be eliminated or limited in the corporation's articles to the extent provided in ORS 65.047 (2)(c). [1989 c.1010 §95]

65.381 Resignation and removal of officers. (1) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective under ORS 65.034 unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the later effective date, its board of directors or any other person as authorized under the articles or bylaws may fill the pending vacancy before the effective date if the board or any other person provides that the successor does not take office until the effective date.

(2) A board of directors or any other person authorized under the articles or bylaws to elect or appoint an officer may re-

move any officer the board or any other person is entitled to elect or appoint, at any time with or without cause.

(3) Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the board of directors. [1989 c.1010 §96; 1991 c.231 §8]

65.384 Contract rights of officers. (1) The appointment of an officer does not itself create contract rights.

(2) Removal or resignation of an officer does not affect the contract rights, if any, of the corporation or the officer. [1989 c.1010 §97]

(Indemnification)

65.387 Definitions for ORS 65.387 to 65.414. As used in ORS 65.387 to 65.414:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include attorney fees.

(4) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses actually incurred with respect to a proceeding.

(5) "Officer" means an individual who is or was an officer of a corporation or an individual who, while an officer of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. An officer is considered to be serving an employee benefit plan at the corporation's request if the officer's duties to the corporation also impose duties on or include services by the officer to the employee benefit plan or to participants in or beneficiaries of the plan. "Officer" includes, unless the context requires otherwise, the estate or personal representative of an officer.

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

(7) "Proceeding" means any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative and whether formal or informal. [1989 c.1010 §98]

65.391 Authority to indemnify. (1) Except as provided in subsection (4) of this section, a corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(a) The conduct of the individual was in good faith;

(b) The individual reasonably believed that the individual's conduct was in the best interests of the corporation, or at least not opposed to its best interests; and

(c) In the case of any criminal proceeding, the individual had no reasonable cause to believe the conduct of the individual was unlawful.

(2) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of subsection (1)(b) of this section.

(3) The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) In connection with any other proceeding charging improper personal benefit to the director in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding. [1989 c.1010 §99]

65.394 Mandatory indemnification. Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because of being a director of the corporation, against reasonable expenses actually incurred by the director in connection with the proceeding. [1989 c.1010 §100; 2005 c.22 §46]

65.397 Advance for expenses. (1) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) The director furnishes the corporation a written affirmation of the director's good faith belief that the director has met the standard of conduct described in ORS 65.391; and

(b) The director furnishes the corporation a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct.

(2) The undertaking required by subsection (1)(b) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(3) Any authorization of payments under this section may be made by provision in the articles of incorporation or bylaws, by a resolution of the members or board of directors or by contract. [1989 c.1010 §101]

65.401 Court-ordered indemnification. Unless the corporation's articles of incorporation provide otherwise, a director of the corporation who is a party to a 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 the court considers necessary may order indemnification in the amount it considers proper if it determines:

(1) The director is entitled to mandatory indemnification under ORS 65.394, in which case the court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or

(2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in ORS 65.391 (1) or was adjudged liable as described in ORS 65.391 (4), whether the liability is based on a judgment, settlement or proposed settlement or otherwise. [1989 c.1010 §102]

65.404 Determination and authorization of indemnification. (1) A corporation may not indemnify a director under ORS 65.391 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in ORS 65.391.

(2) A determination that indemnification of a director is permissible shall be made:

(a) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) If a quorum cannot be obtained under paragraph (a) of this subsection, by a majority vote of a committee duly designated by the board of directors, consisting solely of two or more directors not at the time parties to the proceeding;

(c) By special legal counsel selected by the board of directors or its committee in the manner prescribed in paragraph (a) or (b) of this subsection or, if a quorum of the board cannot be obtained under paragraph (a) of this subsection and a committee cannot be designated under paragraph (b) of this subsection, the special legal counsel shall be selected by majority vote of the full board of directors including directors who are parties to the proceeding; or

(d) By the members of a mutual benefit corporation, but directors who are at the time parties to the proceeding may not vote on the determination.

(3) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (2)(c) of this section to select counsel.

(4) A director of a public benefit corporation may not be indemnified until 20 days after the effective date of written notice to the Attorney General of the proposed indemnification. [1989 c.1010 §103]

65.407 Indemnification of officers, employees and agents. Unless a corporation's articles of incorporation provide otherwise:

(1) An officer of the corporation is entitled to mandatory indemnification under ORS 65.394, and is entitled to apply for court-ordered indemnification under ORS 65.401 in each case, to the same extent as a director under ORS 65.394 and 65.401.

(2) The corporation may indemnify and advance expenses under ORS 65.387 to 65.411 an officer, employee or agent of the corporation who is not a director to the same extent as to a director. [1989 c.1010 §104]

65.411 Insurance. A corporation may purchase and maintain insurance on behalf of an individual against liability asserted against or incurred by the individual who is or was a director, officer, employee or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The corporation may purchase and maintain the insurance even if the corporation has no power to indemnify the individual against the same liability under ORS 65.391 or 65.394. [1989 c.1010 §105]

65.414 Application of ORS 65.387 to 65.411. (1) The indemnification and provisions for advancement of expenses provided by ORS 65.387 to 65.411 shall not be deemed exclusive of any other rights to which directors, officers, employees or agents may be entitled under the corporation's articles of incorporation or bylaws, any agreement, general or specific action of its board of directors, vote of members or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Specifically and not by way of limitation, a corporation shall have the power to make or agree to make any further indemnification, including advancement of expenses, of:

(a) Any director as authorized by the articles of incorporation, any bylaws approved, adopted or ratified by the members or any resolution or agreement approved, adopted or ratified, before or after such indemnification or agreement is made, by the members, provided that no such indemnification shall indemnify any director from or on account of acts or omissions for which liability could not be eliminated under ORS 65.047 (2)(c); and

(b) Any officer, employee or agent who is not a director as authorized by its articles of incorporation or bylaws, general or specific action of its board of directors or agreement. Unless the articles of incorporation, or any such bylaws, agreement or resolution provide otherwise, any determination as to any further indemnity under this paragraph shall be made in accordance with ORS 65.404.

(2) If articles of incorporation limit indemnification or advance of expenses, any indemnification and advance of expenses are valid only to the extent consistent with the articles of incorporation.

(3) ORS 65.387 to 65.411 do not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with the director's appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to a proceeding.

(4) A report of indemnification must be made in accordance with ORS 65.784. [1989 c.1010 §106; 1991 c.231 §9]

AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

(Amendment of Articles of Incorporation)

65.431 Authority. (1) A corporation may amend its articles of incorporation at any time to add, change or delete any provision if the articles of incorporation as amended would be permitted under ORS 65.431 to 65.467 as of the effective date of the amendment.

(2) A corporation designated on the records of the Office of the Secretary of State as a public benefit or religious corporation may amend or restate its articles of incorporation so that it becomes designated as a mutual benefit corporation only if notice, including a copy of the proposed amendment or restatement, has been delivered to the Attorney General at least 20 days before consummation of the amendment or restatement. [1989 c.1010 §107]

65.434 Amendment by directors. (1) Unless the articles provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles without member approval:

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

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

(c) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Office of the Secretary of State;

(d) To delete the mailing address if an annual report has been filed with the Office of the Secretary of State;

(e) To change the corporate name by adding, changing or deleting the word "corporation," "incorporated," "company," "limited" or the abbreviation "corp.," "inc.," "co." or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting

or changing a geographical attribution to the name;

(f) To include a statement of whether the corporation is a public benefit, mutual benefit or religious corporation; or

(g) To make any other change expressly permitted by this chapter to be made by director action.

(2) If a corporation has no members entitled to vote on articles, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's articles subject to any approval required pursuant to ORS 65.467. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with ORS 65.344 (2). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. Unless the articles or bylaws require a greater vote or the board of directors requires a greater vote, the amendment must be approved by a majority of the directors in office at the time the amendment is adopted. Any number of amendments may be submitted and voted upon at any one meeting. [1989 c.1010 §108; 1991 c.231 §10]

65.437 Amendment by board of directors and members. (1) Unless this chapter, the articles, bylaws, the members, acting pursuant to subsection (2) of this section, or the board of directors acting pursuant to subsection (3) of this section, require a greater vote or voting by class, an amendment to a corporation's articles to be adopted must be approved:

(a) By the board if the corporation is a public benefit or religious corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors or the method or way in which directors are elected or selected;

(b) Except as provided in ORS 65.434 (1), by the members entitled to vote on articles by at least two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(c) In writing by any person or persons whose approval is required for an amendment to the articles as authorized by ORS 65.467.

(2) The members entitled to vote on articles may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(3) If the board initiates an amendment to the articles or board approval is required by subsection (1) of this section to adopt an amendment to the articles, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis. For the amendment to be adopted, the board of directors shall, except in those cases described in subsection (1)(a) of this section, adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members, which may be either an annual or special meeting.

(4) If the board or the members entitled to vote on articles seek to have the amendment approved by such members at a membership meeting, the corporation shall give notice to such members of the proposed membership meeting in writing in accordance with ORS 65.214. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(5) If the board or the members entitled to vote on articles seek to have the amendment approved by such members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment. [1989 c.1010 §109]

65.441 Class voting by members on amendments. (1) In a public benefit corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles if the amendment would affect the rights of that class as to voting in a manner different than the amendment would affect another class or members of another class.

