

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Corporations act-amendments.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to corporations; updating statutes to
2 comply with the model corporations act; and providing for
3 an effective date. ***** Note: I will fill this in more
4 when I get the synopsis memo from the working group. *****

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 17-16-143, 17-16-748, 17-16-831.1,
9 17-16-860 through 17-16-863, 17-16-870, 17-16-1023,
10 17-16-1108, 17-16-1340, 17-16-1408, 17-16-1409, 17-16-1605
11 and 17-16-1606 are created to read:

12

13 **17-16-143. Qualified director.**

1

2 (a) A "qualified director" is a director who, at the
3 time action is to be taken under:

4

5 (i) W.S. 17-16-744, does not have:

6

7 (A) A material interest in the outcome of
8 the proceeding; or

9

10 (B) A material relationship with a person
11 who has such an interest.

12

13 (ii) W.S. 17-16-853 or 17-16-855:

14

15 (A) Is not a party to the proceeding;

16

17 (B) Is not a director as to whom a
18 transaction is a director's conflicting interest
19 transaction or who sought a disclaimer of the corporation's
20 interest in a business opportunity under W.S. 17-16-870,
21 which transaction or disclaimer is challenged in the
22 proceeding; and

23

1 (C) Does not have a material relationship
2 with a director described in either subparagraph (A) or (B)
3 of this paragraph.
4

5 (iii) W.S. 17-16-862, is not a director as to
6 whom the transaction is a director's conflicting interest
7 transaction, or a director who has a material relationship
8 with another director as to whom the transaction is a
9 director's conflicting interest transaction; or
10

11 (iv) W.S. 17-16-870, would be a qualified
12 director under paragraph (iii) of this subsection if the
13 business opportunity were a director's conflicting interest
14 transaction.
15

16 (b) For purposes of this section:
17

18 (i) "Material relationship" means a familial,
19 financial, professional, employment or other relationship
20 that would reasonably be expected to impair the objectivity
21 of the director's judgment when participating in the action
22 to be taken;
23

1 (ii) "Material interest" means an actual or
2 potential benefit or detriment, other than one which would
3 devolve on the corporation or the shareholders generally,
4 that would reasonably be expected to impair the objectivity
5 of the director's judgment when participating in the action
6 to be taken.

7
8 (c) The presence of one (1) or more of the following
9 circumstances shall not automatically prevent a director
10 from being a qualified director:

11
12 (i) Nomination or election of the director to the
13 current board by any director who is not a qualified
14 director with respect to the matter, or by any person that
15 has a material relationship with that director, acting
16 alone or participating with others;

17
18 (ii) Service as a director of another corporation
19 of which a director who is not a qualified director with
20 respect to the matter, or any individual who has a material
21 relationship with that director, is or was also a director;
22 or

23

1 (iii) With respect to action to be taken under
2 W.S. 17-16-744, status as a named defendant, as a director
3 against whom action is demanded, or as a director who
4 approved the conduct being challenged.

5

6 Subchapter E. PROCEEDING TO APPOINT CUSTODIAN OR RECEIVER

7

8 **17-16-748. Shareholder action to appoint custodian or**
9 **receiver.**

10

11 (a) The district court may appoint one (1) or more
12 persons to be custodians, or, if the corporation is
13 insolvent, to be receivers, of and for a corporation in a
14 proceeding by a shareholder where it is established that:

15

16 (i) The directors are deadlocked in the
17 management of the corporate affairs, the shareholders are
18 unable to break the deadlock, and irreparable injury to the
19 corporation is threatened or being suffered; or

20

21 (ii) The directors or those in control of the
22 corporation are acting fraudulently and irreparable injury
23 to the corporation is threatened or being suffered.

1

2 (b) The court:

3

4 (i) May issue injunctions, appoint a temporary
5 custodian or temporary receiver with all the powers and
6 duties the court directs, take other action to preserve the
7 corporate assets wherever located, and carry on the
8 business of the corporation until a full hearing is held;

9

10 (ii) Shall hold a full hearing, after notifying
11 all parties to the proceeding and any interested persons
12 designated by the court, before appointing a custodian or
13 receiver; and

14

15 (iii) Has jurisdiction over the corporation and
16 all of its property, wherever located.

17

18 (c) The court may appoint an individual or domestic or
19 foreign corporation authorized to transact business in this
20 state as a custodian or receiver and may require the
21 custodian or receiver to post bond, with or without
22 sureties, in an amount the court directs.

23

1 (d) The court shall describe the powers and duties of
2 the custodian or receiver in its appointing order, which
3 may be amended from time to time. Among other powers:

4
5 (i) A custodian may exercise all of the powers of
6 the corporation, through or in place of its board of
7 directors, to the extent necessary to manage the business
8 and affairs of the corporation; and

9
10 (ii) A receiver:

11
12 (A) May dispose of all or any part of the
13 assets of the corporation wherever located, at a public or
14 private sale, if authorized by the court; and

15
16 (ii) May sue and defend in the receiver's
17 own name as receiver in all courts of this state.

18
19 (e) The court during a custodianship may redesignate
20 the custodian a receiver, and during a receivership may
21 redesignate the receiver a custodian, if doing so is in the
22 best interests of the corporation.

23

1 (f) The court from time to time during the
2 custodianship or receivership may order compensation paid
3 and expense disbursements or reimbursements made to the
4 custodian or receiver from the assets of the corporation or
5 proceeds from the sale of its assets.

6
7 **17-16-831.1. Standards of liability for directors.**

8
9 (a) A director shall not be liable to the corporation
10 or its shareholders for any decision to take or not to take
11 action, or any failure to take any action including
12 abstaining from voting after full disclosure, as a director,
13 unless the party asserting liability in a proceeding
14 establishes that:

15
16 (i) No defense interposed by the director based
17 on the following precludes liability:

18
19 (A) Any provision in the articles of
20 incorporation authorized by W.S. 17-16-202(b)(iv); or

21

1 (B) The protection afforded by W.S. 17-16-
2 861 for action taken in compliance with W.S. 17-16-862 or
3 17-16-863; or

4

5 (C) The protection afforded by W.S. 17-16-
6 870; and

7

8 (ii) The challenged conduct consisted or was the
9 result of:

10

11 (A) Action not in good faith; or

12

13 (B) A decision:

14

15 (I) Which the director did not
16 reasonably believe to be in or at least not opposed to the
17 best interests of the corporation; or

18

19 (II) As to which the director was not
20 informed to an extent the director reasonably believed
21 appropriate in the circumstances; or

22

1 (C) Lack of objectivity due to the
2 director's familial, financial or business relationship
3 with, or a lack of independence due to the director's
4 domination or control by, another person having a material
5 interest in the challenged conduct:

6

7 (I) Which relationship or which
8 domination or control could reasonably be expected to have
9 affected the director's judgment respecting the challenged
10 conduct in a manner adverse to the corporation; and

11

12 (II) After a reasonable expectation to
13 such effect has been established, the director shall not
14 have established that the challenged conduct was reasonably
15 believed by the director to be in or at least not opposed
16 to the best interests of the corporation; or

17

18 (D) A sustained failure of the director to
19 devote attention to ongoing oversight of the business and
20 affairs of the corporation, or a failure to devote timely
21 attention, by making or causing to be made appropriate
22 inquiry, when particular facts and circumstances of

1 significant concern materialize that would alert a
2 reasonably attentive director to the need therefore; or

3

4 (E) Receipt of a financial benefit to which
5 the director was not entitled or any other breach of the
6 director's duties to deal fairly with the corporation and
7 its shareholders that is actionable under applicable law.

8

9 (b) The party seeking to hold the director liable:

10

11 (i) For money damages, shall also have the burden
12 of establishing that:

13

14 (A) Harm to the corporation or its
15 shareholders has been suffered; and

16

17 (B) The harm suffered was proximately caused
18 by the director's challenged conduct.

19

20 (ii) For other money payment under a legal
21 remedy, such as compensation for the unauthorized use of
22 corporate assets, shall also have whatever burden of proof

1 may be called for to establish that the payment sought is
2 appropriate in the circumstances; or

3

4 (iii) For other money payment under an equitable
5 remedy, such as profit recovery by or disgorgement to the
6 corporation, shall also have whatever burden of proof may be
7 called for to establish that the equitable remedy sought is
8 appropriate in the circumstances.

9

10 (c) Nothing contained in this section shall:

11

12 (i) In any instance where fairness is at issue,
13 such as consideration of the fairness of a transaction to
14 the corporation under W.S. 17-16-861(b)(iii), alter the
15 burden of proving the fact or lack of fairness otherwise
16 applicable;

17

18 (ii) Alter the fact or lack of liability of a
19 director under another section of this act, such as the
20 provisions governing the consequences of an unlawful
21 distribution under W.S. 17-16-833 or a transactional
22 interest under W.S. 17-16-861; or

23

1

2

(C) Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

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6

7

(ii) "Control", including the term "controlled by", means:

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(A) Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract or otherwise; or

(B) Being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(iii) "Relevant time" means:

(A) The time at which directors' action respecting the transaction is taken in compliance with W.S. 17-16-862; or

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(B) If the transaction is not brought before the board of directors of the corporation or its committee for action under W.S. 17-16-862, at the time the corporation or an entity controlled by the corporation becomes legally obligated to consummate the transaction.

(iv) "Material financial interest" means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction;

(v) "Related person" means:

(A) The director's spouse;

(B) A child, stepchild, grandchild, parent, step parent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece or nephew, or spouse of any thereof, of the director or of the director's spouse;

(C) An individual living in the same home as

1 the director;

2

3 (D) An entity, other than the corporation
4 or an entity controlled by the corporation, controlled by
5 the director or any person specified above in this
6 paragraph;

7

8 (E) A domestic or foreign:

9

10 (I) Business or nonprofit
11 corporation, other than the corporation or an entity
12 controlled by the corporation, of which the director is a
13 director;

14

15 (II) Unincorporated entity of which the
16 director is a general partner or a member of the governing
17 body; or

18

19 (III) Individual, trust or estate for
20 whom or of which the director is a trustee, guardian,
21 personal representative or like fiduciary; or

22

23 (F) A person that is, or an entity that is

1 controlled by, an employer of the director.

2

3 (vi) "Fair to the corporation" means, for
4 purposes of W.S. 17-16-861(b)(iii), that the transaction as
5 a whole was beneficial to or at least not harmful to the
6 corporation, taking into appropriate account whether it
7 was:

8

9 (A) Fair in terms of the director's
10 dealings with the corporation; and

11

12 (B) Comparable to what might have been
13 obtainable in an arm's length transaction, given the
14 consideration paid or received by the corporation.

15

16 (vii) "Required disclosure" means disclosure of:

17

18 (A) The existence and nature of the
19 director's conflicting interest; and

20

21 (B) All facts known to the director
22 respecting the subject matter of the transaction that a
23 director free of such conflicting interest would reasonably

1 believe to be material in deciding whether to proceed with
2 the transaction.

3

4 **17-16-861. Judicial action.**

5

6 (a) A transaction effected or proposed to be effected
7 by the corporation, or by an entity controlled by the
8 corporation, may not be the subject of equitable relief, or
9 give rise to an award of damages or other sanctions
10 against a director of the corporation, in a proceeding by
11 a shareholder or by or in the right of the corporation,
12 on the ground that the director has an interest respecting
13 the transaction, if it is not a director's conflicting
14 interest transaction.

15

16 (b) A director's conflicting interest transaction may
17 not be the subject of equitable relief, or give rise to an
18 award of damages or other sanctions against a director of the
19 corporation, in a proceeding by a shareholder or by or in
20 the right of the corporation, on the ground that the
21 director has an interest respecting the transaction, if:

22

23 (i) Directors' action respecting the transaction

1 was taken in compliance with W.S. 17-16-862 at any time; or
2

3 (ii) Shareholders' action respecting the
4 transaction was taken in compliance with W.S. 17-16-863 at
5 any time; or
6

7 (iii) The transaction, judged according to the
8 circumstances at the relevant time, is established to have
9 been fair to the corporation.
10

11

12

17-16-862. Directors' action.

13

14 (a) Directors' action respecting a director's
15 conflicting interest transaction is effective for purposes
16 of W.S. 17-16-861(b)(i) if the transaction has been
17 authorized by the affirmative vote of a majority, but no
18 fewer than two (2), of the qualified directors who voted on
19 the transaction, after required disclosure by the
20 conflicted director of information not already known by such
21 qualified directors, or after modified disclosure in
22 compliance with subsection (b) of this section, provided
23 that:

1

2 (i) The qualified directors have deliberated and
3 voted outside the presence of and without the participation
4 by any other director; and

5

6 (ii) Where the action has been taken by a
7 committee, all members of the committee were qualified
8 directors, and either:

9

10 (A) The committee was composed of all the
11 qualified directors on the board of directors; or

12

13 (B) The members of the committee were
14 appointed by the affirmative vote of a majority of the
15 qualified directors on the board.

16

17 (b) Notwithstanding subsection (a) of this section,
18 when a transaction is a director's conflicting interest
19 transaction only because a related person described in
20 subparagraph (E) or (F) of W.S. 17-16-860(a)(v) is a party
21 to or has a material financial interest in the
22 transaction, the conflicted director is not obligated to
23 make required disclosure to the extent that the director

1 reasonably believes that doing so would violate a duty
2 imposed under law, a legally enforceable obligation of
3 confidentiality, or a professional ethics rule, provided
4 that the conflicted director discloses to the qualified
5 directors voting on the transaction:

6

7 (i) All information required to be disclosed
8 that is not so violative;

9

10 (ii) The existence and nature of the director's
11 conflicting interest; and

12

13 (iii) The nature of the conflicted director's
14 duty not to disclose the confidential information.

15

16 (c) A majority, but no fewer than two (2), of all the
17 qualified directors on the board of directors, or on the
18 committee, constitutes a quorum for purposes of action that
19 complies with this section.

20

21 (d) Where directors' action under this section does
22 not satisfy a quorum or voting requirement applicable to
23 the authorization of the transaction by reason of the

1 articles of incorporation, the bylaws or a provision of
2 law, independent action to satisfy those authorization
3 requirements shall be taken by the board of directors or a
4 committee, in which action directors who are not qualified
5 directors may participate.

6

7 **17-16-863. Shareholders' action.**

8

9 (a) Shareholders' action respecting a director's
10 conflicting interest transaction is effective for purposes
11 of W.S. 17-16-861(b)(ii) if a majority of the votes cast by
12 the holders of all qualified shares are in favor of the
13 transaction after:

14

15 (i) Notice to shareholders describing the action
16 to be taken respecting the transaction;

17

18 (ii) Provision to the corporation of the
19 information referred to in subsection (b) of this section;
20 and

21

22 (iii) Communication to the shareholders entitled
23 to vote on the transaction of the information that is the

1 subject of required disclosure, to the extent the
2 information is not known by them.

3

4 (b) A director who has a conflicting interest
5 respecting the transaction shall, before the shareholders'
6 vote, inform the secretary or other officer or agent of the
7 corporation authorized to tabulate votes, in writing, of
8 the number of shares that the director knows are not
9 qualified shares under subsection (c) of this section and
10 the identity of the holders of those shares.

11

12 (c) For purposes of this section:

13

14 (i) "Holder" means and "held by" refers to
15 shares held by both a record shareholder, as defined in
16 W.S. 17-16-1301(a)(vi), and a beneficial shareholder as
17 defined in W.S. 17-16-1301(a)(i);

18

19 (ii) "Qualified shares" means all shares entitled
20 to be voted with respect to the transaction except for
21 shares that the secretary or other officer or agent of the
22 corporation authorized to tabulate votes either knows, or
23 under subsection (b) of this section is notified, are held

1 by:

2

3 (A) A director who has a conflicting
4 interest respecting the transaction; or

5

6 (B) A related person of the director,
7 excluding a person described in W.S. 17-16-860(a)(v)(F).

8

9 (d) A majority of the votes entitled to be cast by
10 the holders of all qualified shares constitutes a quorum
11 for purposes of compliance with this section. Subject to
12 the provisions of subsection (e) of this section,
13 shareholders' action that otherwise complies with this
14 section is not affected by the presence of holders, or by
15 the voting, of shares that are not qualified shares.

16

17 (e) If a shareholders' vote does not comply with
18 subsection (a) of this section solely because of a
19 director's failure to comply with subsection (b) of this
20 section, and if the director establishes that the failure
21 was not intended to influence and did not in fact determine
22 the outcome of the vote, the court may take such action
23 respecting the transaction and the director, and may give

1 such effect, if any, to the shareholders' vote, as the court
2 considers appropriate in the circumstances.

3
4 (f) Where shareholders' action under this section does
5 not satisfy a quorum or voting requirement applicable to
6 the authorization of the transaction by reason of the
7 articles of incorporation, the bylaws or a provision of
8 law, independent action to satisfy those authorization
9 requirements must be taken by the shareholders, in which
10 action shares that are not qualified shares may
11 participate.

12
13 SUBARTICLE 7

14
15 BUSINESS OPPORTUNITIES

16
17 **17-16-870. Business opportunities.**

18
19 (a) A director's taking advantage, directly or
20 indirectly, of a business opportunity may not be the subject
21 of equitable relief, or give rise to an award of damages or
22 other sanctions against the director, in a proceeding by
23 or in the right of the corporation on the ground that such

1 opportunity should have first been offered to the
2 corporation, if before becoming legally obligated
3 respecting the opportunity the director brings it to the
4 attention of the corporation and:

5

6 (i) Action by qualified directors disclaiming
7 the corporation's interest in the opportunity is taken in
8 compliance with the procedures set forth in W.S. 17-16-862,
9 as if the decision being made concerned a director's
10 conflicting interest transaction; or

11

12 (ii) Shareholders' action disclaiming the
13 corporation's interest in the opportunity is taken in
14 compliance with the procedures set forth in W.S. 17-16-863,
15 as if the decision being made concerned a director's
16 conflicting interest transaction, except that, rather than
17 making required disclosure as defined in W.S. 17-16-860, in
18 each case the director shall have made prior disclosure to
19 those acting on behalf of the corporation of all material
20 facts concerning the business opportunity that are then
21 known to the director.

22

23 (b) In any proceeding seeking equitable relief or

1 other remedies based upon an alleged improper taking
2 advantage of a business opportunity by a director, the fact
3 that the director did not employ the procedure described in
4 subsection (a) of this section before taking advantage of
5 the opportunity shall not create an inference that the
6 opportunity should have been first presented to the
7 corporation or alter the burden of proof otherwise
8 applicable to establish that the director breached a duty
9 to the corporation in the circumstances.

10

11 **17-16-1023. Bylaw provisions relating to the election**
12 **of directors.**

13

14 (a) Unless the articles of incorporation specifically
15 prohibit the adoption of a bylaw pursuant to this section,
16 alter the vote specified in W.S. 17-16-728(a) or provide
17 for cumulative voting, a public corporation may elect in
18 its bylaws to be governed in the election of directors as
19 follows:

20

21 (i) Each vote entitled to be cast may be voted
22 for or against up to that number of candidates that is
23 equal to the number of directors to be elected, or a

1 shareholder may indicate an abstention, but without
2 cumulating the votes;

3

4 (ii) To be elected, a nominee shall have received
5 a plurality of the votes cast by holders of shares entitled
6 to vote in the election at a meeting at which a quorum is
7 present, provided that a nominee who is elected but
8 receives more votes against than for election shall serve
9 as a director for a term that shall terminate on the date
10 that is the earlier of ninety (90) days from the date on
11 which the voting results are determined pursuant to W.S.
12 17-16-729(b)(v) or is the date on which an individual is
13 selected by the board of directors to fill the office held
14 by such director, which selection shall be deemed to
15 constitute the filling of a vacancy by the board to which
16 W.S. 17-16-810 applies. Subject to paragraph (iii) of this
17 subsection, a nominee who is elected but receives more
18 votes against than for election shall not serve as a
19 director beyond the ninety (90) day period referenced
20 above; and

21

1 (iii) The board of directors may select any
2 qualified individual to fill the office held by a director
3 who received more votes against than for election.
4

5 (b) Subsection (a) of this section does not apply to
6 an election of directors by a voting group if at the
7 expiration of the time fixed under a provision requiring
8 advance notification of director candidates, or absent such
9 a provision, at a time fixed by the board of directors
10 which is not more than fourteen (14) days before notice is
11 given of the meeting at which the election is to occur,
12 there are more candidates for election by the voting group
13 than the number of directors to be elected, one (1) or more
14 of whom are properly proposed by shareholders. An
15 individual shall not be considered a candidate for purposes
16 of this subsection if the board of directors determines
17 before the notice of meeting is given that such
18 individual's candidacy does not create a bona fide election
19 contest.
20

21 (c) A bylaw electing to be governed by this section may
22 be repealed:
23

1 (i) If originally adopted by the shareholders,
2 only by the shareholders, unless the bylaw otherwise
3 provides; or

4
5 (ii) If adopted by the board of directors, by the
6 board of directors or the shareholders.

7
8 **17-16-1108. Abandonment of a merger or share**
9 **exchange.**

10
11 (a) Unless otherwise provided in a plan of merger or
12 share exchange or in the laws under which a foreign
13 business corporation or a domestic or foreign eligible
14 entity that is a party to a merger or a share exchange is
15 organized or by which it is governed, after the plan has
16 been adopted and approved as required by this chapter, and
17 at any time before the merger or share exchange has become
18 effective, it may be abandoned by a domestic business
19 corporation that is a party thereto without action by its
20 shareholders in accordance with any procedures set forth in
21 the plan of merger or share exchange or, if no such
22 procedures are set forth in the plan, in the manner
23 determined by the board of directors, subject to any

1 contractual rights of other parties to the merger or share
2 exchange.

3

4 (b) If a merger or share exchange is abandoned under
5 subsection (a) of this section after articles of merger or
6 share exchange have been filed with the secretary of state
7 but before the merger or share exchange has become
8 effective, a statement that the merger or share exchange
9 has been abandoned in accordance with this section,
10 executed on behalf of a party to the merger or share
11 exchange by an officer or other duly authorized
12 representative, shall be delivered to the secretary of
13 state for filing prior to the effective date of the merger
14 or share exchange. Upon filing, the statement shall take
15 effect and the merger or share exchange shall be deemed
16 abandoned and shall not become effective.

17

18 **17-16-1340. Other remedies limited.**

19

20 (a) The legality of a proposed or completed corporate
21 action described in W.S. 17-16-1302(a) may not be
22 contested, nor may the corporate action be enjoined, set
23 aside or rescinded, in a legal or equitable proceeding by a

1 shareholder after the shareholders have approved the
2 corporate action.

3

4 (b) Subsection (a) of this section does not apply to a
5 corporate action that:

6

7 (i) Was not authorized and approved in accordance
8 with the applicable provisions of:

9

10 (A) Articles 9, 10, 11 or 12 of this act;

11

12 (B) The articles of incorporation or
13 bylaws; or

14

15 (C) The resolution of the board of
16 directors authorizing the corporate action.

17

18 (ii) Was procured as a result of fraud, a
19 material misrepresentation or an omission of a material
20 fact necessary to make statements made, in light of the
21 circumstances in which they were made, not misleading;

22

1 (iii) Is approved by less than unanimous consent
2 of the voting shareholders pursuant to W.S. 17-16-704 if:

3

4 (A) The challenge to the corporate action is
5 brought by a shareholder who did not consent and as to whom
6 notice of the approval of the corporate action was not
7 effective at least ten (10) days before the corporate action
8 was effected; and

9

10 (B) The proceeding challenging the corporate
11 action is commenced within ten (10) days after notice of
12 the approval of the corporate action is effective as to the
13 shareholder bringing the proceeding.

14

15 **17-16-1408. Court Proceedings.**

16

17 (a) A dissolved corporation that has published a
18 notice under W.S. 17-16-1407 may file an application with
19 the district court of the county where the dissolved
20 corporation's principal office, or, if none in this state,
21 its registered office is located for a determination of the
22 amount and form of security to be provided for payment of
23 claims that are contingent or have not been made known to

1 the dissolved corporation or that are based on an event
2 occurring after the effective date of dissolution but that,
3 based on the facts known to the dissolved corporation, are
4 reasonably estimated to arise after the effective date of
5 dissolution. Provision need not be made for any claim that
6 is or is reasonably anticipated to be barred under section
7 W.S. 17-16-1407(c).

8
9 (b) Within ten (10) days after the filing of the
10 application, notice of the proceeding shall be given by the
11 dissolved corporation to each claimant holding a contingent
12 claim whose contingent claim is shown on the records of the
13 dissolved corporation.

14
15 (c) The court may appoint a guardian ad litem to
16 represent all claimants whose identities are unknown in any
17 proceeding brought under this section. The reasonable fees
18 and expenses of such guardian, including all reasonable
19 expert witness fees, shall be paid by the dissolved
20 corporation.

21
22 (d) Provision by the dissolved corporation for
23 security in the amount and the form ordered by the court

1 under subsection (a) of this section shall satisfy the
2 dissolved corporation's obligations with respect to claims
3 that are contingent, have not been made known to the
4 dissolved corporation or are based on an event occurring
5 after the effective date of dissolution, and such claims
6 may not be enforced against a shareholder who received
7 assets in liquidation.

8

9 **W.S. 17-16-1409. Directors' duties.**

10

11 (a) Directors shall cause the dissolved corporation to
12 discharge or make reasonable provision for the payment of
13 claims and make distributions of assets to shareholders
14 after payment or provision for claims.

15

16 (b) Directors of a dissolved corporation which has
17 disposed of claims under W.S. 17-16-1406, 17-16-1407 or 17-
18 16-1408 shall not be liable for breach of this section with
19 respect to claims against the dissolved corporation that
20 are barred or satisfied under W.S. 17-16-1406, 17-16-1407
21 or 17-16-1408.

22

23 **17-16-1605. Inspection of records by directors.**

1

2 (a) A director of a corporation is entitled to inspect
3 and copy the books, records and documents of the corporation
4 at any reasonable time to the extent reasonably related to
5 the performance of the director's duties as a director,
6 including duties as a member of a committee, but not for
7 any other purpose or in any manner that would violate any
8 duty to the corporation.

9

10 (b) The district court of the county where the
11 corporation's principal office, or if none in this state,
12 its registered office, is located may order inspection and
13 copying of the books, records and documents at the
14 corporation's expense, upon application of a director who
15 has been refused inspection rights, unless the corporation
16 establishes that the director is not entitled to those
17 inspection rights. The court shall dispose of an appli-
18 cation under this subsection on an expedited basis.

19

20 (c) If an order is issued, the court may include
21 provisions protecting the corporation from undue burden or
22 expense, and prohibiting the director from using
23 information obtained upon exercise of the inspection

1 rights in a manner that would violate a duty to the
2 corporation, and may also order the corporation to
3 reimburse the director for the director's expenses,
4 including reasonable counsel fees, incurred in connection
5 with the application unless the corporation proves that it
6 refused inspection in good faith because it had a
7 reasonable basis for doubt about the right of the director
8 to inspect the records demanded.

9

10 **17-16-1606. Exception to notice requirement.**

11

12 (a) Whenever notice is required to be given under any
13 provision of this act to any shareholder, the notice shall
14 not be required to be given if:

15

16 (i) Notice of two (2) consecutive annual meetings,
17 and all notices of meetings during the period between the
18 two (2) consecutive annual meetings, have been sent to the
19 shareholder at the shareholder's address as shown on the
20 records of the corporation and have been returned
21 undeliverable; or

22

1 (ii) All, but not less than two (2), payments of
2 dividends on securities during a twelve (12) month period,
3 or two (2) consecutive payments of dividends on securities
4 during a period of more than twelve (12) months, have been
5 sent to the shareholder at the shareholder's address as
6 shown on the records of the corporation and have been
7 returned undeliverable.

8

9 (b) If any shareholder shall deliver to the
10 corporation a written notice setting forth the
11 shareholder's then current address, the requirement that
12 notice be given to the shareholder shall be reinstated.

13

14 **Section 2.** W.S. 17-16-120(d), (g), (j) and by
15 creating a new subsection (k), 17-16-123(a)(i),
16 17-16-124(a) and (b)(i), 17-16-125(b), 17-16-127,
17 17-16-140(a)(i), (v) and (vii) through (xxx), 17-16-141(a)
18 and (c), 17-16-202(d), 17-16-205(b), 17-16-401(c)(i),
19 (d)(iii) and by creating a new paragraph (v),
20 17-16-402(a), 17-16-601, 17-16-602, 17-16-624,
21 17-16-626(a), 17-16-627(b), 17-16-631(b) through (c),
22 17-16-640(a) and by creating a new subsection (h),
23 17-16-701(a), 17-16-702(a)(ii), 17-16-703(a)(i) and

1 (ii)(A), 17-16-704, 17-16-706(a), 17-16-720(b),
2 17-16-721(a) and (b), 17-16-722(b) and (c), 17-16-725(d),
3 17-16-727, 17-16-728(d)(ii), 17-16-729(a), 17-16-730(a) and
4 (c), 17-16-731(a), 17-16-732(b)(i)(B) and (d), 17-16-744,
5 17-16-801(b) and by creating a new subsection (d),
6 17-16-803(b), 17-16-805(b), 17-16-806, 17-16-807(b),
7 17-16-808(b) through (d), 17-16-809 by creating a new
8 subsection (d), 17-16-810(b) and (c), 17-16-821(b) and (c),
9 17-16-823, 17-16-824(d)(i) through (iii), 17-16-825(a),
10 (c), (e)(i) through (iii) and by creating a new subsection
11 (g), 17-16-830(a) and (b), 17-16-833, 17-16-840(b) and (c),
12 17-16-841, 17-16-842(a), (b), (d) and by creating a new
13 subsection (f), 17-16-843 by creating a new subsection (c),
14 17-16-850(a)(ii) and by creating a new paragraph (viii),
15 17-16-851, 17-16-852, 17-16-853(a) and (c),
16 17-16-854(a)(iii)(B) and (b), 17-16-855,
17 17-16-856(a)(ii)(I), 17-16-857, 17-16-1001(a), 17-16-1002,
18 17-16-1003, 17-16-1004(a) through (c), 17-16-1005,
19 17-16-1006(a), 17-16-1007(a) and (b), 17-16-1008(a),
20 17-16-1020, 17-16-1022, 17-16-1101, 17-16-1102 by creating
21 a new subsection (f), 17-16-1103 by creating a new
22 subsection (k), 17-16-1104(a) and by creating new
23 subsections (f) and (g), 17-16-1105(a) and (b), 17-16-1106,

1 17-16-1115(a) and (b), 17-16-1201(a), 17-16-1202 by
2 creating a new subsection (h), 17-16-1301(a), 17-16-1302(a)
3 and by creating a new subsection (c), 17-16-1303,
4 17-16-1320, 17-16-1321 by creating a new subsection (c),
5 17-16-1322(b) by creating a new paragraph (vi), 17-16-1323,
6 17-16-1325, 17-16-1327 by creating new subsections (c) and
7 (d), 17-16-1328, 17-16-1330, 17-16-1331 by creating a new
8 subsection (d), 17-16-1402(e), 17-16-1403(a)(iii) and by
9 creating a new subsection (c), 17-16-1406(a) and (b),
10 17-16-1407(b)(iii), (c) and (d), 17-16-1420(a)(vi), (vii)
11 and by creating a new paragraph (viii), 17-16-1422(a) by
12 creating a new subsection (e), 17-16-1430(a) by creating a
13 new paragraph (v), 17-16-1503(a)(vi) and (viii),
14 17-16-1506(c) and (d)(iii) and by creating a new paragraph
15 (v), 17-16-1602(a), (b) and (c)(i) through (iii),
16 17-16-1603(b), (c) and (d), 17-16-1604(c), 17-16-1620(c),
17 17-16-1630(a), 17-16-1720(a) and (e) and 26-24-102(b) are
18 amended to read:

19

20 **17-16-120. Filing requirements.**

21

22 (d) The document shall be typewritten or printed or,
23 if electronically transmitted, it shall be in a format that

1 can be retrieved or reproduced in typewritten or printed
2 form.

3

4 (g) The person executing the document shall sign it
5 ~~manually~~ and shall state beneath or opposite his signature
6 his name and the capacity in which he signs. The document
7 may but need not contain:

8

9 (j) The document shall be delivered to the office of
10 the secretary of state for filing ~~and shall be accompanied~~
11 ~~by~~. Delivery may be made by electronic transmission if
12 and to the extent permitted by the secretary of state. If
13 it is filed in typewritten or printed form and not
14 transmitted electronically, the secretary of state may
15 require one (1) exact copy to be delivered with the
16 document, except as provided in W.S. 17-28-103.

17

18 (k) When the document is delivered to the office of the
19 secretary of state for filing, the correct filing fee, and
20 any franchise tax, license fee or penalty required to be
21 paid therewith by this act or other law shall be paid or
22 provision for payment made in a manner provided by the
23 secretary of state.

1

2

17-16-123. Effective time and date of document.

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4

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6

(a) Except as provided in subsection (b) of this section and W.S. 17-16-124(c), a document accepted for filing is effective:

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17-16-124. Correcting filed document.

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(a) A domestic or foreign corporation may correct a document filed ~~by~~ with the secretary of state if the document:

(i) Contains an ~~incorrect statement~~ inaccuracy;

~~or~~

1 (ii) Was defectively executed, attested, sealed,
2 verified, or acknowledged~~;~~ or

3
4 (iii) The electronic transmission was defective.

5
6 (b) A document is corrected:

7
8 (i) By preparing articles of correction that:

9
10 (B) Specify the ~~incorrect statement and the~~
11 ~~reason it is incorrect or the manner in which the execution~~
12 ~~was defective~~ inaccuracy or defect to be corrected; and

13
14 (C) Correct the ~~incorrect~~ statement
15 inaccuracy or ~~defective execution~~ defect.

16
17 **17-16-125. Filing duty of secretary of state.**

18
19 (b) The secretary of state files a document by
20 stamping or otherwise endorsing "Filed," together with his
21 official title and the date and time of filing, on both the
22 original and the document copy and on the receipt for the
23 filing fee. The secretary of state may proscribe rules for

1 filing of electronic transmissions. After filing a
2 document, except as provided in W.S. 17-28-103, the
3 secretary of state shall deliver the document copy, with
4 the filing fee receipt (or acknowledgement of receipt if no
5 fee is required) attached, to the domestic or foreign
6 corporation or its representative. The secretary of state,
7 in his discretion, may issue a certificate evidencing the
8 filing of a document upon the payment of the requisite fee.

