

As to a local building and loan association and corporations organized for the establishing, maintaining, and operating of hospitals not for profit, the resolution to amend may be adopted as above provided or by a two-thirds vote of the stockholders or members of the association attending the meeting in person or by proxy.

**Sec. 11. REPEALER.**

Minnesota Statutes 1980, Sections 300.07; 301.06, Subdivision 3; 301.07; 301.071, Subdivision 1; and 301.33, Subdivision 3, are repealed.

**Sec. 12. EFFECTIVE DATE.**

Sections 1 to 11 are effective July 1, 1982.

Approved March 19, 1982

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**CHAPTER 497 — S.F.No. 1950**

*An act relating to corporations; correcting certain errors; removing certain deficiencies and ambiguities; and amending Minnesota Statutes 1981 Supplement, Sections 300.083, Subdivision 2; 300.49, Subdivision 1; 302A.011, Subdivisions 4, 10, 17, 21, 25, 29, 30, and 31; 302A.021, Subdivisions 2, 4, 7, and 8; 302A.111, Subdivisions 2, 3, and 4; 302A.115, Subdivision 2; 302A.123; 302A.131; 302A.135, Subdivisions 2 and 4; 302A.181, Subdivision 3; 302A.201, Subdivision 2; 302A.207; 302A.235; 302A.239, Subdivision 1; 302A.241, Subdivisions 1 and 2; 302A.243; 302A.251, Subdivisions 2 and 3; 302A.255, Subdivision 1; 302A.401, Subdivision 2; 302A.403, Subdivisions 2 and 4; 302A.405, Subdivision 1; 302A.413, Subdivision 4; 302A.431, Subdivision 2; 302A.433, Subdivisions 1 and 2; 302A.435, Subdivision 1; 302A.437, Subdivision 1; 302A.443; 302A.445, Subdivisions 1 and 6; 302A.455; 302A.457, Subdivisions 1 and 2; 302A.461, Subdivision 2; 302A.463; 302A.467; 302A.521, Subdivision 2; 302A.551, Subdivisions 1 and 2; 302A.559, Subdivision 1; 302A.613, Subdivisions 2 and 3; 302A.661, Subdivision 2; 302A.721, Subdivision 2; 302A.723, Subdivision 1; 302A.727, Subdivision 2; 302A.729, Subdivision 1; 302A.731, Subdivision 2; 302A.733, Subdivision 1; 302A.741; 302A.751, Subdivisions 2 and 3; 302A.781, Subdivision 1; 302A.821, Subdivisions 4 and 5; repealing Minnesota Statutes 1981 Supplement, Sections 302A.011, Subdivision 35; and 302A.241, Subdivision 3.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. As used in this act, the word "chapter" means Minnesota Statutes 1981 Supplement, Chapter 302A, as amended.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 4, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **ARTICLES.** "Articles" means, in the case of a corporation incorporated under or governed by this chapter, articles of incorporation, articles of amendment, a resolution of election to become governed by this chapter, a demand retaining the two-thirds majority for shareholder approval of certain transactions, a statement of change of registered office, ~~or~~ registered agent, or name of registered agent, a statement establishing or fixing the rights and preferences of a class or series of shares, a statement of cancellation of authorized shares, articles of merger, articles of abandonment, and articles of dissolution. In the case of a foreign corporation, the term includes all documents serving a similar function required to be filed with the secretary of state or other officer of the corporation's state of incorporation.

Sec. 3. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 10, is amended to read:

Subd. 10. **DISTRIBUTION.** "Distribution" means a direct or indirect transfer of money or other property, other than its own shares, with or without consideration, or an incurrence or issuance of indebtedness, by a corporation to ~~or for the benefit of~~ any of its shareholders in respect of its shares. A distribution may be in the form of a dividend or a distribution in liquidation, or as consideration for the purchase, redemption, or other acquisition of its shares, or otherwise.

Sec. 4. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 17, is amended to read:

Subd. 17. **NOTICE.** "Notice" is given by a shareholder of a corporation to the corporation or an officer of the corporation when in writing and mailed or delivered to the corporation or the officer at the registered office or principal executive office of the corporation. In all other cases, "notice" is given to a person when mailed to the person at an address designated by the person or at the last known address of the person, or when communicated to the person orally, or when handed to the person, or when left at the office of the person with a clerk or other person in charge of the office, or if there is no one in charge, when left in a conspicuous place in the office, or if the office is closed or the person to be notified has no office, when left at the dwelling house or usual place of abode of the person with some person of suitable age and discretion then residing therein. Notice is given to a corporation when mailed or delivered to it at its registered office. Notice by mail is given when deposited in the United States mail with sufficient postage affixed. Notice is deemed received when it is given.

Sec. 5. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 21, is amended to read:

Subd. 21. **PARENT.** "Parent" of a specified corporation means a corporation that directly, or indirectly through related corporations, owns more than

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50 percent of the voting power of the shares entitled to vote for directors of the specified corporation.

Sec. 6. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 25, is amended to read:

Subd. 25. **RELATED CORPORATION.** "Related corporation" of a specified corporation means a parent or subsidiary of a the specified corporation or another subsidiary of a parent of the specified corporation.

Sec. 7. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 29, is amended to read:

Subd. 29. **SHAREHOLDER.** "Shareholder" means a person registered on the books or records of a corporation or its transfer agent or registrar as the owner of ~~one or more~~ whole or fractional shares of the corporation.

Sec. 8. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 30, is amended to read:

Subd. 30. **SIGNED.** (a) "Signed" means that the signature of a person has been written on a document, as provided in section 645.44, subdivision 14, and, with respect to a document required by this chapter to be filed with the secretary of state, means that the document has been signed by a person authorized to do so by this chapter, the articles or bylaws, or a resolution approved by the affirmative vote of a ~~majority~~ the required proportion or number of the directors or the holders of a ~~majority~~ the required proportion or number of the voting power of the shares present and entitled to vote.

(b) A signature on a document not required by this chapter to be filed with the secretary of state may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, or in any other manner reproduced on the document.

Sec. 9. Minnesota Statutes 1981 Supplement, Section 302A.011, Subdivision 31, is amended to read:

Subd. 31. **SUBSIDIARY.** "Subsidiary" of a specified corporation means a corporation having more than 50 percent of the voting power of its shares entitled to vote for directors owned directly, or indirectly through related corporations, by the specified corporation.

Sec. 10. Minnesota Statutes 1981 Supplement, Section 302A.021, Subdivision 2, is amended to read:

Subd. 2. **ELECTION BY BUSINESS AND PROFESSIONAL CORPORATIONS.** A corporation incorporated under sections 301.01 to 301.67 may elect, on or after July 1, 1981 and before ~~July 1, 1983~~ January 1, 1984, to become governed by this chapter. A corporation incorporated under sections 301.01 to 301.67 and 319A.01 to 319A.22 may elect, on or after July 1, 1981 and before ~~July 1, 1983~~ January 1, 1984, to become governed by this chapter and sections 319A.01 to 319A.22.

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Sec. 11. Minnesota Statutes 1981 Supplement, Section 302A.021, Subdivision 4, is amended to read:

Subd. 4. **METHOD OF ELECTION.** An election by a corporation to become governed by this chapter shall be made by resolution approved by the affirmative vote of the holders of a majority, or a larger the same proportion or number of the voting power of the shares entitled to vote that is required by the articles for amendment of the articles, of the shares represented and voting at a duly held meeting of the corporation prior to the election. The resolution, and articles of amendment if required, shall be filed with the secretary of state and is effective upon filing. If no amendment of the articles is required, the resolution shall state that the articles of the corporation conform to the requirements of this chapter.

Sec. 12. Minnesota Statutes 1981 Supplement, Section 302A.021, Subdivision 7, is amended to read:

Subd. 7. **NON-ELECTING BUSINESS CORPORATIONS SUBJECT TO LAW AS OF JANUARY 1, 1984.** A corporation in existence on January 1, 1984 and incorporated under another statute of this state for a purpose or purposes for which a corporation may be incorporated under this chapter or, if applicable, this chapter and chapter 319A, other than a corporation incorporated under chapter 300 that has not subsequently become governed by chapter 301, that has not elected before January 1, 1984 to become subject to this chapter, becomes governed by this chapter or, if applicable, this chapter and chapter 319A, on January 1, 1984 as fully as though the corporation had been incorporated under this chapter or, if applicable, this chapter and chapter 319A. All provisions of the articles and bylaws of the corporation that may be included in the articles or bylaws under this chapter remain in effect. All provisions of the articles and bylaws of the corporation that are inconsistent with this chapter cease to be effective on January 1, 1984. Any provisions required by this chapter to be contained in the articles that do not appear in the articles are read into them as a matter of law.

Sec. 13. Minnesota Statutes 1981 Supplement, Section 302A.021, Subdivision 8, is amended to read:

Subd. 8. **RETENTION OF TWO-THIRDS MAJORITY.** (a) If the articles of a corporation ~~subject to this section described in subdivision 1 or 2 and~~ electing to become governed by this chapter or, if applicable, this chapter and chapter 319A, or described in subdivision 7, do not contain a provision specifying the proportion of the voting power of the ~~shareholders~~ shares required for approval of amendments to the articles, plans of merger or exchange, or sales of assets, a shareholder or shareholders holding more than one-third of the voting power of all the shares entitled to vote for any or all of the above mentioned actions may, by signed written demand filed with the secretary of state, amend the articles of the corporation to include a provision requiring the approval of the

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holders of two-thirds of the voting power of the shares entitled to vote for any or all of the above mentioned actions for which no required majority was specified, notwithstanding any provisions of sections 302A.135, 302A.613 or 302A.661 to the contrary. Notice that the demand has been filed shall be given by the shareholder to an officer of the corporation, but failure to give the notice does not invalidate the demand.

(b) A shareholder or shareholders holding more than one-third of the voting power of all the ~~shareholders~~ shares entitled to vote for dissolution of a corporation ~~subject to this section described in subdivision 1 or 2 and electing to become governed by this chapter or, if applicable, this chapter and chapter 319A, or described in subdivision 7,~~ may, by signed written demand filed with the secretary of state, amend the articles of the corporation to include a provision requiring the approval of the holders of two-thirds of the voting power of all the shares for the authorization of the dissolution of the corporation, notwithstanding the provisions of section 302A.721. Notice that the demand has been filed shall be given by the shareholder to an officer of the corporation, but failure to give the notice does not invalidate the demand.

(c) An amendment A signed written demand by the shareholders of a corporation pursuant to paragraph (a) or (b) is valid only if filed with the secretary of state before January 1, 1984 or, in the case of a corporation described in subdivision 7, before April 1, 1984.

Sec. 14. Minnesota Statutes 1981 Supplement, Section 302A.111, Subdivision 2, is amended to read:

Subd. 2. **STATUTORY PROVISIONS THAT MAY BE MODIFIED ONLY IN ARTICLES.** The following provisions govern a corporation unless modified in the articles:

- (a) A corporation has general business purposes (section 302A.101);
- (b) A corporation has perpetual existence and certain powers (section 302A.161);
- (c) The power to adopt, amend, or repeal the bylaws is vested in the board (section 302A.181);
- (d) A corporation must allow cumulative voting for directors (section 302A.215);
- (e) The affirmative vote of a majority of directors present is required for an action of the board (section 302A.237);
- (f) A written action by the board taken without a meeting must be signed by all directors (section 302A.239);
- (g) *The board may authorize the issuance of securities and rights to purchase securities (section 302A.401, subdivision 1);*

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(h) All shares are common ~~voting~~ shares entitled to vote and are of one class and one series (section 302A.401, subdivision 2, clauses (a) and (b));

(i) All shares have equal rights and preferences in all matters not otherwise provided for by the board (section 302A.401, subdivision 2, clause (b));

(j) The par value of shares is fixed at one cent per share for certain purposes and may be fixed by the board for certain other purposes (section 302A.401, subdivision 2, clause (c));

(k) The board or the shareholders may issue shares for any consideration or for no consideration to effectuate share dividends or splits, and determine the value of nonmonetary consideration (section 302A.405, subdivision 1);

(l) Shares of a class or series must not be issued to holders of shares of another class or series to effectuate share dividends or splits, unless authorized by a majority of the voting power of the shares of the same class or series as the shares to be issued (section 302A.405, subdivision 1);

(m) A corporation may issue rights to purchase securities whose terms, provisions, and conditions are fixed by the board (section 302A.409);

(n) A shareholder has certain preemptive rights, unless otherwise provided by the board (section 302A.413);

(o) The affirmative vote of the holders of a majority of the voting power of the shares ~~represented and voting present and~~ entitled to vote at a duly held meeting is required for an action of the shareholders, except where this chapter requires the affirmative vote of a majority of the voting power of all ~~voting~~ shares entitled to vote (section 302A.437, subdivision 1); ~~and~~

(p) Shares of a corporation acquired by the corporation may be reissued (section 302A.553, subdivision 1);

(q) An exchange need not be approved by shareholders of the acquiring corporation unless the outstanding shares entitled to vote of that corporation will be increased by more than 20 percent immediately after the exchange (section 302A.613, subdivision 3, clause (c)); and

(r) An exchange need not be approved by shareholders of the acquiring corporation unless the outstanding participating shares of that corporation will be increased by more than 20 percent immediately after the exchange (section 302A.613, subdivision 3, clause (d)).

Sec. 15. Minnesota Statutes 1981 Supplement, Section 302A.111, Subdivision 3, is amended to read:

Subd. 3. **STATUTORY PROVISIONS THAT MAY BE MODIFIED EITHER IN ARTICLES OR IN BYLAWS.** The following provisions govern a corporation unless modified either in the articles or in the bylaws:

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(a) Directors serve for an indefinite term that expires at the next regular meeting of shareholders (section 302A.207);

(b) The compensation of directors is fixed by the board (section 302A.211);

(c) A certain method must be used for removal of directors (section 302A.223);

(d) A certain method must be used for filling board vacancies (section 302A.225);

(e) If the board fails to select a place for a board meeting, it must be held at the principal executive office (section 302A.231, subdivision 1);

(f) A director may call a board meeting, and the notice of the meeting need not state the purpose of the meeting (section 302A.231, subdivision 3);

(g) A majority of the board is a quorum for a board meeting (section 302A.235);

(h) A committee shall consist of one or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present (section 302A.241, subdivision 2);

(i) A majority of a committee is a quorum for a committee meeting, unless otherwise provided by a resolution of the board (section 302A.241, subdivision 3);

(j) The board may establish a committee of disinterested persons (section 302A.243);

(k) The chief executive officer and chief financial officer have specified duties, until the board determines otherwise (section 302A.305);

(l) Officers may delegate some or all of their duties and powers, if not prohibited by the board from doing so (section 302A.351);

(m) The board may establish uncertificated shares (section 302A.417, subdivision 7);

(n) Regular meetings of shareholders need not be held, unless demanded by a shareholder under certain conditions (section 302A.431);

(o) Not less than 10-days nor more than 60-days notice is required for a meeting of shareholders (section 302A.435, subdivision 2);

(p) The number of shares required for a quorum at a shareholders' meeting is a majority of the voting power of the shares entitled to vote at the meeting (section 302A.443);

(q) The board may fix a date up to ~~50~~ 60 days before the date of a shareholders' meeting as the date for the determination of the holders of ~~voting~~

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shares entitled to notice of and entitled to vote at the meeting (section 302A.445, subdivision 1);

(r) Each share has one vote unless otherwise provided in the terms of the share (section 302A.445, subdivision 3); and

(s) Indemnification of certain persons is required (section 302A.521); and

(t) The board may authorize, and the corporation may make, distributions not prohibited, limited, or restricted by an agreement (section 302A.551, subdivision 1).

Sec. 16. Minnesota Statutes 1981 Supplement, Section 302A.111, Subdivision 4, is amended to read:

Subd. 4. **OPTIONAL PROVISIONS: SPECIFIC SUBJECTS.** The following provisions relating to the management of the business or the regulation of the affairs of a corporation may be included either in the articles or, except for naming members of the first board ~~or~~, fixing a greater than majority director or shareholder vote, or giving or prescribing the manner of giving voting rights to persons other than shareholders otherwise than pursuant to the articles, in the bylaws:

(a) The members of the first board may be named in the articles (section 302A.201, subdivision 1);

(b) A manner for increasing or decreasing the number of directors may be provided (section 302A.203);

(c) Additional qualifications for directors may be imposed (section 302A.205);

(d) Directors may be classified (section 302A.213);

(e) The day or date, time, and place of board meetings may be fixed (section 302A.231, subdivision 1);

(f) Absent directors may be permitted to give written consent or opposition to a proposal (section 302A.233);

(g) A larger than majority vote may be required for board action (section 302A.237);

(h) Authority to sign and deliver certain documents may be delegated to an officer or agent of the corporation other than the chief executive officer (section 302A.305, subdivision 2);

(i) Additional officers may be designated (section 302A.311);

(j) Additional powers, rights, duties, and responsibilities may be given to officers (section 302A.315);

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(k) A method for filling vacant offices may be specified (section 302A.341, subdivision 3);

(l) A certain officer or agent may be authorized to sign share certificates (section 302A.417, subdivision 2);

(m) The transfer or registration of transfer of securities may be restricted (section 302A.429);

(n) The day or date, time, and place of regular shareholder meetings may be fixed (section 302A.431, subdivision 3);

(o) Certain persons may be authorized to call special meetings of shareholders (section 302A.433, subdivision 1);

(p) Notices of shareholder meetings may be required to contain certain information (section 302A.435, subdivision 3);

(q) A larger than majority vote may be required for shareholder action (section 302A.437);

(r) Voting rights may be granted in or pursuant to the articles to persons who are not shareholders (section 302A.445, subdivision 4);

(s) Corporate actions giving rise to dissenter rights may be designated (section 302A.471, subdivision 1, clause (e)); and

(t) The rights and priorities of persons to receive distributions may be established (section 302A.551).

Sec. 17. Minnesota Statutes 1981 Supplement, Section 302A.115, Subdivision 2, is amended to read:

Subd. 2. **NAMES CONTINUED.** Subdivision 1, clause (d) does not affect the right of a domestic corporation existing on ~~July 4, 1983~~ January 1, 1984, or a foreign corporation authorized to do business in this state on that date to continue the use of its name.

Sec. 18. Minnesota Statutes 1981 Supplement, Section 302A.123, is amended to read:

**302A.123 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT; CHANGE OF NAME OF REGISTERED AGENT.**

Subdivision 1. **STATEMENT.** A corporation may change its registered office ~~or~~, designate or change its registered agent, or state a change in the name of its registered agent, by filing with the secretary of state a statement containing:

- (a) The name of the corporation;
- (b) The present address of its registered office;

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(c) If the address of its registered office is to be changed, the new address of its registered office;

(d) The name of its registered agent, if any;

(e) If its registered agent is to be designated or changed, the name of its new registered agent;

(f) If the name of its registered agent is to be changed, the name of its registered agent as changed;

(g) A statement that the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and

(g) (h) A statement that the change of registered office or registered agent was authorized by resolution approved by the affirmative vote of a majority of the directors present.

Subd. 2. **RESIGNATION OF AGENT.** A registered agent of a corporation may resign by filing with the secretary of state a ~~duplicate~~ signed written notice of resignation, including a statement that a signed copy of the notice has been given to the corporation at its principal executive office or to a legal representative of the corporation. ~~The secretary of state shall forward one of the filed originals to the corporation at its registered office.~~ The appointment of the agent terminates 30 days after the notice is filed with the secretary of state.

Subd. 3. **CHANGE OF BUSINESS ADDRESS OR NAME OF AGENT.** If the business address or name of a registered agent changes, the agent shall change the address of the registered office or the name of the registered agent, as the case may be, of each corporation represented by that agent by filing with the secretary of state a statement as required in subdivision 1, except that it need be signed only by the registered agent, need not be responsive to clauses (e) or (g) (h), and must ~~recite~~ state that a copy of the statement has been mailed to each of those corporations or to the legal representative of each of those corporations.

Sec. 19. Minnesota Statutes 1981 Supplement, Section 302A.131, is amended to read:

#### 302A.131 AMENDMENT OF ARTICLES.

~~A corporation may at any time amend its~~ The articles of a corporation may be amended at any time to include or modify any provision that is required or permitted to appear in the articles or to omit any provision not required to be included in the articles, except that when articles are amended to restate them, the name and address of each incorporator may be omitted. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with sections 302A.133 to 302A.139.

Sec. 20. Minnesota Statutes 1981 Supplement, Section 302A.135, Subdivision 2, is amended to read:

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Subd. 2. **SUBMISSION TO SHAREHOLDERS.** A resolution approved by the affirmative vote of a majority of the directors present, or proposed by a shareholder or shareholders holding three percent or more of all the voting power of the shares entitled to vote, that sets forth the proposed amendment shall be submitted to a vote at the next regular or special meeting of the shareholders of which notice has not yet been given but still can be timely given. Any number of amendments may be submitted to the shareholders and voted upon at one meeting, but the same or substantially the same amendment proposed by a shareholder or shareholders need not be submitted to the shareholders or be voted upon at more than one meeting during a 15-month period. The resolution may amend the articles in their entirety to restate and supersede the original articles and all amendments to them. The provisions of this subdivision regarding shareholder-proposed amendments do not apply to a corporation registered or reporting under the federal securities laws, to the extent that those provisions are in conflict with the federal securities laws or rules promulgated thereunder, in which case the federal securities laws or rules promulgated thereunder shall govern.

Sec. 21. Minnesota Statutes 1981 Supplement, Section 302A.135, Subdivision 4, is amended to read:

Subd. 4. **APPROVAL BY SHAREHOLDERS.** (a) The proposed amendment is adopted when approved by the affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote, except as provided in paragraph (b).

(b) If the articles provide for a specified proportion or number equal to or larger than the majority necessary to transact a specified type of business at a meeting, or if it is proposed to amend the articles to provide for a specified proportion or number equal to or larger than the majority necessary to transact a specified type of business at a meeting, the affirmative vote necessary to add the provision to, or to amend an existing provision in, the articles is the larger of:

(1) The specified proportion or number or, in the absence of a specific provision, the affirmative vote necessary to transact the type of business described in the proposed amendment at a meeting immediately before the effectiveness of the proposed amendment; or

(2) The specified proportion or number that would, upon effectiveness of the proposed amendment, be necessary to transact the specified type of business at a meeting.

Sec. 22. Minnesota Statutes 1981 Supplement, Section 302A.181, Subdivision 3, is amended to read:

Subd. 3. **POWER OF SHAREHOLDERS; PROCEDURE.** If a shareholder or shareholders holding three percent or more of all the voting power of the shares entitled to vote propose a resolution for action by the shareholders to

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adopt, amend, or repeal bylaws adopted, amended, or repealed by the board and the resolution sets forth the provision or provisions proposed for adoption, amendment, or repeal, the limitations and procedures for submitting, considering, and adopting the resolution are the same as provided in section 302A.135, subdivisions 2 to 4, for amendment of the articles. The provisions of this subdivision regarding shareholder-proposed amendments shall not apply to a corporation registered or reporting under the federal securities laws, to the extent that those provisions are in conflict with the federal securities laws or rules promulgated thereunder, in which case the federal securities laws or rules promulgated thereunder shall govern.

Sec. 23. Minnesota Statutes 1981 Supplement, Section 302A.201, Subdivision 2, is amended to read:

Subd. 2. **SHAREHOLDER MANAGEMENT.** The holders of the ~~voting~~ shares entitled to vote for directors of the corporation may, by unanimous affirmative vote, take any action that this chapter ~~require~~ requires or ~~permit~~ permits the board to take or the shareholders to take after action or approval of the board. As to an action taken by the shareholders in that manner:

(a) The directors have no duties, liabilities, or responsibilities as directors under this chapter with respect to or arising from the action;

(b) The shareholders collectively and individually have all of the duties, liabilities, and responsibilities of directors under this chapter with respect to and arising from the action;

(c) If the action relates to a matter required or permitted by this chapter or by any other law to be approved or adopted by the board, either with or without approval or adoption by the shareholders, the action is deemed to have been approved or adopted by the board; and

(d) A requirement that an instrument filed with a governmental agency contain a statement that the action has been approved and adopted by the board is satisfied by a statement that the shareholders have taken the action under this subdivision.

Sec. 24. Minnesota Statutes 1981 Supplement, Section 302A.207, is amended to read:

#### 302A.207 TERMS.

Unless fixed terms are provided for in the articles or bylaws, a director serves for an indefinite term that expires at the next regular meeting of the shareholders. ~~The~~ A fixed term of a director shall not exceed five years. A director holds office for the term for which the director was elected and until a successor is elected and has qualified, or until the earlier death, resignation, removal, or disqualification of the director.

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Sec. 25. Minnesota Statutes 1981 Supplement, Section 302A.239, Subdivision 1, is amended to read:

Subdivision 1. **METHOD.** An action required or permitted to be taken at a board meeting may be taken by written action signed by all of the directors ~~unless the action need not be approved by the shareholders and.~~ If the articles so provide, ~~in which case, the any~~ action, other than an action requiring shareholder approval, may be taken by written action signed by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present.

Sec. 26. Minnesota Statutes 1981 Supplement, Section 302A.241, Subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** A resolution approved by the affirmative vote of a majority of the board may establish committees having the authority of the board in the management of the business of the corporation only to the extent provided in the resolution. Committees are subject at all times to the direction and control of the board, except as provided in section 302A.243.

Sec. 27. Minnesota Statutes 1981 Supplement, Section 302A.241, Subdivision 2, is amended to read:

Subd. 2. **MEMBERSHIP.** *Committee members shall be natural persons.* Unless the articles or bylaws provide for a different membership or manner of appointment, a committee shall consist of one or more persons, who need not be directors, appointed by affirmative vote of a majority of the directors present.

Sec. 28. Minnesota Statutes 1981 Supplement, Section 302A.243, is amended to read:

### 302A.243 COMMITTEE OF DISINTERESTED PERSONS.

Unless prohibited by the articles or bylaws, the board may establish a committee composed of two or more disinterested directors or other disinterested persons to determine whether it is in the best interests of the corporation to pursue a particular legal right or remedy of the corporation and whether to cause the dismissal or discontinuance of a particular proceeding that seeks to assert a right or remedy on behalf of the corporation. For purposes of this section, a director or other person is "disinterested" if the director or other person is not the owner of more than one percent of the outstanding shares of, or a present or former officer, employee, or agent of, the corporation or of a related corporation and has not been made or threatened to be made a party to the proceeding in question. The committee, once established, is not subject to the direction or control of, or termination by, the board. A vacancy on the committee may be filled by a majority vote of the remaining members. The good faith determinations of the committee are binding upon the corporation and its directors, officers, and shareholders. *The committee terminates when it issues a written report of its determinations to the board.*

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Sec. 29. Minnesota Statutes 1981 Supplement, Section 302A.251, Subdivision 2, is amended to read:

Subd. 2. **RELIANCE.** (a) A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

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

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

(3) A committee of the board upon which the director does not serve, duly established in accordance with sections ~~302A.235~~ 302A.241 and ~~302A.237~~ 302A.243, as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

(b) Paragraph (a) does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by paragraph (a) unwarranted.

Sec. 30. Minnesota Statutes 1981 Supplement, Section 302A.251, Subdivision 3, is amended to read:

Subd. 3. **PRESUMPTION OF ASSENT; DISSENT.** A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless the director:

(a) Objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting, in which case the director shall not be considered to be present at the meeting for any purpose of this chapter;

(b) Votes against the action at the meeting; or

(c) Is prohibited by section 302A.255 from voting on the action.

Sec. 31. Minnesota Statutes 1981 Supplement, Section 302A.255, Subdivision 1, is amended to read:

Subdivision 1. **CONFLICT; PROCEDURE WHEN CONFLICT ARISES.** A contract or other transaction between a corporation and one or more of its directors, or between a corporation and an organization in or of which one or more of its directors are directors, officers, or legal representatives or have a material financial interest, is not void or voidable because the director or directors or the other organizations are parties or because the director or directors are present at the meeting of the shareholders or the board or a

committee at which the contract or transaction is authorized, approved, or ratified, if:

(a) The contract or transaction was, and the person asserting the validity of the contract or transaction sustains the burden of establishing that the contract or transaction was, fair and reasonable as to the corporation at the time it was authorized, approved, or ratified;

(b) The material facts as to the contract or transaction and as to the director's or directors' interest are fully disclosed or known to the shareholders and the contract or transaction is approved in good faith by the holders of a majority of the outstanding shares, but shares owned by the interested director or directors shall not be counted in determining the presence of a quorum and shall not be voted; ~~or~~

(c) The material facts as to the contract or transaction and as to the director's or directors' interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of the board or committee, but the interested director or directors shall not be counted in determining the presence of a quorum and shall not vote; or

(d) The contract or transaction is a distribution described in section 302A.551, subdivision 1, or a merger or exchange described in section 302A.601, subdivision 1 or 2.

Sec. 32. Minnesota Statutes 1981 Supplement, Section 302A.401, Subdivision 2, is amended to read:

Subd. 2. **TERMS OF SHARES.** All the shares of a corporation:

(a) Shall be of one class and one series, unless the articles establish, or authorize the board to establish, more than one class or series;

(b) Shall be common ~~voting~~ shares having entitled to vote and shall have equal rights and preferences in all matters not otherwise provided for by the board, unless and to the extent that the articles have fixed the relative rights and preferences of different classes and series; and

(c) Shall have, unless a different par value is specified in the articles, a par value of one cent per share, solely for the purpose of a statute or regulation imposing a tax or fee based upon the capitalization of a corporation, and a par value fixed by the board for the purpose of a statute or regulation requiring the shares of the corporation to have a par value.

Sec. 33. Minnesota Statutes 1981 Supplement, Section 302A.403, Subdivision 2, is amended to read:

Subd. 2. **IRREVOCABLE PERIOD.** A subscription for shares of a ~~corporation to be incorporated~~ is irrevocable for a period of six months, unless

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the subscription agreement provides for, or unless all of the subscribers consent to, an earlier revocation.

Sec. 34. Minnesota Statutes 1981 Supplement, Section 302A.403, Subdivision 4, is amended to read:

**Subd. 4. METHOD OF COLLECTION; FORFEITURE; CANCELLATION OR SALE FOR ACCOUNT OF SUBSCRIBER.** (a) Unless otherwise provided in the subscription agreement, in the event of default in the payment of an installment or call when due, the corporation may proceed to collect the amount due in the same manner as a debt due the corporation, or, if the amount due remains unpaid for a period of 20 days after written notice of demand for payment has been given to the delinquent subscriber, the board may declare a forfeiture of the subscription or cancel it in accordance with this subdivision.

(b) ~~A forfeiture of the subscription shall not be declared against a subscriber unless the amount due remains unpaid for a period of 20 days after written notice of a demand for payment has been given.~~ Upon forfeiture of the a subscription, the shares subscribed for may be offered for sale by the corporation for a price in money equalling or exceeding the sum of the full balance owed by the delinquent subscriber plus the expenses incidental to the sale. The excess of net proceeds realized by the corporation over the sum of the amount owed by the delinquent subscriber plus the expenses incidental to the sale shall be paid to the delinquent subscriber or to a legal representative. The payment shall not exceed the amount actually paid by the delinquent subscriber.

(c) If, within 20 days after the corporation offers to sell the shares subscribed for by the delinquent subscriber, no prospective purchaser offers to purchase the shares for a money price sufficient to pay the sum of the full balance owed by the delinquent subscriber plus the expenses incidental to the sale, or if the corporation has refunded to the subscriber or a legal representative a portion of the subscription price actually paid ~~that exceeds ten percent of the subscription price,~~ the subscription may be cancelled ~~and,~~ the shares subscribed for may be ~~cancelled and~~ restored to the status of authorized but unissued shares, and the corporation may retain the portion of the subscription price actually paid that does not exceed ten percent of the subscription price. ~~The portion of the purchase price retained by the corporation that does not exceed ten percent of the subscription price is forfeited to the corporation.~~

Sec. 35. Minnesota Statutes 1981 Supplement, Section 302A.405, Subdivision 1, is amended to read:

**Subdivision 1. CONSIDERATION; PROCEDURE.** Subject to any restrictions in the articles:

(a) Shares may be issued for any consideration, including, without limitation, money or other tangible or intangible property received by the corporation or to be received by the corporation under a written agreement, or services

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rendered to the corporation or to be rendered to the corporation under a written agreement, as authorized by resolution approved by the affirmative vote of a majority of the directors present, or approved by the affirmative vote of the holders of a majority of the voting power of the shares present, valuing all nonmonetary consideration and establishing a price in money or other consideration, or a minimum price, or a general formula or method by which the price will be determined; and

(b) Upon authorization by resolution approved by the affirmative vote of a majority of the directors present or approved by the affirmative vote of the holders of a majority of the voting power of the shares present, the corporation may, without any new or additional consideration, issue its own shares in exchange for or in conversion of its outstanding shares, or issue its own shares pro rata to its shareholders or the shareholders of one or more classes or series, to effectuate share dividends or splits, including reverse share splits. No shares of a class or series shall be issued to the holders of shares of another class or series, unless the issuance either is expressly provided for in the articles or is approved at a meeting by the affirmative vote of the holders of a majority of the voting power of all ~~voting~~ shares of the same class or series as the shares to be issued.

Sec. 36. Minnesota Statutes 1981 Supplement, Section 302A.413, Subdivision 4, is amended to read:

Subd. 4. **EXEMPTIONS.** A shareholder does not have a preemptive right to acquire securities or rights to purchase securities that are:

- (a) Issued for a consideration other than money;
- (b) Issued pursuant to a plan of merger or exchange;
- (c) Issued pursuant to an employee or incentive benefit plan approved at a meeting by the affirmative vote of the holders of a majority of the voting power of all ~~voting~~ shares entitled to vote;
- (d) Issued upon exercise of previously issued rights to purchase securities of the corporation;
- (e) Issued pursuant to a public offering of the corporation's securities or rights to purchase securities. For purposes of this clause, "public offering" means an offering of the corporation's securities or rights to purchase securities if the resale or other distribution of those securities or rights to purchase securities is not restricted by either state or federal securities laws; or
- (f) Issued pursuant to a plan of reorganization approved by a court of competent jurisdiction pursuant to a statute of this state or of the United States.

Sec. 37. Minnesota Statutes 1981 Supplement, Section 302A.431, Subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **DEMAND BY SHAREHOLDER.** If a regular meeting of shareholders has not been held during the immediately preceding 15 months, a shareholder or shareholders holding three percent or more of the voting power of all voting shares entitled to vote may demand a regular meeting of shareholders by written notice of demand given to the chief executive officer or the chief financial officer of the corporation. Within 30 days after receipt of the demand by one of those officers, the board shall cause a regular meeting of shareholders to be called and held on notice no later than 90 days after receipt of the demand, all at the expense of the corporation. If the board fails to cause a regular meeting to be called and held as required by this subdivision, the shareholder or shareholders making the demand may call the regular meeting by giving notice as required by section 302A.435, all at the expense of the corporation.

Sec. 38. Minnesota Statutes 1981 Supplement, Section 302A.433, Subdivision 1, is amended to read:

Subdivision 1. **WHO MAY CALL.** Special meetings of the shareholders may be called for any purpose or purposes at any time, by:

- (a) The chief executive officer;
  - (b) The chief financial officer;
  - (c) Two or more directors;
  - (d) A person authorized in the articles or bylaws to call special meetings;
- or
- (e) A shareholder or shareholders holding ten percent or more of the voting power of all shares entitled to vote.

Sec. 39. Minnesota Statutes 1981 Supplement, Section 302A.433, Subdivision 2, is amended to read:

Subd. 2. **DEMAND BY SHAREHOLDERS.** A shareholder or shareholders holding ten percent or more of the voting power of all shares entitled to vote may demand a special meeting of shareholders by written notice of demand given to the chief executive officer or chief financial officer of the corporation and containing the purposes of the meeting. Within 30 days after receipt of the demand by one of those officers, the board shall cause a special meeting of shareholders to be called and held on notice no later than 90 days after receipt of the demand, all at the expense of the corporation. If the board fails to cause a special meeting to be called and held as required by this subdivision, the shareholder or shareholders making the demand may call the meeting by giving notice as required by section 302A.435, all at the expense of the corporation.

Sec. 40. Minnesota Statutes 1981 Supplement, Section 302A.435, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **TO WHOM GIVEN.** Notice of all meetings of shareholders shall be given to every holder of ~~voting~~ shares entitled to vote, except where the meeting is an adjourned meeting and the date, time, and place of the meeting were announced at the time of adjournment.

Sec. 41. Minnesota Statutes 1981 Supplement, Section 302A.437, Subdivision 1, is amended to read:

Subdivision 1. **MAJORITY REQUIRED.** The shareholders shall take action by the affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote, except where this chapter or the articles require a larger proportion or number. If the articles require a larger proportion or number than is required by this chapter for a particular action, the articles control.

Sec. 42. Minnesota Statutes 1981 Supplement, Section 302A.443, is amended to read:

**302A.443 QUORUM.**

The holders of a majority of the voting power of the shares entitled to vote at a meeting ~~present in person or by proxy at the meeting~~ are a quorum for the transaction of business, unless a larger or smaller proportion or number is provided in the articles or bylaws. If a quorum is present when a duly called or held meeting is convened, the shareholders present may continue to transact business until adjournment, even though the withdrawal of a number of shareholders originally present leaves less than the proportion or number otherwise required for a quorum.

Sec. 43. Minnesota Statutes 1981 Supplement, Section 302A.445, Subdivision 1, is amended to read:

Subdivision 1. **DETERMINATION.** The board may fix a date not more than 60 days, or a shorter time period provided in the articles or bylaws, before the date of a meeting of shareholders as the date for the determination of the holders of ~~voting~~ shares entitled to notice of and entitled to vote at the meeting. When a date is so fixed, only shareholders on that date are entitled to notice of and permitted to vote at that meeting of shareholders.

Sec. 44. Minnesota Statutes 1981 Supplement, Section 302A.445, Subdivision 6, is amended to read:

Subd. 6. **MANNER OF VOTING; PRESUMPTION.** Except as provided in subdivision 5, a holder of ~~voting~~ shares entitled to vote may vote any portion of the shares in any way the shareholder chooses. If a shareholder votes without designating the proportion or number of shares voted in a particular way, the shareholder is deemed to have voted all of the shares in that way.