(2) In a mutual benefit corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles if the amendment would:

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

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

(c) Increase or decrease the number of memberships authorized for that class;

(d) Increase the number of memberships authorized for another class;

(e) Effect an exchange, reclassification or termination of the memberships of that class; or

(f) Authorize a new class of memberships.

(3) In a religious corporation the members of a class entitled to vote on articles are entitled to vote as a class on a proposed amendment to the articles only if a class vote is provided for in the articles or bylaws.

(4) If a class is to be divided into two or more classes as a result of an amendment to the articles of a public benefit or mutual benefit corporation, the amendment must be approved by the members of each class entitled to vote on articles that would be created by the amendment.

(5) Except as provided in the articles or bylaws of a religious corporation, if a class vote is required to approve an amendment to the articles of a corporation, the amendment must be approved by the members of the class entitled to vote on articles by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(6) A class of members of a public benefit or mutual benefit corporation is entitled to the voting rights granted by this section although the articles and bylaws provide that the class may not vote on the proposed amendment. [1989 c.1010 §110]

65.447 Articles of amendment. A corporation amending its articles shall deliver for filing to the Office of the Secretary of State articles of amendment setting forth:

(1) The name of the corporation.

(2) The text of each amendment adopted.

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

(4) If approval of members was not required, a statement to that effect and a statement that the amendment was approved by a sufficient vote of the board of directors or incorporators.

(5) If approval by members entitled to vote on articles was required:

(a) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on the amendment; and

(b) The total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment.

(6) If approval of the amendment by some person or persons other than the members entitled to vote on articles, the board or the incorporators is required pursuant to ORS 65.467, a statement that the approval was obtained. [1989 c.1010 §111]

65.451 Restated articles of incorporation. (1) A corporation's board of directors may restate its articles of incorporation at any time with or without approval by the members entitled to vote on articles or any other person.

(2) The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring approval by the members entitled to vote on articles or any other person, it must be adopted as provided in ORS 65.437.

(3) If the board seeks to have the restatement approved by the members entitled to vote on articles at a membership meeting, the corporation shall give written notice to the members entitled to vote on articles of the proposed membership meeting in accordance with ORS 65.214. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(4) If the board seeks to have the restatement approved by the members entitled to vote on articles by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(5) A restatement requiring approval by the members entitled to vote on articles must be approved by the same vote as an amendment to articles under ORS 65.437.

(6) A corporation restating its articles of incorporation shall deliver to the Office of the Secretary of State for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(a) Whether the restatement contains an amendment to the articles requiring approval by the members entitled to vote on articles or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement, or if the restatement contains an amendment to the articles requiring approval by the members entitled to vote on articles, the information required by ORS 65.447; and

(b) If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to ORS 65.467, a statement that such approval was obtained.

(7) Restated articles of incorporation shall include all statements required to be

included in original articles of incorporation except that no statement is required to be made with respect to:

(a) The names and addresses of the incorporators or the initial or present registered office or agent; or

(b) The mailing address of the corporation if an annual report has been filed with the Office of the Secretary of State.

(8) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

(9) The Secretary of State may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection (6) of this section. [1989 c.1010 §112; 2005 c.22 §47]

65.454 Amendment pursuant to court order. (1) A corporation's articles may be amended without board approval or approval by the members entitled to vote on articles, or approval required pursuant to ORS 65.467:

(a) To carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute; or

(b) In a proceeding brought by the Attorney General in the Circuit Court for Marion County to correct the statement in the articles of incorporation or the annual report with regard to whether the corporation is a public benefit or mutual benefit corporation or, subject to the provisions of ORS 65.042, a religious corporation.

(2) The articles after amendment shall contain only provisions required or permitted by ORS 65.047.

(3) The individual or individuals designated by the court in a reorganization proceeding, or the Attorney General in a proceeding brought by the Attorney General, shall deliver to the Office of the Secretary of State for filing articles of amendment setting forth:

(a) The name of the corporation;

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

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

(d) The title of the proceeding in which the order or decree was entered; and

(e) A statement whether the court had jurisdiction of the proceeding under federal statute or under subsection (1)(b) of this section.

(4) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan. [1989 c.1010 §113]

65.457 Effect of amendment and restatement. An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation or any property held by it by virtue of any trust upon which such property is held by the corporation or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name. [1989 c.1010 §114]

(Amendment of Bylaws)

65.461 Amendment by directors. Unless otherwise provided in its articles or bylaws, a corporation with no members with the power to vote on bylaws shall amend its bylaws as provided in this section. The corporation's incorporators, until directors have been chosen, and thereafter its board of directors may adopt one or more amendments to the corporation's bylaws subject to any approval required pursuant to ORS 65.467. The corporation shall provide notice of any meeting of directors at which an amendment is to be approved. The notice shall be in accordance with ORS 65.344 (2). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. [1989 c.1010 §115]

65.464 Amendment by directors and members. (1) A corporation's board of directors may amend or repeal the corporation's bylaws unless:

(a) The articles of incorporation or this chapter reserve this power exclusively to the members, or to a party authorized under ORS 65.467, or both, in whole or in part; or

(b) The members entitled to vote on bylaws, in amending or repealing a particular bylaw, provide expressly that the board of directors may not amend or repeal that bylaw.

(2) A corporation's members entitled to vote on bylaws, subject to ORS 65.467, may amend or repeal the corporation's bylaws even though the bylaws may also be amended or repealed by its board of directors. [1989 c.1010 §116]

65.467 Approval by third persons. The articles may require an amendment to the articles or bylaws to be approved in writing by a specified person or persons other than

the board. Such an article provision may not be amended without the approval in writing of such person or persons. [1989 c.1010 §117]

MERGER

65.481 Approval of plan of merger. (1) Subject to the limitations set forth in ORS 65.484, one or more nonprofit corporations may merge with a business or nonprofit corporation, if the plan of merger is approved as provided in ORS 65.487.

(2) The plan of merger must set forth:

(a) The name of each business or nonprofit corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;

(b) The terms and conditions of the merger;

(c) The manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and

(d) If the merger involves a mutual benefit or business corporation, the manner and basis, if any, of converting the memberships or shares of each merging corporation into memberships, obligations, shares or other securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of the surviving corporation; and

(b) Other provisions relating to the merger. [1989 c.1010 §118]

65.484 Limitations on mergers by public benefit or religious corporations. (1) Without the prior written consent of the Attorney General or the prior approval of the circuit court of the county where the corporation's principal office is located or, if the principal office is not in this state, where the registered office of the corporation is or was last located, in a proceeding in which the Attorney General has been given written notice, a public benefit or religious corporation may merge only with:

(a) A public benefit or religious corporation;

(b) A foreign corporation which would qualify under this chapter as a public benefit or religious corporation;

(c) A wholly owned foreign or domestic business or mutual benefit corporation, provided the public benefit or religious corporation is the surviving corporation and continues to be a public benefit or religious corporation after the merger; or

(d) A foreign or domestic business or mutual benefit corporation, provided that:

(A) On or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets, including goodwill, of the public benefit or religious corporation or the fair market value of the public benefit or religious corporation if it were to be operated as a business concern are transferred or conveyed to one or more persons who would have received its assets under ORS 65.637 (1)(e) and (f) had it dissolved;

(B) It shall return, transfer or convey any assets held by it upon condition requiring return, transfer or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and

(C) The merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in, or officers, employees, agents or consultants of, the surviving corporation.

(2) Notice, including a copy of the proposed plan of merger, must be delivered to the Attorney General at least 20 days before consummation of any merger of a public benefit corporation or a religious corporation pursuant to subsection (1)(d) of this section.

(3) Without the prior written consent of the Attorney General or the prior approval of the court specified in subsection (1) of this section in a proceeding in which the Attorney General has been given written notice, no member of a public benefit or religious corporation may receive or keep anything as a result of a merger other than a membership in the surviving public benefit or religious corporation. Where approval or consent is required by this section, it shall be given if the transaction is consistent with the purposes of the public benefit or religious corporation or is otherwise in the public interest. [1989 c.1010 §119]

65.487 Action on plan by board, members and third persons. (1) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (3) of this section, require a greater vote or voting by class, adoption of a plan of merger requires, with respect to each corporation party to the merger, approval:

(a) By the board;

(b) By the members entitled to vote on the merger, if any, by at least two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(c) In writing, by any person or persons whose approval is required for an amendment

to the articles or bylaws by a provision of the articles, as authorized by ORS 65.467.

(2) If the corporation does not have members entitled to vote on the merger, the merger must be approved by a majority of the directors in office at the time the merger is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with ORS 65.344 (2). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

(3) The board of directors may condition its submission of the proposed merger to a vote of members, and the members entitled to vote on the merger may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

(4) If the board seeks to have the plan approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with ORS 65.214. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of each disappearing corporation shall include a copy or summary of the articles and bylaws which will be in effect immediately after the merger takes effect.

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

(6) Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to the articles of incorporation, would entitle the class of members to vote as a class on the proposed amendment under ORS 65.441. The plan is approved by a class of members by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(7) After a merger is adopted, and at any time before articles of merger are filed, the planned merger may be abandoned, subject to any contractual rights, without further action by members or other persons who approved the plan, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors. [1989 c.1010 §120]

65.491 Articles of merger. (1) After a plan of merger is approved by the board of directors of each merging corporation and, if required by ORS 65.487, by the members and any other persons, the surviving corporation shall deliver to the Office of the Secretary of State for filing articles of merger setting forth:

(a) The plan of merger.

(b) If approval of members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors of each corporation.

(c) If approval by the members of one or more corporations was required:

(A) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on the plan; and

(B) The total number of votes cast for and against the plan by each class entitled to vote separately on the plan.

(d) If approval of the plan by some person or persons other than the members or the board is required pursuant to ORS 65.487 (1)(c), a statement that the approval was obtained.

(2) Unless a delayed effective date is specified, a merger takes effect when the articles of merger are filed. [1989 c.1010 §121]

65.494 Effect of merger. When a merger takes effect:

(1) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;

(2) The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger;

(3) The surviving corporation has all liabilities and obligations of each corporation party to the merger;

(4) 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;

(5) The articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger; and

(6) The memberships or shares of each nonprofit or business corporation party to the merger that are to be converted into memberships, obligations, shares or other securities of the surviving or any other corporation or into cash or other property are converted and the former holders of the memberships or shares are entitled only to the rights provided in the articles of merger. [1989 c.1010 §122]

65.497 Merger with foreign corporation. (1) Except as provided in ORS 65.484, one or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

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

(b) The foreign business or nonprofit corporation complies with ORS 65.491 if it is the surviving corporation of the merger; and

(c) Each domestic nonprofit corporation complies with the applicable provisions of ORS 65.481 to 65.487 and, if it is the surviving corporation of the merger, with ORS 65.491.

(2) Upon the merger taking effect, a surviving foreign business or nonprofit corporation is deemed to have irrevocably appointed the Secretary of State as its agent for service of process in any proceeding brought against it. [1989 c.1010 §123]

65.501 Effect of merger on bequests, devises and gifts. Any bequest, devise, gift, grant or promise contained in a will or other instrument of donation, subscription or conveyance, which is made to a constituent corporation and which takes effect or remains payable after the merger, inures to the surviving corporation unless the will or other instrument otherwise specifically provides. [1989 c.1010 §124]

65.504 Merger with business corporation. Any domestic business corporation which is a party to a merger with a nonprofit corporation pursuant to this chapter shall comply with all applicable requirements of the Oregon Business Corporation Act relating to mergers except when inconsistent with this chapter. If a domestic business corporation is the survivor of a merger with a nonprofit corporation, following the merger it shall be subject to the Oregon Business Corporation Act. [1989 c.1010 §125]

SALE OF ASSETS

65.531 Sale of assets in regular course of activities; mortgage of assets. (1) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

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

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

(2) Unless required by the articles of incorporation, approval by the members or any other person of a transaction described in subsection (1) of this section is not required. [1989 c.1010 §126]

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

(2) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (4) of this section, require a greater vote or voting by class, the proposed transaction to be authorized must be approved:

(a) By the board;

(b) By the members entitled to vote on the transaction by at least two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(c) In writing by any person or persons whose approval is required for an amendment to the articles or bylaws by a provision of the articles as authorized by ORS 65.467.

(3) If the corporation does not have members entitled to vote on the transaction, the transaction must be approved by a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with ORS 65.344 (2). The notice must also state that the pur-

pose, or one of the purposes, of the meeting is to consider the sale, lease, exchange or other disposition of all or substantially all of the property of the corporation and contain or be accompanied by a description of the transaction.

(4) The board of directors may condition its submission of the proposed transaction to a vote of members, and the members entitled to vote on the transaction may condition their approval of the transaction, on receipt of a higher percentage of affirmative votes or on any other basis.

(5) If the board seeks to have the transaction approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with ORS 65.214. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange or other disposition of all or substantially all of the property of the corporation and contain or be accompanied by a description of the transaction.

(6) If the board seeks to have the transaction approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a description of the transaction.

(7) A public benefit or religious corporation must give written notice to the Attorney General 20 days before it sells, leases, exchanges or otherwise disposes of all or substantially all of its property unless the transaction is in the usual and regular course of its activities or the Attorney General has given the corporation a written waiver of this notice requirement.

(8) After a sale, lease, exchange or other disposition of property is authorized, the transaction may be abandoned, subject to any contractual rights, without further action by the members or any other person who approved the transaction, in accordance with the procedure set forth in the resolution proposing the transaction or, if none is set forth, in the manner determined by the board of directors. [1989 c.1010 §127; 2005 c.22 §48]

DISTRIBUTIONS

65.551 Prohibited distributions. Except as authorized by ORS 65.554, a corporation shall not make any distributions. [1989 c.1010 §128]

65.554 Authorized distributions. Unless prohibited by its articles or bylaws:

(1) A mutual benefit corporation may purchase its memberships and, under the circumstances indicated in ORS 65.147 and 65.171, a public benefit or religious corporation may purchase its memberships, if after the purchase is completed:

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

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

(2) A corporation may make distributions upon dissolution in conformity with ORS 65.621 to 65.674.

(3) A corporation may make distributions to a member which is a religious or public benefit corporation or a foreign nonprofit corporation which, if incorporated in this state, would qualify as a religious or public benefit corporation. [1989 c.1010 §129]

DISSOLUTION

(Voluntary Dissolution)

65.621 Dissolution by incorporators. (1) A majority of the incorporators of a corporation that has no members and that does not yet have initial directors may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering articles of dissolution to the Office of the Secretary of State for filing.

(2) The corporation shall give the incorporators notice equivalent to that specified in ORS 65.344 (2), of any meeting at which dissolution will be considered. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation.

(3) The incorporators in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid. [1989 c.1010 §130]

65.624 Dissolution by directors, members and third persons. (1) Unless this chapter, the articles, bylaws or the board of directors or members, acting pursuant to subsection (3) of this section, require a greater vote or voting by class, dissolution is authorized if it is approved:

(a) By the board;

(b) By the members entitled to vote on dissolution, if any, by at least two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(c) In writing, by any person or persons whose approval is required for an amendment of the articles or bylaws, as authorized by ORS 65.467, or for dissolution.

(2) If the corporation does not have members entitled to vote on dissolution, dissolution must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the

corporation shall provide notice of any meeting of the board of directors at which such approval is to be considered in accordance with ORS 65.344 (2). The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(3) The board may condition its submission of the proposed dissolution to a vote of members, and the members may condition their approval of the dissolution on receipt of a higher percentage of affirmative votes or on any other basis.

(4) If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give all members, whether or not entitled to vote, notice of the proposed membership meeting in accordance with ORS 65.214. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(5) If the board seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

(6) The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid. [1989 c.1010 §131; 1991 c.231 §11]

65.627 Notices to Attorney General. (1) A public benefit or religious corporation shall give the Attorney General written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the Secretary of State. The notice shall include a copy or summary of the plan of dissolution.

(2) No assets shall be transferred or conveyed by a public benefit or religious corporation as part of the dissolution process until 20 days after it has given the written notice required by subsection (1) of this section to the Attorney General or until the Attorney General has consented in writing, or indicated in writing, that the Attorney General will take no action in respect to the transfer or conveyance, whichever is earlier.

(3) When all or substantially all of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to the Attorney General a list showing those, other than creditors, to whom the assets were transferred or conveyed. The list shall indicate the addresses of each person, other than creditors, who received assets and indicate what assets each received. [1989 c.1010 §132]

65.631 Articles of dissolution. (1) At any time after dissolution is authorized, the corporation may dissolve by delivering to the Office of the Secretary of State for filing, articles of dissolution setting forth:

(a) The name of the corporation;

(b) The date dissolution was authorized;

(c) A statement that dissolution was approved by a sufficient vote of the board;

(d) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators;

(e) If approval by members entitled to vote was required:

(A) The designation and number of members of, and number of votes entitled to be cast by, each class entitled to vote separately on dissolution; and

(B) The total number of votes cast for and against dissolution by each class entitled to vote separately on dissolution;

(f) If approval of dissolution by some person or persons other than the members entitled to vote on dissolution, the board or the incorporators is required pursuant to ORS 65.624 (1)(c), a statement that the approval was obtained; and

(g) If the corporation is a public benefit or religious corporation, that the notice to the Attorney General required by ORS 65.627 (1) has been given.

(2) A corporation is dissolved upon the effective date of its articles of dissolution. [1989 c.1010 §133]

65.634 Revocation of dissolution. (1) A corporation may revoke its dissolution within 120 days of its effective date.

(2) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization of dissolution permits revocation by action of the board of directors alone. If the authorization of dissolution permits revocation by action of the board of directors alone, the board of directors may revoke the dissolution without action by the members or any other person.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Office of Secretary of State for filing, articles of revocation of dissolution that set forth:

(a) The name of the corporation;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was authorized;

(d) If the corporation's board of directors or incorporators revoked the dissolution, a statement to that effect;

(e) If the corporation's board of directors revoked a dissolution authorized by the members alone or in conjunction with another person or persons, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f) If member or third-person action was required to revoke the dissolution, the information required by ORS 65.631 (1)(e) and (f).

(4) Unless a delayed effective date is specified, revocation of dissolution is effective when articles of revocation of dissolution are filed.

