

Act No. 222
Public Acts of 2008
Approved by the Governor
July 15, 2008
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July 16, 2008
EFFECTIVE DATE: July 16, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Tobocman and Huizenga

ENROLLED HOUSE BILL No. 5681

AN ACT to amend 1982 PA 162, entitled "An act to revise, consolidate, and classify the laws relating to the organization and regulation of certain nonprofit corporations; to prescribe their duties, rights, powers, immunities, and liabilities; to provide for the authorization of foreign nonprofit corporations within this state; to impose certain duties on certain state departments; to prescribe fees; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending sections 106, 404, 505, 548, 611, 901, and 922 (MCL 450.2106, 450.2404, 450.2505, 450.2548, 450.2611, 450.2901, and 450.2922), sections 106, 404, and 901 as amended by 2008 PA 9 and section 611 as amended by 1984 PA 209.

The People of the State of Michigan enact:

Sec. 106. (1) "Charitable purpose corporation" means a nonprofit corporation that meets any of the following:

- (a) Is exempt or qualifies for exemption under section 501(c)(3) of the internal revenue code, 26 USC 501.
 - (b) Is a corporation whose purposes, structure, or activities are exclusively those that are described in section 501(c)(3) of the internal revenue code, 26 USC 501.
 - (c) Is a corporation organized or held out to be organized exclusively for 1 or more charitable purposes.
- (2) "Corporation" or "domestic corporation" means a nonprofit corporation.
- (3) "Director" means an individual who is a member of the board of a corporation. The term is synonymous with "trustee" of a corporation or other similar designation.
- (4) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:
- (a) It does not directly involve the physical transmission of paper.
 - (b) It creates a record that may be retained and retrieved by the recipient.
 - (c) It may be directly reproduced in paper form by the recipient through an automated process.

Sec. 404. (1) Except as otherwise provided in this act, notice of the time, place, if any, and purposes of a meeting of shareholders or members shall be given in any of the following manners:

(a) By written notice, given personally, by mail, or by electronic transmission, not less than 10 nor more than 60 days before the date of the meeting to each shareholder or member of record entitled to vote at the meeting.

(b) By including the notice, prominently displayed, in a newspaper or other periodical regularly published at least semiannually by or in behalf of the corporation and addressed and mailed, postage prepaid, to a member or shareholder entitled to vote at the meeting not less than 10 nor more than 60 days before the meeting.

(2) If a meeting of the shareholders or members is adjourned to another time or place, it is not necessary, unless the bylaws otherwise provide, to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. If after the adjournment the board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder or member of record on the new record date entitled to notice under subsection (1).

(3) If a meeting of shareholders or members is adjourned under subsection (2), only business that might have been transacted at the original meeting may be transacted at the adjourned meeting if a notice of the adjourned meeting is not given.

(4) Attendance of a person at a meeting of shareholders or members, in person or by proxy, constitutes a waiver of objection to lack of notice or defective notice of the meeting, unless the shareholder or member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(5) If a shareholder or member is permitted to participate in and vote at a meeting by remote communication under section 405, the notice described in subsection (1) shall include a description of the means of remote communication by which a shareholder or member may participate.

Sec. 505. (1) Except as provided in subsection (5), the board shall consist of 3 or more directors. The bylaws shall fix the number of directors or establish the manner for fixing the number, unless the articles of incorporation fix the number.

(2) The articles of incorporation or a bylaw adopted by the shareholders, members, or incorporators of a corporation organized on a stock or membership basis may specify the term of office and the manner of election or appointment of directors. If the articles of incorporation or bylaws do not so specify the term of office or manner of election or appointment of directors, the first board of directors shall hold office until the first annual meeting of shareholders or members. At the first annual meeting of shareholders or members and at each subsequent annual meeting the shareholders or members shall elect directors to hold office until the succeeding annual meeting, except in case of the classification of directors permitted under this act.

(3) The articles of incorporation or a bylaw of a corporation organized on a directorship basis shall specify the term of office and the manner of election or appointment of directors.

(4) A director shall hold office for the term for which he or she is elected or appointed and until his or her successor is elected or appointed and qualified, or until his or her resignation or removal. A director may resign by written notice to the corporation. A resignation of a director is effective when it is received by the corporation or a later time if set forth in the notice of resignation.

(5) Beginning 180 days after the effective date of the amendatory act that added this subsection, the board of a corporation that is in existence on the effective date of the amendatory act that added this subsection shall consist of 3 or more directors.

Sec. 548. (1) Except as provided in subsection (4) and unless otherwise prohibited by law, a corporation may lend money to, or guarantee an obligation of, or otherwise assist an officer or employee of the corporation or a subsidiary, including an officer or employee who is a director of the corporation or subsidiary, if in the judgment of the board, the loan, guaranty, or assistance is reasonably expected to benefit the corporation.

