

301.37 BUSINESS CORPORATIONS

(6) After June 30, 1965, if any proposed amendment would alter the vote required to authorize a particular type of corporate action under applicable provisions of law or under its existing articles, such amendment in order to be adopted must receive the vote which was required to authorize such particular type of corporate action prior to such amendment.

[1973 c 47 s 3]

[For text of subd. 4, see M.S.1971]

CHAPTER 306. PUBLIC CEMETERIES

Sec.
306.30 Repealed.

306.30 [Repealed, 1973 c 35 s 49]

CHAPTER 309. SOCIAL AND CHARITABLE ORGANIZATIONS

Sec.	Sec.
309.176 Repealed.	309.591 Rule making power.
309.50 Solicitation of charitable funds; definitions.	309.60 Reciprocal agreements, other states.
309.51 Repealed.	309.62 Uniform management of institutional funds act, definitions [New].
309.515 Exemptions.	309.63 Appropriation of appreciation [New].
309.52 Registration requirement.	309.64 Rule of construction [New].
309.53 Annual report.	309.65 Investment authority [New].
309.531 Licensing of professional fund raisers; bond required.	309.66 Delegation of investment management [New].
309.532 Denial, suspension and revocation of licenses.	309.67 Standard of conduct [New].
309.54 Public record.	309.68 Release of restrictions on use or investment [New].
309.55 Use of names.	309.69 Severability [New].
309.555 Limitations on charitable expenditures.	309.70 Uniformity of application and construction [New].
309.556 Public disclosure requirements.	309.71 Citation [New].
309.56 Service of process.	
309.58 Violations; witnesses; testimony.	

309.176 [Repealed, 1973 c 494 s 6; 1973 c 651 s 4]

309.50 Solicitation of charitable funds; definitions

[For text of subd. 1, see M.S.1971]

Subd. 2. "Person" means any individual, organization, group, firm, copartnership, association, partnership, corporation, company, trust or joint stock association, church, religious sect, religious denomination, society, or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

[1973 c 762 s 1]

Subd. 3. "Charitable purpose" means and includes any charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, or eleemosynary purpose, either actual or purported.

[1973 c 762 s 2]

[For text of subd. 4, see M.S.1971]

Subd. 5. "Contribution" means the promise or grant of any money or property of any kind or value, including the promise to pay, or payment for merchandise or rights of any other description when representation is made by or on behalf of the seller or solicitor that the whole or any part of the price will be applied to a charitable purpose. "Contributions" shall not include any funds obtained by a charitable organization through grants from any governmental agency. "Contributions" shall include, in the case of a charitable organization offering goods and services to the public, the difference between the direct cost of the goods and services to the charitable organization and

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the price at which the charitable organization or any person acting on its behalf resells those goods or services to the public.

[1973 c 762 s 3]

[For text of subds. 6 and 7, see M.S.1971]

Subd. 8. "Department" means the securities division of the department of commerce.

Subd. 9. "Parent organization" is that part of a charitable organization which coordinates, supervises or exercises control over policy, fund-raising, and expenditures, or assists or advises one or more chapters, branches or affiliates in the state.

Subd. 10. "Solicit" and "solicitation" mean the request directly or indirectly for any contribution on the plea or representation that such contribution will or may be used for any charitable purpose, and also mean and include any of the following methods of securing contributions:

(1) Oral or written request;

(2) The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication;

(3) The making of any announcement to the press, over the radio, by television, by telephone, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution;

(4) The sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, magazine, merchandise, subscription, ticket of admission, or any other thing, or the use of the name of any charitable person in any offer or sale as an inducement or reason for purchasing any such item, or the making of any statement in connection with any such sale, that the whole or any part of the proceeds from any such sale will be used for any charitable purpose. A "solicitation" as defined herein shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any such sale.

[1973 c 762 s 4]

309.51 [Repealed, 1973 c 762 s 18]

309.515 Exemptions

Subdivision 1. Subject to the provisions of subdivisions 2 and 3, sections 309.52 and 309.53 shall not apply to any of the following:

(a) Charitable organizations:

(1) which did not receive total contributions in excess of \$2,000 from the public within or without this state during the accounting year last ended, and

(2) which do not plan to receive total contributions in excess of such amount from the public within or without this state during any accounting year, and

(3) whose functions and activities, including fund raising, are performed wholly by persons who are unpaid for their services, and

(4) none of whose assets or income inure to the benefit of or are paid to any officer.

For purposes of this chapter, a charitable organization shall be deemed to receive in addition to such contributions as are solicited from the public by it, such contributions as are solicited from the public by any other person and transferred to it. Any organization constituted for a charitable purpose receiving an allocation from a community chest, united fund or similar organization shall be deemed to have solicited that allocation from the public.

(b) Any group or association serving a bona fide religious purpose when the solicitation is connected with such a religious purpose, nor shall such sections

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apply when the solicitation for such a purpose is conducted for the benefit of such a group or association by any other person with the consent of such group or association. Nothing contained in sections 309.50 to 309.61 shall prevent such a group or association or any such other person from voluntarily filing a registration statement or annual report under sections 309.52 and 309.53.

(c) Any educational institution which is under the general supervision of the state board of education, the state college board, the state junior college board, or the university of Minnesota or any educational institution which is accredited by the university of Minnesota or the North Central association of colleges and secondary schools, or by any other national or regional accrediting association.

(d) A fraternal, patriotic, social, educational, alumni, professional, trade or learned society which limits solicitation of contributions to persons who have a right to vote as a member. The term "member" shall not include those persons who are granted a membership upon making a contribution as the result of a solicitation.

(e) A charitable organization soliciting contributions for any person specified by name at the time of the solicitation if all of the contributions received are transferred to the person named with no restrictions on his expenditure of it and with no deductions whatsoever.

Subd. 2. Where any such group or association or person soliciting for the benefit of such group or association described in subdivision 1, clauses (a), (b) and (d), employs a professional fund raiser to solicit or assist in the solicitation of contributions, sections 309.52 and 309.53 shall apply and such group or association or person shall file a registration statement as provided in section 309.52 and an annual report as provided in section 309.53.

Subd. 3. The department may, by written order or regulation, suspend or wholly revoke the exempt status of any charitable organization or any group of charitable organizations exempted by this section or may require, prior to a solicitation by a charitable organization exempt by the provisions hereof, such information with respect thereto as the department may deem necessary to protect the public interest.

[1973 c 762 s 5]

309.52 Registration requirement

Subdivision 1. No charitable organization, except as otherwise provided in section 5, shall solicit contributions from persons in this state by any means whatsoever unless, prior to any solicitation, there shall be on file with the department upon forms provided by the department, a registration statement containing, without limitation, the following information:

- (a) Legally established name.
- (b) Name or names under which it solicits contributions.
- (c) Form of organization.
- (d) Date and place of organization.
- (e) Address of principal office in this state, or, if none, the name and address of the person having custody of books and records within this state.
- (f) Names and addresses of officers, directors, trustees, and chief executive officer.
- (g) Federal and state tax exempt status.
- (h) Denial at any time by any governmental agency or court of the right to solicit contributions.
- (i) Date on which accounting year of the charitable organization ends.
- (j) General purposes for which organized.
- (k) General purposes for which contributions to be solicited will be used.
- (l) Methods by which solicitation will be made.

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(m) Copies of contracts between charitable organization and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. Where any such contract is executed after filing of the registration statement, a copy thereof shall be filed within seven days of the date of execution.

(n) Board, group or individual having final discretion as to the distribution and use of contributions received.

(o) The amount of total contributions received during the accounting year last ended.

(p) Such other information as the department may by rule or order require to promote fairness of the solicitation and to assure full and fair disclosure of all material information to the department.

[1973 c 762 s 6]

[For text of subds. 1a to 8, see M.S.1971]

309.53 Annual report

Subdivision 1. Except as otherwise provided in subdivision 1a of this section, every charitable organization required to file a registration statement pursuant to section 309.52 shall file an annual report with the department of commerce upon forms provided by the department or on forms identical thereto on or before June 30 of each year if its books are kept on a calendar year basis, or within six months after the close of its fiscal year if its books are kept on a fiscal year basis. For cause shown the department may extend the time for filing the annual report for a period not to exceed three months. The annual report shall be accompanied by a filing fee of \$10 which shall be deposited in the state treasury.

[1973 c 762 s 7]

[For text of subds. 1a to 5, see M.S.1971]

309.531 Licensing of professional fund raisers; bond required

Subdivision 1. No person shall act as a professional fund raiser unless licensed by the department. Applications for a license shall be in writing, under oath, in the form prescribed by the department and shall be accompanied by an application fee of \$25. Each license shall be effective for a period of not more than 12 months from the date of issuance, and in any event shall expire on July 30 next following the date of issuance.

Subd. 2. The department shall have the power, in connection with any application for license as a professional fund raiser, to require the applicant to file a surety bond in such amount, not exceeding \$20,000, and containing such terms and conditions as the department determines are necessary and appropriate for the protection of the public. The applicant may deposit cash in and with a depository acceptable to the department in such amount and in such a manner as may be prescribed and approved by the department in lieu of the bond.

Subd. 3. No professional fund raiser shall solicit in the name of or in behalf of any charitable organization unless such solicitor has written authorization from two officers of such organization, a copy of which shall be filed with the department. Such written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued.

Subd. 4. The department may require that any licensed professional fund raiser submit financial reports, not more frequently than quarterly, in such form and containing such information as the department by rule or order requires.

[1973 c 762 s 8]

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309.532 Denial, suspension and revocation of licenses

Subdivision 1. The department may by order deny any application, suspend or revoke any license or registration, or may censure a licensee or registrant if it finds (1) that the order is in the public interest, and (2) that the applicant, registrant or licensee:

(a) has filed an application for a license or registration which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(b) has engaged in a fraudulent, deceptive or dishonest practice;

(c) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of charitable solicitations; or

(d) has violated or failed to comply with any provision of this chapter or any rule or order under this chapter.

Subd. 2. The commissioner of securities of the department of commerce may promulgate rules and regulations further specifying and defining those actions and omissions which constitute fraudulent, deceptive or dishonest practices, and establishing standards of conduct for professional fund raisers.

Subd. 3. The department may issue an order requiring a licensee or registrant or applicant for a license or registration to show cause why the license or registration should not be revoked or suspended or the application denied. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with the provisions of chapter 15. After the hearing, the department shall enter an order making such disposition of the matter as the facts require. If the licensee, registrant or applicant fails to appear at a hearing of which he has been duly notified, such person shall be deemed in default, and the proceeding may be determined against him upon consideration of the order to show cause, the allegations of which may be deemed to be true.

Subd. 4. The hearing may be conducted by a hearing examiner. The examiner shall make proposed findings of fact and submit them to the department. The department shall have the power to compel the attendance of witnesses, to examine them under oath, to require the production of books, papers and other evidence, and to issue subpoenas and cause the same to be served and executed in any part of the state.

Subd. 5. Orders of the department shall be subject to judicial review pursuant to chapter 15.

Subd. 6. The commissioner of securities of the department of commerce may promulgate rules of procedure concerning all hearings and other proceedings conducted pursuant to this chapter.

[1973 c 762 s 17]

309.54 Public record

Subdivision 1. Registration statements, annual reports, and other documents required to be filed shall become public records in the office of the department.

[1973 c 762 s 9]

[For text of subds. 2 and 3, see M.S.1971]

309.55 Use of names

[For text of subds. 1 to 3, see M.S.1971]

Subd. 4. No charitable organization and no person acting on behalf of a charitable organization shall use any uniformed personnel of any local, state or federal agency or department to solicit contributions.

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Subd. 5. No charitable organization and no person acting on behalf of a charitable organization shall use or employ any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice with the intent that others rely thereon in connection with any charitable solicitation.

Subd. 6. No person shall, either in his own right or as agent, officer or employee of a charitable organization sell or otherwise furnish for a consideration to any other person any list of contributors.

[1973 c 762 s 10]

309.555 Limitations on charitable expenditures

Subdivision 1. Except as provided in subdivision 2, no charitable organization shall pay or agree to pay to any professional fund raiser as compensation for his services or as reimbursement for expenses, or both, an amount in excess of 30 percent of the gross amount of moneys, funds, pledges or other property raised or received by such professional fund raiser in the name of the charitable organization.

Subd. 2. In the event that goods or services are provided to the public in connection with charitable solicitation, when a professional fund raiser is employed, no charitable organization shall pay or agree to pay to any professional fund raiser as compensation for his services or as reimbursement for expenses, or both, an amount in excess of 30 percent of the difference between the cost to the charitable organization of all goods and services sold by the professional fund raiser and the amount for which said goods and services are sold.

Subd. 3. Compensation paid or agreed to be paid to a professional fund raiser shall include the reasonable cost of any expense, whether in money or in kind, incurred by a charitable organization pursuant to an agreement or contract with a professional fund raiser for the solicitation of charitable contributions. A charitable organization shall be deemed to have paid or agreed to pay any portion of such moneys, funds, pledges or other properties retained by the professional fund raiser pursuant to a contract with the charitable organization.

Subd. 4. No person shall use the name of a charitable organization for financial compensation or profit unless the charitable organization has consented to the use of its name in a contract with the person. The contract shall:

- (a) be in writing, and a copy thereof shall be filed with the department within seven days of the date of execution;
- (b) disclose the amount of financial compensation or profit to be retained by the person;
- (c) disclose the percentage of the total gross amount of moneys, funds, pledges or other property raised or received or to be raised or received in connection with the use of the name of the charitable organization which will be given to the charitable organization.

[1973 c 762 s 11]

309.556 Public disclosure requirements

In connection with any charitable solicitation, the following information shall be clearly disclosed:

- (a) The name, address and telephone number of each charitable organization on behalf of which the solicitation is made;
- (b) The percentage of the contribution which may be deducted as a charitable contribution under both federal and state income tax laws.

If the solicitation is made by direct contact, the required information shall be disclosed prominently on a card which shall be exhibited to the person solicited. If the solicitation is made by radio, television, letter, telephone or

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any other means not involving direct personal contact, the required information shall be clearly disclosed in the solicitation.

[1973 c 762 s 12]

309.56 Service of process

Subdivision 1. Any charitable organization or professional fund raiser which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there be no such registered agent, then upon the person who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization or professional fund raiser at its last known address.

(b) When a charitable organization or professional fund raiser has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or professional fund raiser as maintaining an office, service may be made by delivering to and leaving with the commissioner of securities of the department of commerce three copies thereof and a fee of \$6.

(c) Following service upon the commissioner of securities of the department of commerce the provisions of law relating to service of process on foreign corporations contained in Minnesota Statutes 1957, Section 303.13, Subdivisions 2, 3, 4, and 5, shall thereafter govern.

Subd. 2. The solicitation of any contribution within this state shall be deemed to be the agreement of the charitable organization or professional fund raiser that any process against it which is so served in accordance with the provisions of this section shall be of the same legal force and effect as if served personally within this state.

[1973 c 762 s 13]

309.58 Violations; witnesses; testimony

Whenever the department or the attorney general has reason to believe that a violation of sections 309.50 to 309.61 has been committed or may be committed by a charitable organization or professional fund raiser, or its officers, directors, trustees, agents or servants, either the department or the attorney general may request information relevant to the provisions of sections 309.50 to 309.61 from such charitable organization or professional fund raiser. If, in the opinion of the department or the attorney general, such charitable organization or professional fund raiser, through its managing group, fails to furnish the information requested, or fails to satisfy the department or the attorney general that the charitable organization or professional fund raiser or its officers, directors, trustees, agents or servant do not have or cannot acquire the information requested, the registration statement of such charitable organization or the license of the professional fund raiser may be suspended, revoked or censured by the department in accordance with the provisions of section 309.532.

[1973 c 762 s 14]

309.591 Rule making power

The commissioner of securities of the department of commerce may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of this chapter.

[1973 c 762 s 15]

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309.60 Reciprocal agreements, other states

The department may enter into reciprocal agreements with a like authority of any other state or states for the purpose of exchanging information made available to the department or to such other like authority.

[1973 c 762 s 16]

309.62 Uniform management of institutional funds act, definitions

Subdivision 1. For the purposes of sections 309.62 to 309.68, the following terms shall have the meanings here given them.

Subd. 2. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

Subd. 3. "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include (a) a fund held for an institution by a trustee that is not an institution or (b) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

Subd. 4. "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

Subd. 5. "Historic dollar value" means the aggregate fair value in dollars of (a) an endowment fund at the time it became an endowment fund, (b) each subsequent donation to the fund at the time it is made, and (c) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

Subd. 6. "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document, including the terms of any institutional solicitations from which an institutional fund resulted, under which property is transferred to or held by an institution as an institutional fund.

[1973 c 313 s 1]

309.63 Appropriation of appreciation

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 309.67. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

[1973 c 313 s 2]

309.64 Rule of construction

Section 309.63 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after August 1, 1973.

[1973 c 313 s 3]

309.65 Investment authority

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may

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make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

[1973 c 313 s 4]

309.66 Delegation of investment management

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.

[1973 c 313 s 5]

309.67 Standard of conduct

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

[1973 c 313 s 6]

309.68 Release of restrictions on use or investment

Subdivision 1. With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

Subd. 2. If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

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Subd. 3. A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

Subd. 4. This section does not limit the application of the doctrine of cy pres.

[1973 c 313 s 7]

309.69 Severability

If any provision of sections 309.62 to 309.71 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of sections 309.62 to 309.71 which can be given effect without the invalid provision or application, and to this end the provisions of sections 309.62 to 309.71 are declared severable.

[1973 c 313 s 8]

309.70 Uniformity of application and construction

Sections 309.62 to 309.71 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of sections 309.62 to 309.71 among those states which enact it.

[1973 c 313 s 9]

309.71 Citation

Sections 309.62 to 309.71 may be cited as the "uniform management of institutional funds act."

[1973 c 313 s 10]

CHAPTER 317. NONPROFIT CORPORATIONS

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317.04 Application to domestic corporations

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. Election to accept. (1) Whether or not a domestic corporation has elected to reject under subdivision 2, it may at any time accept and come under the provisions of sections 317.01 to 317.25 by adopting a resolution of acceptance by a majority vote of all the directors entitled to vote at a special meeting of the board of directors, notice having been duly given, and by certifying and filing the resolution in the manner prescribed by subdivision 2, clause 3, for effecting a rejection.

(2) The election to accept sections 317.01 to 317.25 becomes effective upon the filing for record (a) of a copy of the adopted resolution to accept, together with articles of incorporation and amendments thereto with the secretary of state, and (b) of the resolution to accept, duly certified by the secretary of state, with the register of deeds of the county in which the principal place of business of the corporation is located.

[1973 c 51 s 1]

[For text of subds. 4 to 6, see M.S.1971]

Subd. 7. Articles and bylaws in force. All provisions of the articles of incorporation and bylaws of the accepting corporation that may be included