(5) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its activities as if dissolution had never occurred. [1989 c.1010 §134]

65.637 Effect of dissolution. (1) A dissolved corporation continues its corporate existence but may not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

(a) Preserving and protecting its assets and minimizing its liabilities;

(b) Discharging or making provision for discharging its liabilities and obligations;

(c) Disposing of its properties that will not be distributed in kind;

(d) Returning, transferring or conveying assets held by the corporation upon a condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition;

(e) Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

(f) If the corporation is a public benefit or religious corporation, and no provision has been made in its articles or bylaws for distribution of assets on dissolution, transferring, subject to any contractual or legal requirement, its assets to one or more persons described in ORS 65.001 (37)(b);

(g) If the corporation is a mutual benefit corporation and no provision has been made in its articles or bylaws for distribution of assets on dissolution, transferring, subject to any contractual or legal requirements, its assets to its members or, if it has no members, to those persons whom the corporation holds itself out as benefiting or serving; and

(h) Doing every other act necessary to liquidate its assets and wind up its affairs.

(2) Dissolution of a corporation does not:

(a) Transfer title to the corporation's property;

(b) Subject its directors or officers to standards of conduct different from those prescribed in ORS 65.301 to 65.414;

(c) Change quorum or voting requirements for its board or members, change provisions for selection, resignation or removal of its directors or officers, or both, or change provisions for amending its bylaws;

(d) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(f) Terminate the authority of the registered agent of the corporation. [1989 c.1010 §135; 2001 c.315 §53]

65.641 Known claims against dissolved corporation. (1) A corporation electing to dispose of known claims pursuant to this section shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(2) A claim against the dissolved corporation is barred:

(a) If a claimant who was given written notice under subsection (1) of this section does not deliver the claim to the dissolved corporation by the deadline; and

(b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(3) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution. [1989 c.1010 §136]

65.644 Unknown claims against dissolved corporation. (1) A dissolved corporation may publish notice of its dissolution and request that persons with claims against

the corporation present them in accordance with the notice.

(2) The notice must:

(a) Be published at least one time in a newspaper of general circulation in the county where the dissolved corporation's principal office is located, or if the principal office is not in this state, where its registered office is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after publication of the notice.

(3) If the dissolved corporation publishes a newspaper notice in accordance with subsection (2) of this section, 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 five years after the publication date of the newspaper notice:

(a) A claimant who did not receive written notice under ORS 65.641;

(b) A claimant whose claim was sent in a timely manner to the dissolved corporation but not acted on; or

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the dissolved corporation, to the extent of its undistributed assets; or

(b) Against any person, other than a creditor of the corporation, to whom the corporation distributed its property in liquidation subject to the following:

(A) If the distributee received a pro rata share of a distribution, the distributee's liability will not exceed the same pro rata share of the claim; and

(B) The distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee, less any liability of the corporation paid on behalf of the corporation by that distributee after the date of distribution. [1989 c.1010 §137]

(Administrative Dissolution)

65.647 Grounds for administrative dissolution. The Secretary of State may commence a proceeding under ORS 65.651 to administratively dissolve a corporation if:

(1) The corporation does not pay when due any fees imposed by this chapter;

(2) The corporation does not deliver its annual report to the Secretary of State when due;

(3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(5) The corporation's period of duration, if any, stated in its articles of incorporation expires. [1989 c.1010 §138]

65.651 Procedure for and effect of administrative dissolution. (1) If the Secretary of State determines that one or more grounds exist under ORS 65.647 for dissolving a corporation, the Secretary of State shall give the corporation written notice of that determination.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State, within 45 days after notice is given that each ground determined by the Secretary of State does not exist, the Secretary of State shall administratively dissolve the corporation, and in the case of a public benefit corporation shall notify the Attorney General in writing.

(3) A corporation administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to wind up and liquidate its affairs under ORS 65.637 and notify its claimants under ORS 65.641 and 65.644.

(4) The administrative dissolution of a corporation does not terminate the authority of its registered agent. [1989 c.1010 §139; 1993 c.190 §6]

65.654 Reinstatement following administrative dissolution. (1) A corporation administratively dissolved under ORS 65.651 may apply to the Secretary of State for reinstatement within five years from the date of dissolution. The application must:

(a) State the name of the corporation and the effective date of its administrative dissolution; and

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct, and that the corporation's name satisfies the requirements of ORS 65.094, the Secretary of State shall reinstate the corporation.

(3) When reinstatement is effective, it relates back to and takes effect as of the ef-

fective date of the administrative dissolution and the corporation resumes carrying on its activities as if the administrative dissolution had never occurred.

(4) The Secretary of State may waive the requirement under subsection (1) of this section that the corporation apply for reinstatement within five years after the date of dissolution if the corporation requests the waiver and shows good cause for the corporation's failure to apply for reinstatement as provided in subsection (1) of this section. [1989 c.1010 §140; 1995 c.215 §14; 2009 c.339 §1]

65.657 Appeal from denial of reinstatement. (1) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, the Secretary of State shall give written notice to the corporation that explains the reason or reasons for denial.

(2) Such denial of reinstatement shall be reviewable pursuant to ORS 183.484 and shall not constitute a contested case order. [1989 c.1010 §141]

(Judicial Dissolution)

65.661 Grounds for judicial dissolution. (1) The circuit courts may dissolve a corporation:

(a) In a proceeding by the Attorney General if it is established that:

(A) The corporation obtained its articles of incorporation through fraud;

(B) The corporation has exceeded or abused the authority conferred upon it by law;

(C) The corporation has fraudulently solicited money or has fraudulently used the money solicited;

(D) The corporation is a public benefit corporation and the corporate assets are being misapplied or wasted; or

(E) The corporation is a public benefit corporation and is no longer able to carry out its purposes;

(b) Except as provided in the articles or bylaws of a religious corporation, in a proceeding by 50 members or members holding five percent or more of the voting power, whichever is less, or by a director or any person specified in the articles, if it is established that:

(A) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to break the deadlock;

(B) The directors or those in control of the corporation have acted, are acting or will act in a manner that is illegal, oppressive of fraudulent;

(C) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(D) The corporate assets are being misapplied or wasted; or

(E) The corporation is a public benefit or religious corporation and is no longer able to carry out its purposes;

(c) In a proceeding by a creditor if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied and the corporation is insolvent; or

(B) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(d) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(2) Prior to dissolving a corporation, the court shall consider whether:

(a) There are reasonable alternatives to dissolution;

(b) Dissolution is in the public interest, if the corporation is a public benefit corporation; or

(c) Dissolution is the best way of protecting the interests of members, if the corporation is a mutual benefit corporation. [1989 c.1010 §142]

65.664 Procedure for judicial dissolution. (1) Venue for a proceeding by the Attorney General to dissolve a corporation lies in Marion County. Venue for a proceeding brought by any other party named in ORS 65.661 lies in the county where a corporation's principal office is located or, if the principal office is not in this state, where its registered office is or was last located.

(2) It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(4) A person other than the Attorney General who brings an involuntary dissolution proceeding for a public benefit or religious corporation shall forthwith give written notice of the proceeding to the At-

torney General who may intervene. [1989 c.1010 §143]

65.667 Receivership or custodianship. (1) A court in a judicial proceeding brought to dissolve a public benefit or mutual benefit corporation may appoint one or more receivers to wind up and liquidate the affairs of the corporation, or one or more custodians to manage the affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property wherever located.

(2) The court may appoint an individual or a domestic or foreign business or nonprofit corporation, authorized to transact business in this state, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended periodically. Among other powers:

(a) The receiver:

(A) May dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court, provided, however, that the receiver's power to dispose of the assets of the corporation is subject to any trust and other restrictions that would be applicable to the corporation; and

(B) May sue and defend in the receiver's own name as receiver of the corporation in all courts of this state.

(b) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interest of the corporation, its members and creditors.

(5) The court periodically during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's attorney from the assets of the corporation or proceeds from the sale of the assets. [1989 c.1010 §144]

65.671 Judgment of dissolution. (1) If after a hearing the court determines that one or more grounds for judicial dissolution described in ORS 65.661 exist, it may enter a judgment dissolving the corporation and specifying the effective date of the dissolution. The clerk of the court shall deliver a certified copy of the judgment to the Office of the Secretary of State for filing.

(2) After entering the judgment of dissolution, the court shall direct the winding up and liquidation of the corporation's affairs in accordance with ORS 65.637 and the notification of claimants in accordance with ORS 65.641 and 65.644. [1989 c.1010 §145; 2003 c.576 §329]

(Disposition of Assets)

65.674 Deposit with Department of State Lands. Assets of a dissolved corporation which should be transferred to a creditor, claimant or member of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash unless they are subject to known trust restrictions and deposited with the Department of State Lands for safekeeping. However, in the discretion of the Director of the Department of State Lands, property of unusual historic or aesthetic interest may be received and held in kind. The receiver or other liquidating agent shall prepare in duplicate and under oath a statement containing the names and last-known addresses of the persons entitled to such funds. One of the statements shall be filed with the Department of State Lands and another shall be delivered to the Secretary of State for filing. The funds shall then escheat to and become the property of the State of Oregon and shall become part of the Common School Fund of the state. The owner, heirs or personal representatives of the owner, may reclaim any funds so deposited in the manner provided for estates which have escheated to the state. [1989 c.1010 §146]

FOREIGN CORPORATIONS

(Authority to Transact Business)

65.701 Authority to transact business required. (1) A foreign corporation may not transact business in this state until it has been authorized to do so by the Secretary of State.

(2) The following activities, among others, do not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending or settling any proceeding.