(2) A loan, guaranty, or assistance described in subsection (1) may be with or without interest, and may be unsecured, or secured in a manner that the board approves.

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

(4) If a corporation is a charitable purpose corporation, the corporation shall not provide loans to or guarantee an obligation of an officer or director of the corporation or a subsidiary of a corporation, unless the officer or director is also a client of the corporation and the loan or guaranty is necessary to carry out the corporation's charitable purposes.

Sec. 611. (1) Before the first meeting of the board, the incorporators may amend the articles of incorporation by complying with section 631(1).

(2) Except for an amendment described in subsection (1) and except as otherwise provided in this act, a corporation must adopt any amendment to the articles of incorporation in 1 of the following manners as provided in this section:

(a) If the corporation is organized on a membership basis, by a vote of the members entitled to vote on the amendment.

(b) If the corporation is organized on a stock basis, by a vote of the shareholders entitled to vote on the amendment.

(c) If the corporation is organized on a directorship basis, unless the articles of incorporation specify a different manner, by a vote of the directors.

(3) A corporation shall give notice of a meeting to consider an amendment to the articles of incorporation to each member, shareholder, or director entitled to vote on the amendment, as applicable. The notice shall contain the proposed amendment or a summary of the changes that will occur if the amendment is adopted. The corporation shall provide the notice within the time and in the manner provided in this act for giving notice of meetings of shareholders, members, or directors, except that the corporation shall give notice of the meeting to each director then in office not less than 10 days before the meeting.

(4) At a meeting to consider an amendment to the articles of incorporation, a vote of shareholders, members, or directors entitled to vote shall be taken on the proposed amendment. The proposed amendment is adopted if it receives the affirmative vote of a majority of the outstanding shares or members entitled to vote on the proposed amendment or a majority of the directors then in office. If any class of shares or members is entitled to vote on the proposed

amendment as a class, the affirmative vote of a majority of the outstanding shares or members of that class is also required to adopt the amendment. The voting requirements of this section are subject to greater requirements as prescribed by this act for specific amendments, or as provided in the articles of incorporation or bylaws. In addition, unless a greater vote is required in the articles of incorporation, or in a bylaw adopted by the shareholders, members, or directors, the proposed amendment is adopted if it receives an affirmative vote of a majority of members or shares of shareholders present in person, by proxy, or by electronic transmission at the meeting if due notice of the time, place, and object of the meeting was given by mail, at the last known address, to each shareholder, member, or director entitled to vote at least 20 days before the date of the meeting or by publication in a publication distributed by the corporation to its shareholders or members at least 20 days before the date of the meeting.

(5) The shareholders, members, or directors may act on any number of amendments at 1 meeting.

(6) If an amendment to the articles of incorporation is adopted, the corporation shall file a certificate of amendment as provided in section 631.

Sec. 901. (1) Each domestic corporation at least once in each year shall cause a report of the corporation for the preceding fiscal year to be made and distributed to each shareholder or member thereof or presented at the annual meeting of shareholders or members, or, if the corporation is organized upon a directorship basis, at the annual meeting of the board. The report shall include the corporation's year-end statement of assets and liabilities, including trust funds, and the principal change in assets and liabilities during the year preceding the date of the report and, if prepared by the corporation, its source and application of funds and any other information required by this act.

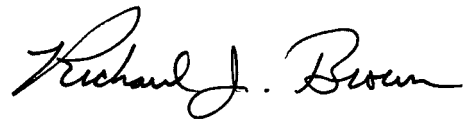
(2) A corporation may distribute the financial report required under subsection (1) electronically, either by electronic transmission of the report or by making the report available for electronic transmission. If the report is distributed electronically under this subsection, the corporation shall provide the report in written form to a shareholder, member, or director on request.

Sec. 922. (1) If a domestic corporation neglects or refuses for 2 consecutive years to file the annual reports or pay the annual filing fee required by law, the corporation shall be automatically dissolved. The administrator shall notify the corporation of the impending dissolution not later than 90 days before the 2 years has expired. Until a corporation has been dissolved, it is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly incorporated as a domestic corporation and that it is validly in existence under the laws of this state.

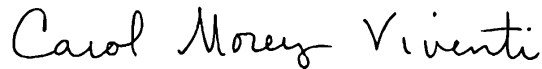
(2) A charitable purpose corporation that is dissolved under subsection (1) shall provide notice of the dissolution to the attorney general within 60 days after the date of the dissolution and shall not dispose of any of its assets without written approval of the attorney general.

(3) If a foreign corporation neglects or refuses for 1 year to file the annual report or pay the annual filing fee required by law, its certificate of authority is subject to revocation in accordance with section 1042. Until revocation of its certificate of authority or its withdrawal from this state or termination of its existence, the foreign corporation is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly authorized to transact business in this state and that it holds a valid certificate of authority to transact business in this state.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor