

## CHAPTER 300

### GENERAL PROVISIONS

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#### 300.08 GENERAL POWERS.

Subdivision 1. **Enumerated powers.** (a) A corporation formed under the provisions of this chapter may:

(1) be known by its corporate name for the time stated in its certificate of incorporation;

(2) sue and be sued in any court;

(3) have, use, and alter a common seal;

(4) acquire, by purchase or otherwise, and hold, enjoy, improve, lease, encumber, and convey all real and personal property necessary for the purposes of its organization, subject to the limitations hereafter declared;

(5) elect or appoint in any manner it determines all necessary or proper officers, agents, boards, and committees, to fix their compensation, and to define their powers and duties;

(6) make and amend consistently with law bylaws providing for the management of its property and the regulation and government of its affairs; and

(7) wind up and liquidate its business in the manner provided by law.

(b) A corporation formed under this chapter shall indemnify those persons identified in section 300.083 against certain expenses and liabilities only as provided in section 300.083 and may indemnify other persons.

*[For text of subds 2 and 3, see M.S.1986]*

**History:** 1987 c 104 s 1

#### 300.083 INDEMNIFICATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Corporation" includes a domestic or foreign corporation that was the predecessor of the corporation referred to in this section in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(c) "Official capacity" means (1) with respect to a director, the position of director in a corporation, (2) with respect to a person other than a director, the elective or appointive office or position held by an officer, member of a committee of the board, or the employment relationship undertaken by an employee of the corporation, and (3) with respect to a director, officer, or employee of the corporation who, while a director, officer, or employee of the corporation, is or was serving at the request of the corporation or whose duties in that position involve or involved service as a director, officer, partner, trustee, employee, or agent of another organization or employee benefit plan, the position of that person as a director, officer, partner, trustee, employee, or agent, as the case may be, of the other organization or employee benefit plan.

(d) "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the corporation.

(e) "Special legal counsel" means counsel who has not represented the corporation or a related corporation, or a director, officer, member of a committee or board, or employee whose indemnification is in issue.

*[For text of subs 2 and 3, see M.S.1986]*

Subd. 4. **Prohibition or limit on indemnification or advances.** The articles or bylaws either may prohibit indemnification or advances of expenses otherwise required by this section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in subdivisions 2 and 3 including, without limitation, monetary limits on indemnification or advances of expenses, if the conditions apply equally to all persons or to all persons within a given class. A prohibition or limit on indemnification or advances may not apply to or affect the right of a person to indemnification or advances of expenses with respect to any acts or omissions of the person occurring prior to the effective date of a provision in the articles or the date of adoption of a provision in the bylaws establishing the prohibition or limit on indemnification or advances.

*[For text of subs 5 to 7, see M.S.1986]*

Subd. 8. **Disclosure.** A corporation that indemnifies or advances expenses to a person in accordance with this section in connection with a proceeding by or on behalf of the corporation shall report to the shareholders in writing the amount of the indemnification or advance and to whom and on whose behalf it was paid not later than the next meeting of shareholders.

*[For text of subd 9, see M.S.1986]*

Subd. 10. **Indemnification of other persons.** Nothing in this section shall be construed to limit the power of the corporation to indemnify other persons by contract or otherwise.

**History:** 1987 c 104 s 2-5

### **300.45 CERTIFICATES OF INCORPORATION, AMENDMENT; EXCEPTIONS.**

Except for a nonprofit corporation subject to the Minnesota Nonprofit Corporation Act, the certificate of incorporation of a corporation organized and existing under the laws of this state may be amended to change its name, to increase or decrease its capital stock, to change the number and par value of the shares of its capital stock, to eliminate or limit a director's personal liability, or in respect to another matter which an original certificate of a corporation of the same kind might lawfully have contained. The change must be accomplished by the adoption of a resolution specifying the proposed amendment at a regular meeting or at a special meeting called for that expressly stated purpose, in either of the following ways:

(1) by a majority vote of all its shares, if a stock corporation; or

(2) by a majority vote of its members; or, in either case,

(3) by a majority vote of its entire board of directors, trustees, or other managers within one year after authorization by specific resolution duly adopted at a meeting of stockholders or members. The resolution must be included in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved and filed in the manner prescribed for the execution, approval, and filing of a like original certificate.

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 provided in this section or by a two-thirds vote of the stockholders or members of the association attending the meeting in person or by proxy.

**History:** 1987 c 33 s 3

### **300.64 LIABILITY OF STOCKHOLDERS AND DIRECTORS.**

*[For text of subs 1 to 3, see M.S.1986]*

**Subd. 4. Elimination or limitation of liability.** A director's personal liability to the corporation or its stockholders or members for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the certificate. The certificate shall not eliminate or limit the liability of a director:

(1) for a breach of the director's duty of loyalty to the corporation or its stockholders or members;

(2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

(3) for acts prohibited under section 300.60;

(4) under subdivision 1, 2, or 3;

(5) for a transaction from which the director derived an improper personal benefit;  
or

(6) for an act or omission occurring prior to the date when the provision in the certificate eliminating or limiting liability becomes effective.

**History:** 1987 c 33 s 4