(b) Holding meetings of the board of directors or members or carrying on other activities concerning internal corporate affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own memberships or securities or maintaining trustees or depositaries 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 a like nature.

(k) Transacting business in interstate commerce.

(L) Soliciting funds.

(3) The list of activities in subsection (2) of this section is not exhaustive. [1989 c.1010 §147]

65.704 Consequences of transacting business without authority. (1) A foreign corporation transacting business in this state without authorization from the Secretary of State may not maintain a proceeding in any court in this state until it obtains authorization from the Secretary of State to transact business in this state.

(2) The successor to or assignee of a foreign corporation that transacted business in this state without authority to do so may not maintain a proceeding on its cause of action in any court in this state until the foreign corporation or its successor obtains authorization from the Secretary of State to transact business in this state.

(3) A court may stay a proceeding commenced by a foreign corporation, its successor or assignee until it determines whether the foreign corporation or its successor requires authorization from the Secretary of State to transact business in this state. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the authorization.

(4) A foreign corporation that transacts business in this state without authority shall be liable to this state for the years or parts thereof during which it transacted business in this state without authority in an amount equal to all fees that would have been imposed by this chapter upon such corporation had it duly applied for and received authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain authority to transact business in this state does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state. [1989 c.1010 §148]

65.707 Application for authority to transact business. (1) A foreign corporation may apply for authority to transact business in this state by delivering an application to the Office of the Secretary of State for filing. The application must set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of ORS 65.717;

(b) The name of the state or country under whose law it is incorporated;

(c) The date of incorporation and period of duration if not perpetual;

(d) The address including street and number and mailing address, of its principal office;

(e) The address, including street and number, of its registered office in this state and the name of its registered agent at that office;

(f) The names and respective addresses of the president and secretary of the foreign corporation;

(g) Whether the foreign corporation has members; and

(h) Whether the corporation, if it had been incorporated in this state, would be a public benefit, mutual benefit or religious corporation.

(2) The foreign corporation shall deliver with the completed application a certificate of existence or a document of similar import, current within 60 days of delivery and authenticated by the official having custody of corporate records in the state or country under whose law it is incorporated.

(3) A foreign corporation shall not be denied authority to transact business in this state by reason of the fact that the laws of the state or country under which the corporation is organized governing its organization and internal affairs differ from the laws of this state. [1989 c.1010 §149]

65.711 Amendment to application for authority. (1) A foreign corporation authorized to transact business in this state shall deliver an amendment to the application for authority to transact business in this state to the Office of the Secretary of State for filing if it changes:

(a) Its corporate name as shown on the records of the office;

(b) The period of its duration; or

(c) Its designation under ORS 65.707 as a public benefit, mutual benefit or religious corporation.

(2) The amendment to the application for authority to transact business in this state shall set forth the corporate name shown on the records of the office and the new corporate name, the new period of duration or the new designation as public benefit, mutual benefit or religious corporation. The corporate name as changed must satisfy the requirements of ORS 65.717. [1989 c.1010 §150; 1993 c.190 §7]

65.714 Effect of authority. (1) A foreign corporation authorized to transact business in this state has the same but no greater rights and enjoys the same but no greater privileges as, and except as otherwise provided by this chapter is subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

(2) The filing by the Secretary of State of an application or amendment to the application for authority to transact business shall constitute authorization to transact business in this state, subject to the right of the Secretary of State to revoke the authorization.

(3) This chapter does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state. [1989 c.1010 §151; 2005 c.22 §49]

65.717 Corporate name of foreign corporation. (1) Except as provided in subsection (2) of this section, the Secretary of State shall not authorize a foreign corporation to transact business in this state unless the corporate name of the corporation satisfies the requirements of ORS 65.094.

(2) If a corporate name, professional corporate name, business corporate name, cooperative name, limited partnership name, business trust name, reserved name, registered corporate name or assumed business name of active record with the office is not distinguishable on the records of the office from the corporate name of the applicant foreign corporation, the Secretary of State shall not authorize the applicant to transact business in this state unless the foreign corporation states the corporate name on the application for authority to transact business in this state under ORS 65.707 as "(name under which incorporated), a corporation of (place of incorporation)," the entirety of which shall be the real and true name of the corporation under ORS chapter 648.

(3) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of ORS 65.094, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of ORS 65.094 and delivers to the Office of the Secretary of State for filing an amendment to the application for authority under ORS 65.711. [1989 c.1010 §152]

65.721 Registered office and registered agent of foreign corporation. Each foreign corporation authorized to transact business in this state shall continuously maintain in this state both:

(1) A registered agent, who shall be:

(a) An individual who resides in this state;

(b) A corporation, domestic business corporation, domestic limited liability company or domestic professional corporation with an office in this state; or

(c) A foreign nonprofit corporation, foreign business corporation, foreign limited liability company or foreign professional corporation authorized to transact business in this state with an office in this state; and

(2) A registered office of the foreign corporation, which shall be the address, including street and number, of the residence or office of the registered agent. [1989 c.1010 §153; 2001 c.315 §30]

65.724 Change of registered office or registered agent of foreign corporation. (1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the Office of the Secretary of State for filing a statement of change that sets forth:

(a) The name of the foreign corporation;

(b) If the current registered office is to be changed, the address, including the street and number, of the new registered office;

(c) If the current registered agent is to be changed, the name of the new registered agent and a statement that the new agent has consented to the appointment; and

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

(2) If the registered agent changes the street address of the agent's office or residence, the registered agent shall change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the Office of the Secretary of State for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

(3) The filing of the statement under this section by the Office of the Secretary of State shall terminate the existing registered office or agent, or both, on the effective date of the filing by the Office of the Secretary of State and establish the newly appointed registered office or agent, or both, as that of the foreign corporation. [1989 c.1010 §154]

65.727 Resignation of registered agent of foreign corporation. (1) The registered agent of a foreign corporation may resign as agent by delivering a signed statement of resignation to the Office of the Secretary of State and giving notice in the form of a copy of the statement to the foreign corporation for filing. The statement of resignation may include a statement that the registered office is also discontinued.

(2) Upon receipt of the signed statement in proper form, the Secretary of State shall file the resignation statement. The copy of the statement given to the foreign corporation under subsection (1) of this section shall be addressed to the foreign corporation at the foreign corporation's mailing address or the foreign corporation's principal office as shown on the records of the Office of the Secretary of State.

(3) The agency appointment is terminated, and the registered office discontinued if so provided in the signed statement under subsection (1) of this section on the 31st day after the date on which the statement was filed by the Office of the Secretary of State unless the foreign corporation sooner appoints a successor registered agent as provided in ORS 65.724, thereby terminating the capacity of the prior agent. [1989 c.1010 §155; 1993 c.190 §8]

65.731 Service on foreign corporation. The provisions of ORS 60.731, relating to service on foreign corporations, shall apply to foreign nonprofit corporations, except that for the purpose of this section the reference therein to "this chapter" means ORS chapter 65. [1989 c.1010 §156]

(Withdrawal)

65.734 Withdrawal of foreign corporation. (1) A foreign corporation authorized to transact business in this state may apply to the Office of the Secretary of State to withdraw from this state. The application shall set forth:

(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(b) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;

(d) A mailing address to which the person initiating any proceedings may mail to the foreign corporation a copy of any process served on the Secretary of State under paragraph (c) of this subsection; and

(e) A commitment to notify the Secretary of State for a period of five years from the date of withdrawal of any change in the mailing address.

(2) Upon filing by the Office of the Secretary of State of the application to withdraw, the authority of the foreign corporation to transact business in this state shall cease. [1989 c.1010 §157]

(Administrative Revocation of Authority)

65.737 Grounds for administrative revocation. The Secretary of State may commence a proceeding under ORS 65.741 to revoke the authority of a foreign corporation to transact business in this state if:

(1) The foreign corporation does not deliver its annual report to the Secretary of State within the time prescribed by this chapter;

(2) The foreign corporation does not pay within the time prescribed by this chapter any fees imposed by this chapter;

(3) The foreign corporation has failed to appoint or maintain a registered agent or registered office in this state as prescribed by this chapter;

(4) The foreign corporation does not inform the Secretary of State under ORS 65.724 or 65.727 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(5) The Secretary of State receives a duly authenticated certificate from the official

having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that the foreign corporation has been dissolved or disappeared as the result of a merger. [1989 c.1010 §158; 2005 c.22 §50]

65.741 Procedure for and effect of administrative revocation. (1) If the Secretary of State determines that one or more grounds exist under ORS 65.737 for revocation of authority of a foreign corporation to transact business in this state, the Secretary of State shall give the foreign corporation written notice of that determination.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State, within 45 days after notice is given, that each ground for revocation determined by the Secretary of State does not exist, the Secretary of State shall administratively revoke the foreign corporation's authority, and in the case of a foreign corporation that would have been a public benefit corporation had it been incorporated in this state, shall notify the Attorney General in writing.

(3) The authority of a foreign corporation to transact business in this state ceases as of the date of revocation of its authority to transact business in this state.

(4) The Secretary of State's revocation of a foreign corporation's authority to transact business in this state appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state.