Sec. 45. Minnesota Statutes 1981 Supplement, Section 302A.455, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**302A.455 SHAREHOLDER VOTING AGREEMENTS.**

A written agreement solely among any or all persons who are then shareholders, or any or all subscribers for shares in the event no shares have been to be issued, relating to the voting of their shares, is valid and specifically enforceable by and against the parties to the agreement. The agreement may override the provisions of section 302A.449 regarding proxies and is not subject to the provisions of section 302A.453 regarding voting trusts.

Sec. 46. Minnesota Statutes 1981 Supplement, Section 302A.457, Subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZED.** ~~The shareholders of a corporation, or the subscribers for its shares in the event no shares have been issued, may enter into~~ A written agreement solely among the shareholders of a corporation and the subscribers for shares to be issued, relating to the control of any phase of the business and affairs of the corporation, its liquidation and dissolution, or the relations among shareholders of or subscribers to shares of the corporation is valid and specifically enforceable as provided in subdivision 2.

Sec. 47. Minnesota Statutes 1981 Supplement, Section 302A.457, Subdivision 2, is amended to read:

Subd. 2. **METHOD OF APPROVAL; ENFORCEABILITY; COPIES.** (a) A written agreement solely among persons described in subdivision 1 that relates to the control of or the liquidation and dissolution of the corporation, the relations among them, or any phase of the business and affairs of the corporation, including, without limitation, the management of its business, the declaration and payment of distributions, the election of directors or officers, the employment of shareholders by the corporation, or the arbitration of disputes, is valid and specifically enforceable by and against the parties to it, if the agreement is signed by all persons who are then the shareholders of the corporation, whether or not the shareholders all have voting shares, or by all and the subscribers for shares in the event no shares have been, whether or not voting shares, to be issued at the time the agreement is signed.

(b) The agreement is enforceable by the persons described in subdivision 1 who are parties to it and is binding upon and enforceable against only the parties to the agreement those persons and other persons having knowledge of the existence of the agreement. A copy of the agreement shall be filed with the corporation. The existence and location of a copy of the agreement shall be noted conspicuously on the face or back of each certificate for shares issued by the corporation and on each transaction statement.

(c) A shareholder, a beneficial owner of shares, or another person having a security interest in shares has the right upon written demand to obtain a copy of the agreement from the corporation at the expense of the corporation.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 48. Minnesota Statutes 1981 Supplement, Section 302A.461, Subdivision 2, is amended to read:

Subd. 2. **OTHER DOCUMENTS REQUIRED.** A corporation shall keep at its principal executive office, or, if its principal executive office is outside of this state, shall make available at its registered office within ten days after receipt by an officer of the corporation of a written demand for them made by a person described in subdivision 4, originals or copies of:

- (a) Records of all proceedings of shareholders for the last three years;
- (b) Records of all proceedings of the board for the last three years;
- (c) Its articles and all amendments currently in effect;
- (d) Its bylaws and all amendments currently in effect;

(e) Financial statements required by section 302A.463 and the financial statement for the most recent interim period prepared in the course of the operation of the corporation for distribution to the shareholders or to a governmental agency as a matter of public record;

(f) Reports made to shareholders generally within the last three years;

(g) A statement of the names and usual business addresses of its directors and principal officers;

(h) Voting trust agreements described in section ~~302A.445~~ 302A.453; and

(i) Shareholder control agreements described in section 302A.457.

Sec. 49. Minnesota Statutes 1981 Supplement, Section 302A.463, is amended to read:

#### 302A.463 FINANCIAL STATEMENTS.

A corporation shall, upon written request by a shareholder, furnish annual financial statements, including at least a balance sheet as of the end of each fiscal year and a statement of income for the fiscal year, which shall be prepared on the basis of accounting methods reasonable in the circumstances and may be consolidated statements of the corporation and one or more of its subsidiaries. In the case of statements audited by a public accountant, each copy shall be accompanied by a report setting forth the opinion of the accountant on the statements; in other cases, each copy shall be accompanied by a statement of the chief ~~executive~~ financial officer or other person in charge of the corporation's financial records stating the reasonable belief of the person that the financial statements were prepared in accordance with accounting methods reasonable in the circumstances, describing the basis of presentation, and describing any respects in which the financial statements were not prepared on a basis consistent with those prepared for the previous year.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 50. Minnesota Statutes 1981 Supplement, Section 302A.467, is amended to read:

**302A.467 EQUITABLE REMEDIES.**

If a corporation or an officer or director of the corporation violates a provision of this chapter, a court in this state may, in an action brought by a shareholder of the corporation, grant any equitable relief it deems just and reasonable in the circumstances and award expenses, including attorneys' fees and disbursements, to a ~~complaining~~ the shareholder.

Sec. 51. Minnesota Statutes 1981 Supplement, Section 302A.521, Subdivision 2, is amended to read:

Subd. 2. **INDEMNIFICATION MANDATORY; STANDARD.** (a) Subject to the provisions of subdivision 4, a corporation shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:

(1) Has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding with respect to the same acts or omissions;

(2) Acted in good faith;

(3) Received no improper personal benefit and section 302A.255, if applicable, has been satisfied;

(4) In the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and

(5) In the case of acts or omissions occurring in the official capacity described in subdivision 1, paragraph (c), clause (1) or (2), reasonably believed that the conduct was in the best interests of the corporation, or in the case of acts or omissions occurring in the official capacity described in subdivision 1, paragraph (c), clause (3), reasonably believed that the conduct was not opposed to the best interests of the corporation. If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the corporation if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.

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(b) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this subdivision.

Sec. 52. Minnesota Statutes 1981 Supplement, Section 302A.551, Subdivision 1, is amended to read:

Subdivision 1. **WHEN PERMITTED.** The board may authorize, and cause the corporation may to make, a distribution only if the board determines, in accordance with subdivision 2, that the corporation will be able to pay its debts in the ordinary course of business after making the distribution and the board does not know before the distribution is made that the determination was or has become erroneous, and the corporation may make the distribution if it is able to pay its debts in the ordinary course of business after making the distribution. The effect of a distribution on the ability of the corporation to pay its debts in the ordinary course of business after making the distribution shall be measured in accordance with subdivision 3. The right of the board to authorize, and the corporation to make, distributions may be prohibited, limited, or restricted by, or the rights and priorities of persons to receive distributions may be established by, the articles or bylaws or an agreement.

Sec. 53. Minnesota Statutes 1981 Supplement, Section 302A.551, Subdivision 2, is amended to read:

Subd. 2. **DETERMINATION PRESUMED PROPER.** A determination that the corporation will be able to pay its debts in the ordinary course of business after the distribution is presumed to be proper if the determination is made in compliance with the standard of conduct provided in section 302A.251 on the basis of financial information prepared in accordance with accounting methods, or a fair valuation or other method, reasonable in the circumstances. No liability under section 302A.251 or 302A.559 will accrue if the requirements of this subdivision have been met.

Sec. 54. Minnesota Statutes 1981 Supplement, Section 302A.559, Subdivision 1, is amended to read:

Subdivision 1. **LIABILITY.** In addition to any other liabilities, a director who is present at a meeting and votes for or fails to vote against, except a director who is prohibited by section 302A.255 from voting on the distribution, or who consents in writing to, a distribution made in violation of section 302A.551 or a restriction contained in the articles or bylaws or an agreement, and who fails to comply with the standard of conduct provided in section 302A.251, is liable to the corporation jointly and severally with all other directors so liable and to other directors under subdivision 3, but only to the extent that the distribution exceeded the amount that properly could have been paid under section 302A.551.

Sec. 55. Minnesota Statutes 1981 Supplement, Section 302A.613, Subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **APPROVAL BY SHAREHOLDERS.** At the meeting a vote of the shareholders shall be taken on the proposed plan. The plan of merger or exchange is adopted when approved by the affirmative vote of the holders of a majority of the voting power of all ~~voting~~ shares entitled to vote. A class or series of shares of the corporation is entitled to vote as a class or series if any provision of the plan would, if contained in a proposed amendment to the articles, entitle the class or series of shares to vote as a class or series and, in the case of an exchange, if the class or series is affected by the plan of exchange.

Sec. 56. Minnesota Statutes 1981 Supplement, Section 302A.613, Subdivision 3, is amended to read:

Subd. 3. **WHEN APPROVAL BY SHAREHOLDERS NOT REQUIRED.** Notwithstanding the provisions of subdivisions 1 and 2, submission of a plan of merger or exchange to a vote at a meeting of shareholders of a surviving or acquiring corporation is not required if:

(a) The articles of the corporation will not be amended in the transaction;

(b) Each holder of shares of the corporation that were outstanding immediately before the effective date of the transaction will hold the same number of shares with identical rights immediately thereafter;

(c) The number of ~~voting~~ shares of the corporation entitled to vote immediately after the merger or exchange, plus the number of ~~voting~~ shares of the corporation entitled to vote issuable on conversion or exchange of securities other than shares or on the exercise of rights to purchase securities issued by virtue of the terms of the transaction, will not exceed by more than 20 percent, or, in the case of an exchange, a larger or smaller proportion provided in or pursuant to the articles, the number of ~~voting~~ shares of the corporation entitled to vote immediately before the transaction; and

(d) The number of participating shares of the corporation immediately after the transaction, plus the number of participating shares of the corporation issuable on conversion or exchange of, or on the exercise of rights to purchase, securities issued in the transaction, will not exceed by more than 20 percent, or, in the case of an exchange, a larger or smaller proportion provided in or pursuant to the articles, the number of participating shares of the corporation immediately before the transaction. "Participating shares" are outstanding shares of the corporation that entitle their holders to participate without limitation in distributions by the corporation.

Sec. 57. Minnesota Statutes 1981 Supplement, Section 302A.661, Subdivision 2, is amended to read:

Subd. 2. **SHAREHOLDER APPROVAL; WHEN REQUIRED.** A corporation, by affirmative vote of a majority of the directors present, may sell, lease, transfer, or otherwise dispose of all or substantially all of its property and

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assets, including its good will, not in the usual and regular course of its business, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board deems expedient, when approved at a regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the voting power of ~~all voting~~ the shares entitled to vote at a regular or special meeting of the shareholders. Written notice of the meeting shall be given to all shareholders whether or not they are entitled to vote at the meeting. The written notice shall state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the corporation.

Sec. 58. Minnesota Statutes 1981 Supplement, Section 302A.721, Subdivision 2, is amended to read:

Subd. 2. **NOTICE; APPROVAL.** (a) Written notice shall be given to each shareholder, whether or not entitled to vote at a meeting of shareholders, within the time and in the manner provided in section 302A.435 for notice of meetings of shareholders and, whether the meeting is a regular or a special meeting, shall state that a purpose of the meeting is to consider ~~the advisability of~~ dissolving the corporation.

(b) The proposed dissolution shall be submitted for approval at a meeting of shareholders. If the proposed dissolution is approved at a meeting by the affirmative vote of the holders of a majority of the voting power of all ~~voting~~ shares entitled to vote, the dissolution shall be commenced.

Sec. 59. Minnesota Statutes 1981 Supplement, Section 302A.723, Subdivision 1, is amended to read:

Subdivision 1. **CONTENTS.** If dissolution of the corporation is approved pursuant to section 302A.721, subdivision 2, the corporation shall file with the secretary of state a notice of intent to dissolve. The notice shall contain:

- (a) The name of the corporation;
- (b) The date and place of the meeting at which the resolution was approved pursuant to section 302A.721, subdivision 2; and
- (c) A statement that the requisite vote of the shareholders was received, or that all shareholders entitled to vote signed a written action.

Sec. 60. Minnesota Statutes 1981 Supplement, Section 302A.727, Subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** The notice to creditors and claimants shall contain:

- (a) A statement that the corporation is in the process of dissolving;

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(b) A statement that the corporation has filed with the secretary of state a notice of intent to dissolve;

(c) The date of filing the notice of intent to dissolve;

(d) The address of the office to which written claims against the corporation must be presented; and

(e) The date by which all the claims must be received, which shall be the later of 90 days after the notice of intent to dissolve was filed with the secretary of state or, with respect to a particular creditor or claimant, 90 days after the last date on which notice was given to creditors and claimants was given that creditor or claimant.

Sec. 61. Minnesota Statutes 1981 Supplement, Section 302A.729, Subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE.** If the corporation gives proper notice to creditors and claimants pursuant to section 302A.727:

(a) The claim of a creditor or claimant to whom notice is given who fails to file a claim according to the procedures set forth by the corporation on or before the date set forth in the notice is subject to the provisions of section 302A.781;

(b) The corporation has 30 days from the receipt of each claim to accept or reject the claim by giving written notice to the person submitting it; a claim not expressly rejected in this manner is deemed accepted; and

(c) A creditor or claimant to whom notice is given and whose claim is rejected by the corporation has 60 days from the date of rejection, or 180 days from the date the corporation filed with the secretary of state the notice of intent to dissolve, whichever is longer, to pursue any other remedies with respect to the claim. If the creditor or claimant does not initiate legal, administrative, or arbitration proceedings with respect to the claim during that period, the claim is subject to the provisions of section 302A.781.

Sec. 62. Minnesota Statutes 1981 Supplement, Section 302A.731, Subdivision 2, is amended to read:

Subd. 2. **NOTICE TO SHAREHOLDERS; APPROVAL.** Written notice shall be given to every shareholder entitled to vote at a shareholders' meeting within the time and in the manner provided in section 302A.435 for notice of meetings of shareholders and shall state that a purpose of the meeting is to consider the advisability of revoking the dissolution proceedings. The proposed revocation shall be submitted to the shareholders at the meeting. If the proposed revocation is approved at a meeting by the affirmative vote of the holders of a majority of the voting power of all ~~voting~~ shares entitled to vote, the dissolution proceedings are revoked.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 63. Minnesota Statutes 1981 Supplement, Section 302A.733, Subdivision 1, is amended to read:

Subdivision 1. **ARTICLES; WHEN FILED.** Articles of dissolution for a corporation dissolving pursuant to section 302A.721 shall be filed with the secretary of state after:

(a) The payment of claims of all known creditors and claimants has been made or provided for;

(b) The 180 day period longer of the periods described in section 302A.729, subdivision 1, clause (c) has expired, if the corporation has given notice to creditors and claimants of the corporation in the manner described in section 302A.727; or, in all other cases,

(c) The two year period described in section 302A.729, subdivision 2 has expired.

Sec. 64. Minnesota Statutes 1981 Supplement, Section 302A.741, is amended to read:

#### 302A.741 SUPERVISED VOLUNTARY DISSOLUTION.

After the notice of intent to dissolve has been filed with the secretary of state and before a certificate of dissolution has been issued, the corporation, or, for good cause shown, a shareholder or creditor may apply to a court within the county in which the registered office of the corporation is situated to have the dissolution conducted or continued under the supervision of the court as provided in sections 302A.751 to 302A.781.

Sec. 65. Minnesota Statutes 1981 Supplement, Section 302A.751, Subdivision 2, is amended to read:

Subd. 2. **MANDATORY BUY-OUT ON MOTION.** In a case an action under subdivision 1, clause (b), involving a corporation having 25 or fewer shareholders at the time the action is commenced and in which one or more of the circumstances described in that clause is established, the court may, upon motion of a corporation, or of a shareholder or beneficial owner of shares of the corporation, ~~a court of competent jurisdiction may~~ order the sale by a plaintiff or a defendant of all shares of the corporation held by the plaintiff or defendant to either the corporation or the moving shareholders, whichever is specified in the motion, if the court determines in its discretion that an order would be fair and equitable to all parties under all of the circumstances of the case.

The purchase price of any shares so sold shall be the fair value of the shares as of the date of the commencement of the action or as of another date found equitable by the court, provided that, if the shares in question are then subject to sale and purchase pursuant to the bylaws of the corporation, a shareholder control agreement, the terms of the shares, or otherwise, the court

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

shall order the sale for the price and on the terms set forth in them, unless the court determines that the price or terms are unreasonable under all the circumstances of the case.

Within five days after the entry of the order, the corporation shall provide each selling shareholder or beneficial owner with the information it is required to provide under section 302A.473, subdivision 5, paragraph (a).

If the parties are unable to agree on fair value within 40 days of entry of the order, the court shall determine the fair value of the shares under the provisions of section 302A.473, subdivision 6 7, and may allow interest or costs as provided in section 302A.473, subdivisions 1 and 8:

The purchase price shall be paid in one or more installments as agreed on by the parties, or, if no agreement can be reached within 40 days of entry of the order, as ordered by the court. Upon entry of an order for the sale of shares under this subdivision and provided that the corporation or the moving shareholders post a bond in adequate amount with sufficient sureties or otherwise satisfy the court that the full purchase price of the shares, plus such additional costs, expenses, and fees as may be awarded, will be paid when due and payable, the selling shareholders shall no longer have any rights or status as shareholders, officers, or directors, except the right to receive the fair value of their shares plus such other amounts as might be awarded.

Sec. 66. Minnesota Statutes 1981 Supplement, Section 302A.751, Subdivision 3, is amended to read:

Subd. 3. **CONDITION OF CORPORATION.** In determining whether to order equitable relief, dissolution, or a buy-out, the court shall take into consideration the financial condition of the corporation but shall not refuse to order equitable relief, dissolution, or a buy-out solely on the ground that the corporation has accumulated or current operating profits.

Sec. 67. Minnesota Statutes 1981 Supplement, Section 302A.781, Subdivision 1, is amended to read:

Subdivision 1. **CLAIMS BARRED.** A person who is or becomes a creditor or claimant at any time before, during, or following the conclusion of dissolution proceedings, who does not file a claim or pursue a remedy in a legal, administrative, or arbitration proceeding under within the time provided in sections 302A.729, 302A.741, 302A.751, or 302A.759, or in some other has not initiated a legal, administrative, or arbitration proceeding pending on the date before the commencement of the dissolution proceedings, and all those claiming through or under the creditor or claimant, are forever barred from suing on that claim or otherwise realizing upon or enforcing it, except as provided in this section.

Sec. 68. Minnesota Statutes 1981 Supplement, Section 302A.821, Subdivision 4, is amended to read:

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Subd. 4. **NOTICE OF REPEATED VIOLATION.** If a corporation fails for two ~~successive~~ consecutive years to file a registration pursuant to the requirements of subdivision 1, the secretary of state shall give notice by registered mail to the corporation at its registered office that it has violated this section and is subject to dissolution by the office of the secretary of state if the ~~registration is~~ delinquent registrations are not filed pursuant to subdivision 1 within 60 days after the mailing of the notice.

Sec. 69. Minnesota Statutes 1981 Supplement, Section 302A.821, Subdivision 5, is amended to read:

Subd. 5. **PENALTY.** (a) A corporation that has failed for two consecutive years has failed to file ~~the a~~ registration ~~required by~~ pursuant to the requirements of subdivision 1, has been notified of the failure pursuant to subdivision 4, and has failed to file the ~~registration~~ delinquent registrations during the 60-day period described in subdivision 4, may be dissolved by the secretary of state as described in paragraph (b).

(b) Immediately after the expiration of the 60-day period ~~in the second consecutive year of failure to file described in paragraph (a), if the corporation has not filed the registration~~ delinquent registrations, the secretary of state shall issue a certificate of involuntary dissolution, and a copy of ~~which~~ the certificate shall be filed in the office of the secretary of state. The original certificate and a notice explaining that the corporation has been dissolved shall be sent to the registered office of the corporation. The secretary of state shall annually inform the attorney general and the commissioner of revenue of the names of corporations dissolved under this section during the preceding year. A corporation dissolved in this manner is not entitled to the benefits of section 302A.781, subdivision 1. The liability, if any, of the shareholders of a corporation dissolved in this manner shall be determined and limited in accordance with section 302A.557, except that the shareholders shall have no liability to any director of the corporation under section 302A.559, subdivision 2.

Sec. 70. Minnesota Statutes 1981 Supplement, Section 302A.235, is amended to read:

#### 302A.235 QUORUM.

A majority, or a larger or smaller proportion or number provided in the articles or bylaws, of the directors currently holding office ~~present at a meeting~~ is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of a number of directors originally present leaves less than the proportion or number otherwise required for a quorum.

Sec. 71. Minnesota Statutes 1981 Supplement, Section 300.083, Subdivision 2; is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **INDEMNIFICATION MANDATORY; STANDARD.** (a) Subject to the provisions of subdivision 4, a corporation shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:

(1) Has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements incurred by the person in connection with the proceeding with respect to the same acts or omissions;

(2) Acting Acted in good faith;

(3) Received no improper personal benefit;

(4) In the case of a criminal proceeding, had no reasonable cause to believe his conduct was unlawful; and

(5) In the case of acts or omissions occurring in the official capacity described in subdivision 1, paragraph (c), clause (1) or (2), reasonably believed that the conduct was in the best interests of the corporation, or in the case of acts or omissions occurring in his official capacity described in subdivision 1, paragraph (c), clause (3), reasonably believed that the conduct was not opposed to the best interests of the corporation. If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the corporation if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.

(b) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this subdivision.

Sec. 72. Minnesota Statutes 1981 Supplement, Section 300.49, Subdivision 1, is amended to read:

Subdivision 1. **PAID TO STATE TREASURER.** Domestic corporations shall pay to the state treasurer the following fees:

(1) For filing articles of incorporation, \$70 for the first \$25,000 or fraction thereof of the par value of its authorized shares, and \$1.25 for each additional \$1,000 or fraction thereof;

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(2) For filing an any other instrument extending or renewing corporate existence required or permitted by sections 300.01 to 300.68, \$15;

(3) For filing any amendment of articles of incorporation increasing the authorized number of shares, or the par value of shares previously authorized, or both, \$1.25 for each \$1,000 or fraction thereof of such increase.

**Sec. 73. REPEALER.**

Minnesota Statutes 1981 Supplement, Sections 302A.011, Subdivision 35; and 302A.241, Subdivision 3; are repealed.

**Sec. 74. EFFECTIVE DATE.**

Sections 1 to 67, 70, and 73 are effective the day following final enactment. Section 72 is effective April 1, 1982. Section 71 is effective January 1, 1984. Sections 68 and 69 are effective January 1, 1985.

Approved March 19, 1982

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**CHAPTER 498 — S.F.No. 2051**

*An act relating to rural development; changing the purposes of rural development financing authorities; providing for small business finance agency loans to a farm business; amending Minnesota Statutes 1980, Sections 362.52, Subdivision 3; 362A.01, Subdivision 2; and Minnesota Statutes 1981 Supplement, Section 362.50, Subdivisions 5 and 9.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 362A.01, Subdivision 2, is amended to read:

Subd. 2. **PURPOSES.** The purposes of a rural development financing authority shall be are:

(a) to acquire, construct, improve and equip projects comprising real and personal property within or outside the state, used or useful for producing or processing products of agriculture, including but not limited to assembling, fabricating, manufacturing, mixing, storing, warehousing, distributing, selling or any one or more or all of these processes. For the purpose of sections 362A.01 to 362A.08 the term agriculture shall include forestry and timber production and the phrase "producing products of agriculture" does not include acquiring agricultural land;

(b) to investigate, improve and develop methods of constructing, operating and financing such projects;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.