(5) Revocation of a foreign corporation's authority to transact business in this state terminates the authority of the registered agent of the corporation. [1989 c.1010 §159; 1991 c.231 §12; 1993 c.190 §9]

65.744 Appeal from administrative revocation. In addition to any other legal remedy which may be available, a foreign corporation shall have the right to appeal the Secretary of State's revocation of its authority to transact business in this state pursuant to the provisions of ORS chapter 183. Such revocation shall be reviewable pursuant to ORS 183.484 and shall not constitute a contested case order. [1989 c.1010 §160]

65.747 Reinstatement following administrative revocation. (1) A foreign corporation which has had its authority revoked under ORS 65.737 may apply to the Secretary of State for reinstatement within five years from the date of revocation. The application shall:

(a) State the name of the corporation and the effective date its authority was revoked; and

(b) State that the ground or grounds for revocation of authority either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the corporation's name satisfies the requirements of ORS 65.717, the Secretary of State shall reinstate the authority.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative revocation of authority and the corporation resumes carrying on its business as if the administrative revocation of authority had never occurred. [1989 c.1010 §160a; 1995 c.215 §15]

(Judicial Revocation of Authority)

65.751 Grounds for judicial revocation. (1) The circuit courts may revoke the authority of a foreign corporation to transact business in this state:

(a) In a proceeding by the Attorney General if it is established that:

(A) The corporation obtained its authority to transact business in this state through fraud;

(B) The corporation has exceeded or abused the authority conferred upon it by law;

(C) The corporation would have been a public benefit corporation had it been incorporated in this state and its corporate assets are being misapplied or wasted;

(D) The corporation would have been a public benefit corporation had it been incorporated in this state and it is no longer able to carry out its purposes;

(E) An incorporator, director, officer or agent of the corporation signed a document knowing it was false in any material respect with the intent that the document be delivered to the Office of the Secretary of State for filing; or

(F) The corporation has fraudulently solicited money or has fraudulently used the money solicited.

(b) Except as provided in the articles or bylaws of a foreign corporation that would have been a religious corporation had it been incorporated in this state, in a proceeding by 50 members or members holding five percent or more of the voting power, whichever is less, or by a director or any person specified in the articles, if it is established that:

(A) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to break the deadlock;

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive or fraudulent;

(C) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(D) The corporate assets are being misapplied or wasted; or

(E) The corporation is a foreign corporation that would have been a public benefit or religious corporation had it been incorporated in this state, and is no longer able to carry out its purposes.

(c) In a proceeding by a creditor if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

(2) Prior to revoking a corporation's authority, the court shall consider whether:

(a) There are reasonable alternatives to revocation of authority;

(b) Revocation of authority is in the public interest, if the corporation is a foreign corporation that would have been a public benefit corporation had it been incorporated in this state; or

(c) Revocation of authority is the best way to protect the interests of members, if the corporation is a foreign corporation that would have been a mutual benefit corporation had it been incorporated in this state. [1989 c.1010 §161]

65.754 Procedure for judicial revocation of authority. (1) Venue for a proceeding by the Attorney General to revoke a foreign corporation's authority lies in Marion County. Venue for a proceeding brought by any other person named in ORS 65.751 lies in the county where a corporation's principal Oregon office is located or where its registered office is or was last located.

(2) It is not necessary to make directors or members parties to a proceeding to revoke the authority of a corporation.

(3) A court in a proceeding brought to revoke a corporation's authority may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets located in Oregon and carry on the corporation's Oregon activities until a full hearing can be held.

(4) A person other than the Attorney General who brings a revocation proceeding for a foreign corporation that would have been a public benefit or religious corporation had it been incorporated in this state, shall forthwith give written notice of the proceeding to the Attorney General who may intervene. [1989 c.1010 §162]

65.757 Judgment of revocation. (1) If after a hearing the court determines that one or more grounds for judicial revocation of authority described in ORS 65.751 exists, it may enter a judgment revoking the corporation's authority to transact business in Oregon and specifying the effective date of the revocation. The clerk of the court shall deliver a certified copy of the judgment to the Office of the Secretary of State for filing.

(2) The authority of a foreign corporation to transact business in Oregon ceases as of the date of the judgment of revocation.

(3) The judgment of revocation of a foreign corporation's authority to transact business in this state appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign corporation was authorized to transact business in this state.

(4) Revocation of a foreign corporation's authority to transact business in this state terminates the authority of the registered agent of the corporation. [1989 c.1010 §163; 2003 c.576 §330]

RECORDS AND REPORTS

(Records)

65.771 Corporate records. (1) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all corporate action taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors in place of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class showing the number of votes each member is entitled to vote.

(4) A corporation shall maintain its records in written form or in another form ca-

pable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records for inspection:

(a) Articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Bylaws or restated bylaws and all amendments to them currently in effect;

(c) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations and obligations of members of any class or category of members;

(d) The minutes of all meetings of members and records of all actions approved by the members for the past three years;

(e) Written communications required by this chapter and those regarding general membership matters made to members within the past three years;

(f) A list of the names and business or home addresses of its current directors and officers;

(g) The last three annual financial statements, if any. The statements may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, including a balance sheet and statement of operations, if any, for that year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis;

(h) The last three accountant's reports if annual financial statements are reported upon by a public accountant; and

(i) The most recent annual report delivered to the Secretary of State under ORS 65.787. [1989 c.1010 §164]

65.774 Inspection of records by members. (1) Subject to subsection (5) of this section and ORS 65.777 (3), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in ORS 65.771 (5) if the member gives the corporation written notice of the member's demand at least five business days before the date on which the member wishes to inspect and copy.

(2) Subject to subsection (5) of this section, a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (3) of this section and gives the corporation written notice of the member's demand at least five business days before the date on which the member wishes to inspect and copy:

(a) Excerpts from any records required to be maintained under ORS 65.771 (1), to the extent not subject to inspection under subsection (1) of this section;

(b) Accounting records of the corporation; and

(c) Subject to ORS 65.782, the membership list.

(3) A member may inspect and copy the records identified in subsection (2) of this section only if:

(a) The member's demand is made in good faith and for a proper purpose;

(b) The member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(c) The records are directly connected with this purpose.

(4) This section does not affect:

(a) The right of a member to inspect records under ORS 65.224 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(b) The power of the court, independently of this chapter, to compel the production of corporate records for examination.

(5)(a) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

(b) The articles of a public benefit corporation organized primarily for political or social action, including but not limited to political or social advocacy, education, litigation or a combination thereof, may limit or abolish:

(A) The right of a member to obtain from the corporation information as to the identity of contributors to the corporation; and

(B) The right of a member or the member's agent or attorney to inspect or copy the membership list if the corporation provides a reasonable means to mail communications to other members through the corporation at the expense of the member making the request. [1989 c.1010 §165]

65.777 Scope of inspection right. (1) A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

(2) The right to copy records under ORS 65.774 includes, if reasonable, the right to receive copies made by photographic, xerographic or other means.

(3) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents

provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(4) The corporation may comply with a member's demand to inspect the record of members under ORS 65.774 (2)(c) by providing the member with a list of its members that was compiled no earlier than the date of the member's demand. [1989 c.1010 §166]

65.781 Court-ordered inspection; attorney fees. (1) If a corporation does not allow a member who complies with ORS 65.774 (1) to inspect and copy any records required by ORS 65.774 (1) to be available for inspection, the circuit court in the county where the corporation's principal office, or, if none in this state, its registered office, is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(2) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with ORS 65.774 (2) and (3) may apply to the circuit court in the county where the corporation's principal office, or, if none in this state, its registered office, is located for an order to permit inspection and copying of the records demanded.

(3) The court may award reasonable attorney fees to the prevailing party in an action under this section.

(4) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

(5) No order shall be issued under this section without notice to the corporation at least five days in advance of the time specified for the hearing unless a different period is fixed by the court. The member's request shall be set for hearing at the earliest possible time and shall take precedence over all matters, except matters of the same character and hearings on preliminary injunctions under ORCP 79 B(3). [1989 c.1010 §167; 1995 c.618 §42]

65.782 Limitations on use of membership list. Without consent of the board, a membership list or any part of a membership list may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of this section, without the consent of the board, a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation;

(2) Used for any commercial purpose; or

(3) Sold or purchased by any person. [1989 c.1010 §168]

(Reports)

65.784 Report to members and other persons of indemnification. If a corporation indemnifies or advances expenses to a director under ORS 65.391 to 65.401 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to:

(1) The members with or before the notice of the next meeting of members; and

(2) Any person having the right to designate or appoint the director no later than 90 days after the first indemnification or advance. [1989 c.1010 §169; 1991 c.231 §13]

65.787 Annual report. (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall by its anniversary deliver to the Office of the Secretary of State for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The street address of the registered office and the name of the registered agent at that office in this state;

(c) If the registered agent is changed, that the new registered agent has consented to the appointment;

(d) The address including street and number and mailing address if different from its principal office;

(e) The names and addresses of the president and secretary of the corporation;

(f) A brief description of the nature of the activities of the corporation;

(g) Whether or not it has members;

(h) If it is a domestic corporation, whether it is a public benefit, mutual benefit or religious corporation;

(i) If it is a foreign corporation, whether it would be public benefit, mutual benefit or religious corporation had it been incorporated in this state; and

(j) Additional identifying information that the Secretary of State may require by rule.

(2) The information contained on the annual report shall be current as of 30 days before the anniversary of the corporation.

(3) The Secretary of State shall mail the annual report form to any address shown for the corporation in the current records of the office. The failure of the corporation to receive the annual report form from the Secretary of State shall not relieve the

corporation of its duty to deliver an annual report to the office as required by this section.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. The domestic or foreign corporation must correct the error within 45 days after the Secretary of State gives such notice.

(5) A domestic or foreign corporation may deliver to the Office of the Secretary of State for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the Office of the Secretary of State for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the articles of incorporation. The amendment to the annual report must set forth:

(a) The name of the corporation as shown on the records of the Office of the Secretary of State; and

(b) The information as changed.

(6) The Secretary of State may not charge a nonprofit corporation a fee to file an annual report under ORS 56.140 if the nonprofit corporation provides evidence to the Secretary of State that:

(a) The purpose of the nonprofit corporation as set forth in the articles of incorporation is to maintain a historic cemetery; and

(b) The historic cemetery that the nonprofit corporation maintains is listed with the Oregon Commission on Historic Cemeteries under ORS 97.782. [1989 c.1010 §170; 2007 c.186 §8; 2009 c.122 §2]

TRANSFER OF ASSETS OF HOSPITAL

65.800 Definitions for ORS 65.803 to 65.815. For purposes of ORS 65.803 to 65.815:

(1) "Hospital" means a hospital as defined in ORS 442.015.

(2) "Noncharitable entity" means any person or entity that is not a public benefit or religious corporation and is not wholly owned or controlled by one or more public benefit or religious corporations. [1997 c.291 §2; 2001 c.104 §20; 2009 c.595 §56; 2009 c.792 §29]

65.803 Hospitals operated by nonprofit corporation; transfer of assets; approval by Attorney General. (1) Any public benefit or religious corporation that operates a hospital must provide written notice to, and obtain the written approval of, the Attorney General before closing any transaction to do either of the following:

(a) Sell, transfer, lease, exchange, option, convey, merge or otherwise dispose of all or a significant portion of its hospital assets to a noncharitable entity or to an unrelated charitable entity.

(b) Transfer control, responsibility or governance of a significant portion of the hospital assets or hospital operations of the public benefit or religious corporation to a noncharitable entity.

(2) This section does not apply to a public benefit or religious corporation if any of the following apply:

(a) The transaction is in the usual and regular course of the activities of the public benefit or religious corporation.

(b) The public benefit or religious corporation has furnished the Attorney General with a detailed written statement describing the proposed transaction and requesting a written waiver of the requirements imposed by this section, and the Attorney General:

(A) Has given the public benefit or religious corporation a written waiver of the requirements imposed by this section as to the proposed transaction; or

(B) Has not made a written determination with regard to the request within 45 days after receiving the request.

(c) The Attorney General, by rule, has excepted this kind of transaction.

(3) The notice and approval required by ORS 65.800 to 65.815 are in addition to any other notice or approval required by this chapter or other applicable law.

(4) Notice and approval is not required under ORS 65.800 to 65.815 if a political subdivision of the state controls the operation of the hospital.

(5) Any person may make a written request to the Attorney General that the person be given notice of requests for approval received by the Attorney General under this section. The Attorney General shall maintain a mailing list of persons who have requested notification under this subsection and shall promptly mail a copy of any request for approval received under this section to the persons on the list. In addition, the Attorney General shall promptly mail a copy of any request for waiver received under subsection (2) of this section to the persons on the list upon receiving the request for waiver. The Attorney General may not grant a waiver under subsection (2) of this section until 14 days after the mailing required by this subsection. [1997 c.291 §3]

65.805 Notice to Attorney General; fee; trade secrets. (1) The notice to the Attorney General required by ORS 65.803 must be accompanied by any application fee im-

posed under ORS 65.813 (3) and must contain a detailed statement describing the proposed transaction along with any other information the Attorney General requires by rule.

(2)(a) Upon a showing satisfactory to the Attorney General by a party to the proposed transaction, any material required to be submitted to the Attorney General under subsection (1) of this section is a trade secret under ORS 192.501. The Attorney General shall classify the material as confidential and the material shall not be disclosed except as provided in paragraph (b) of this subsection unless the Attorney General determines that the material is necessary to the determination of an issue being considered at a public hearing as provided in ORS 65.807.

(b) To the extent that the material, or any portion thereof, would otherwise qualify as a trade secret under ORS 192.501, no action taken by the Attorney General, any authorized employee of the Department of Justice or any expert or consultant employed pursuant to ORS 65.813 in inspecting or reviewing such information shall affect its status as a trade secret. [1997 c.291 §4]

65.807 Public hearing; waiver; notice. (1) Before issuing a written decision under ORS 65.809, the Attorney General shall conduct a public hearing unless the Attorney General waives the requirement of a hearing. If a hearing is held, the Attorney General shall provide at least 14 days' notice of the time and place of the hearing in one or more newspapers of general circulation in the affected community and to the governing body of the county in which the hospital is located.

(2) Before waiving a hearing under this section, the Attorney General must mail notice of the intended waiver of public hearing to all persons on the mailing list maintained by the Attorney General under ORS 65.803 (5). The Attorney General may not take further action on the request for approval until at least 14 days after the mailing of the notice required by this subsection. [1997 c.291 §5]

65.809 Time for Attorney General decision; nature of decision; appeal. (1) Within 60 days after receipt of the notice required by ORS 65.803, the Attorney General shall notify the public benefit or religious corporation in writing of the Attorney General's decision on the proposed transaction. The Attorney General may extend this period for an additional 45 days if the extension is necessary to obtain information as provided in ORS 65.813 (1). The period may be extended beyond 105 days only with the agreement of all parties to the transaction.

(2) The Attorney General may approve the transaction, give conditional approval to the transaction or decline to approve the transaction. If the Attorney General does not approve the proposed transaction, the Attorney General shall notify each party to the proposed transaction, in writing, specifying the reasons for the disapproval.

(3) Any party to the proposed transaction, within 60 days after receipt of the Attorney General's final order, may appeal the order as provided in ORS chapter 183. For purposes of the judicial review, the specifications required to be set forth in the written notice from the Attorney General shall be deemed the Attorney General's findings of fact and conclusions of law. [1997 c.291 §6]

65.811 Disapproval of proposed transfer of assets. The Attorney General shall approve any proposed transaction subject to ORS 65.803 unless the Attorney General finds any of the following:

(1) The terms and conditions of the proposed transaction are not fair and reasonable to the public benefit or religious corporation.

(2) The proposed transaction will result in inurement to any private person or entity.

(3) The proposed transaction is not at fair market value.

(4) The proposed use of the proceeds from the transaction is inconsistent with any charitable trust to which the assets are subject.

(5) The proposed transaction involves or constitutes a breach of trust.

(6) The Attorney General has not been provided sufficient information to evaluate adequately the proposed transaction and the effects of the proposed transaction on the public.

(7) The proposed transaction significantly diminishes the availability or accessibility of health care services to the affected community.

(8) The proposed transaction is not in the public interest.

(9) The proposed transaction does not comply with all other legal requirements. [1997 c.291 §7]

65.813 Consultants; cost; rules; fee. (1) Within the time periods specified in ORS 65.809, and for the purpose of evaluating the factors identified in ORS 65.811, the Attorney General may do any of the following:

(a) Contract with, consult with or receive advice from any state agency pursuant to those terms and conditions that the Attorney General considers appropriate.

(b) In the Attorney General's sole discretion, contract with, consult with or receive advice from consultants to assist in the Attorney General's review of the proposed

transaction. The consultants shall be qualified and expert in the type of transactions under review. Before engaging any consultant, the Attorney General shall communicate with the parties to the proposed transaction regarding the engagement.

(2) The cost of any contract authorized under subsection (1) of this section shall be no more than is reasonably necessary to conduct the Attorney General's review and evaluation. Any contract entered into by the Attorney General under this section shall be exempt from the requirements of ORS chapters 279A and 279B, except ORS 279B.235. All contract costs incurred by the Attorney General under this section must be paid by the party to whom the transfer is to be made as described in ORS 65.803 (1).

(3) The Attorney General, by rule, may impose an application fee for costs incurred in reviewing and evaluating the proposed transaction. The fee must be paid by the party to whom the transfer is to be made as described in ORS 65.803 (1). [1997 c.291 §8; 2003 c.794 §195]

65.815 Rules. The Attorney General may adopt such rules as are necessary to carry out the provisions of ORS 65.800 to 65.815. The Attorney General shall have the authority to ensure compliance with commitments that inure to the public interest. [1997 c.291 §9]

CEMETERIES AND CREMATORIES

65.855 Lands of cemetery or crematory corporation; exemption from execution, taxation and condemnation. A nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains, may purchase or take, by gift or devise, and own and hold lands for the sole purpose of either a cemetery or a crematory and burial place for incinerate remains. Such lands shall be exempt from execution, and from any appropriation for public purposes, and lots or portions of such land and space in any buildings thereon may be sold, if intended to be used exclusively for burial purposes, and in no wise with a view to the profit of the members of such corporation. The land so held for cemetery purposes shall not exceed 600 acres, but if the land already held for such purpose by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 20 acres at any one time. The land so held for the purposes of a crematory and the burial of incinerate remains shall not exceed 30 acres, but if the land already held for such purposes by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 10 acres at any one time. Lands held for the purposes described in this section shall be exempt from taxation as provided in ORS 307.150. [Formerly 61.755]

65.860 Revenues; restrictions on uses of revenue. (1) A nonprofit corporation organized or existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains may, by its bylaws, provide that a stated percentage of the money received from the sale of lots and burial space, cremation of bodies, donations, gifts or other sources of revenue shall constitute an irreducible fund. Any bylaw enacted for the creation of the irreducible fund cannot be amended to reduce the fund.

(2) The board of directors may direct the investment of the money in the irreducible fund, but all investments of money deposited in the fund on or after January 1, 1972, shall be in securities in classes and amounts approved by the State Treasurer and published in a list pursuant to ORS 97.820. If a bank or trust company qualified to engage in the trust business is directed by the board of directors to invest the money in the irreducible fund, the bank or trust company shall be governed by ORS 130.750 to 130.775 and shall not be required to invest the money according to the list approved by the State Treasurer. An officer of the corporation shall file with the Director of the Department of Consumer and Business Services on or before April 15 of each year a verified statement in duplicate containing the same information pertaining to the irreducible fund as provided in ORS 97.810 (4) regarding endowment care funds. The director may require the corporation to file, as often as the director considers it to be necessary, a detailed report of the conditions and assets of the irreducible fund.

(3) The interest or income arising from the irreducible fund provided for in this section or by any bylaws, or so much thereof as is necessary, shall be devoted exclusively to the preservation and embellishment of the grounds, buildings and property of the corporation and the lots and space in buildings or grounds sold to the members of the corporation, or to the payment of the interest or principal of the debts authorized by subsection (5) of this section for the purchase of land, erecting buildings, and improvements. Any surplus thereof not needed or used for such purposes shall be invested as provided in this section and shall become part of the irreducible fund.

(4) After paying for the land and the erection of the original buildings and improvements thereon, all the future receipts

and income of the corporation subject to the provisions in this section relating to the creation of an irreducible fund, whether from the sale of lots and burial space, cremation of bodies, donations, gifts and other sources, shall be applied exclusively to laying out, preserving, protecting, embellishing and beautifying the cemetery or the crematory and grounds thereof, and the avenues leading thereto, and to the erection of such buildings and improvements as may be necessary or convenient for cemetery or crematory purposes, and to pay the necessary expenses of the corporation.

(5) No debts shall be contracted by such corporation in anticipation of any future receipts, except for originally purchasing the lands authorized to be purchased by it, laying out and embellishing the grounds and avenues, erecting buildings and vaults on such land, and improving them for the purposes of the corporation. The corporation may issue bonds or notes for debts so contracted and may secure them by way of mortgage upon any of its lands, buildings, property and improvements excepting lots or space conveyed to the members. [Formerly 61.760; 1995 c.144 §14; 1995 c.157 §23; 2001 c.796 §22; 2005 c.348 §124; 2007 c.661 §26]

65.865 Selling land unsuited for burials. If in the board of directors' opinion, any portion of the lands of a nonprofit corporation organized and existing solely for the purposes of either owning or operating a cemetery or the cremation of dead bodies and the burial and care of incinerate remains is unsuitable for burial purposes or other purposes of the corporation, the board of directors may sell such portion and apply the proceeds to the general purposes of such corporation in the same proportion and manner as provided by ORS 65.855 to 65.875. [Formerly 61.765]

65.870 Burial lots or space; use, exemption from taxation, execution and liens; lien for purchase price of gravestone. Burial lots or space for burial of incinerate remains in buildings or grounds sold by a nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall be for the sole purpose of interment or deposit and safekeeping of incinerate remains. Such lots or space shall be exempt from execution, attachment or other lien or process, if used as intended by the purchaser thereof from such corporation, or the assigns or representatives of the purchaser, exclusively for burial purposes, and in no wise with a view to profit. Such lots or space shall be exempt from taxation as provided in ORS 307.150. The vendor of any gravestone, however, shall not be prevented from having and enforcing a lien thereon for all or part of its purchase price. If a suit is brought to enforce such a lien, the judgment therein is enforceable thereafter; and, for the purpose of enabling the lien to be had and enforced, the gravestone shall be deemed personal property and may be severed and removed, under execution and order of sale, from the lot where it is situated and may be sold in the same manner as any other personal property. [Formerly 61.770; 2003 c.576 §331]

65.875 Recording plan; power to improve and regulate grounds. (1) As used in this section, "plan" means a document indicating the placement of lots or burial spaces, and of the niches or inurnment spaces in the buildings erected thereon, as established and authorized by the cemetery authority.

(2) A nonprofit corporation organized and existing solely for the purposes of owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall cause a plan of its land and grounds and of the lots laid out by it and of the niches or burial space in the buildings erected thereon to be made and recorded in the county in which such grounds and land are located, such lots or spaces to be numbered by regular consecutive numbers. Such corporation may enclose, improve, and adorn the grounds, buildings, and avenues, prescribe rules for the designation, improvement and adorning of lots and burial spaces and for erecting monuments, and prohibit any use, division, improvement or adornment of a lot or burial space which it may deem improper. [Formerly 61.775; 1999 c.731 §9]

MISCELLANEOUS

65.951 Short title. This chapter shall be known and may be cited as the Oregon Nonprofit Corporation Act. [1989 c.1010 §1; 1999 c.59 §16]

65.954 Reservation of power to amend or repeal. All or part of this chapter may be amended, repealed or modified at any time and all domestic and foreign corporations subject to this chapter are governed by the amendment, repeal or modification. [1989 c.1010 §2]

65.957 Application to existing domestic corporations; exemptions. (1) This chapter applies to all domestic corporations in existence on October 3, 1989, that were incorporated under any general statute of this state providing for incorporation of nonprofit corporations if power to amend or repeal the statute under which the corporation was incorporated was reserved.

(2) Without limitation as to any other corporations that may be outside the scope

of subsection (1) of this section, this chapter does not apply to the following:

(a) The Oregon State Bar and the Oregon State Bar Professional Liability Fund created under ORS 9.005 to 9.755;

(b) The State Accident Insurance Fund Corporation created under ORS chapter 656;

(c) The Oregon Insurance Guaranty Association and the Oregon Life and Health Insurance Guaranty Association created under ORS chapter 734; and

(d) The Oregon FAIR Plan Association and the Oregon Medical Insurance Pool created under ORS chapter 735. [1989 c.1010 §172; 1997 c.249 §26; 1999 c.274 §20; 2001 c.922 §11; 2005 c.22 §51]

65.959 Application to corporations relating to condominiums, planned communities or timeshare estates. For a corporation organized under this chapter and formed pursuant to ORS chapter 100 or subject to regulation under all or part of the provisions of ORS 94.550 to 94.783 or under ORS 94.803 and 94.807 to 94.945:

(1) A provision of this chapter that may be avoided by a corporation by a provision in the corporation's articles of incorporation, bylaws or otherwise also may be avoided by a provision in the declaration, bylaws or other recorded governing document of a planned community or a condominium.

(2) In the event of a conflict between the provisions of this chapter and:

(a) The declaration and bylaws of a condominium and the provisions of ORS chapter 100, the declaration and bylaws and the provisions of ORS chapter 100 control.

(b) The declaration, bylaws and other recorded governing documents of a planned community and the provisions of ORS 94.550 to 94.783, the declaration, bylaws and other governing documents and the provisions of ORS 94.550 to 94.783 control.

(c) The recorded timeshare instrument of a timeshare plan and the provisions of ORS 94.803 and 94.807 to 94.945, the recorded timeshare instrument and the provisions of ORS 94.803 and 94.807 to 94.945 control. [2003 c.569 §46]

65.961 Application to qualified foreign corporations. A foreign corporation authorized to engage in activities in this state on October 3, 1989, is subject to this chapter but is not required to apply for new authority to engage in activities under this chapter. [1989 c.1010 §173]

65.964 Saving provisions. (1) Except as provided in subsections (2), (3) and (4) of this section, the repeal of a statute by chapter 1010, Oregon Laws 1989, does not affect:

(a) The operation of the statute or any action taken under it before its repeal;

(b) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;

(c) Any violation of the statute, or any penalty, forfeiture or punishment incurred because of the violation, before its repeal; or

(d) Any proceeding, reorganization or dissolution commenced under the statute before its repeal. The proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed.

(2) The provisions of ORS 65.387 to 65.414 shall apply to all indemnification made by a corporation after October 3, 1989, and all other actions regarding indemnification taken by or on behalf of a corporation or by a court after October 3, 1989, including all indemnification made and other actions taken after October 3, 1989, with respect to claims that arose or matters that occurred prior to October 3, 1989, or pursuant to any provisions of any articles of incorporation, bylaws, resolutions or agreements in effect prior to October 3, 1989.

(3) If a penalty or punishment imposed for violation of a statute repealed by chapter 1010, Oregon Laws 1989, is reduced by this chapter, the penalty or punishment, if not already imposed, shall be imposed in accordance with this chapter.

(4) This chapter shall apply to any amendment to a corporation's articles of incorporation filed after October 3, 1989, even if member approval of such amendment occurred prior to October 3, 1989.

(5) Except as specifically provided in this chapter, nothing in this chapter shall affect any powers the Attorney General may have under other statutes or common law. [1989 c.1010 §174]

65.967 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [1989 c.1010 §175]

PENALTY

65.990 Penalty for signing false document. (1) A person commits the crime of falsely signing a document for filing if the person signs a document knowing it is false in any material respect with intent that the

document be delivered to the Office of the Secretary of State for filing.

(2) Violation of subsection (1) of this section is a Class B misdemeanor. [1989 c.1010 §§12,171]

CHAPTER 66

[Reserved for expansion]