9

10 **17-16-127. Evidentiary effect of copy of filed**
11 **document.**

12

13 A certificate ~~attached to a copy of a document filed by~~
14 from the secretary of state, ~~bearing his signature (which~~
15 ~~may be in facsimile) and the seal of this state,~~ delivered
16 with a copy of a document filed by the secretary of state
17 is conclusive evidence that the original document is on
18 file with the secretary of state.

19

20 **17-16-140. Definitions.**

21

22 (a) In this act:

23

1 (i) "Articles of incorporation" ~~include amended~~
2 ~~and restated~~ means the original articles of incorporation,
3 ~~and articles of merger~~ all amendments thereof and any other
4 documents permitted or required to be filed by a domestic
5 business corporation with the secretary of state under any
6 provision of this act. If an amendment of the articles or
7 any other document filed under this act restates the
8 articles in their entirety thenceforth the articles shall
9 not include any prior documents;

10
11 (v) "Deliver" ~~includes mail~~ or "delivery" means
12 any method of delivery used in conventional commercial
13 practice, including delivery by hand, mail, commercial
14 delivery and electronic transmission;

15
16 (vii) "Domestic unincorporated entity" means
17 an unincorporated entity whose internal affairs are
18 governed by the laws of this state;

19
20 ~~(vii)~~ (viii) "Effective date of notice" is defined
21 in W.S. 17-16-141;

22

1 (ix) "Eligible entity" means a domestic or foreign
2 unincorporated entity or a domestic or foreign nonprofit
3 corporation;

4
5 (x) "Eligible interests" means interests;

6
7 ~~(viii)~~ (xi) "Employee" includes an officer but not
8 a director. A director may accept duties that make him
9 also an employee;

10
11 ~~(ix)~~ (xii) "Entity" includes domestic corporation
12 and foreign corporation, ~~not for profit~~ domestic nonprofit
13 corporation and foreign nonprofit corporation, domestic and
14 foreign profit and not-for-profit unincorporated
15 association, business trust, statutory trust, estate,
16 partnership, trust, or two (2) or more persons having a
17 joint or common economic interest, and state, United States
18 or foreign government;

19
20 (xiii) "Expenses" means reasonable expenses of any
21 kind that are incurred in connection with a matter,
22 including but not limited to attorney and expert witness
23 fees;

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(xiv) "Filing entity" means an unincorporated entity that is of a type that is created by filing a public organic document;

~~(x)~~ (xv) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state;

~~(xi)~~ (xvi) "Governmental subdivision" includes authority, county, district, municipality, and any other political subdivision;

~~(xii)~~ (xvii) "Includes" denotes a partial definition;

~~(xiii)~~ (xviii) "Individual" means a natural person and includes the estate of an incompetent or deceased individual;

(xix) "Interest" means either or both of the following rights under the organic law of an unincorporated entity:

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(A) The right to receive distributions from the entity either in the ordinary course or upon liquidation; or

(B) The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy or person responsible for managing its business and affairs.

(xx) "Interest holder" means a person who holds of record an interest;

~~(xiv)~~ (xxi) "Means" denotes an exhaustive definition;

~~(xv)~~ (xxii) "Net assets" means the amount by which the total assets of a corporation exceed the total debts of the corporation;

(xxiii) "Nonfiling entity" means an unincorporated entity that is of a type that is not created by filing a public organic document;

1

2 ~~(xxvi)~~ (xxiv) "Notice" is defined in W.S.

3 17-16-141;

4

5 (xxv) "Organic document" means a public organic6 document or a private organic document;

7

8 (xxvi) "Organic law" means the statute governing9 the internal affairs of a domestic or foreign business or10 nonprofit corporation or unincorporated entity;

11

12 (xxvii) "Owner liability" means personal13 liability for a debt, obligation or liability of a domestic14 or foreign business or nonprofit corporation or unin-15 corporated entity that is imposed on a person:

16

17 (A) Solely by reason of the person's status18 as a shareholder or interest holder; or

19

20 (B) By the articles of incorporation, bylaws21 or an organic document under a provision of the organic law of22 an entity authorizing the articles of incorporation, bylaws23 or an organic document to make one (1) or more specified

1 shareholders or interest holders liable in their capacity as
2 shareholders or interest holders for all or specified debts,
3 obligations or liabilities of the entity.

4
5 ~~(xvii)~~(xxviii) "Person" includes an individual,
6 partnership, joint venture, corporation, joint stock
7 company, limited liability company or any other association
8 or entity, public or private;

9
10 ~~(xviii)~~(xxix) "Principal office" means the office
11 within or outside of this state, so designated in the
12 annual report;

13
14 ~~(xxx)~~ "Private organic document" means any
15 document other than the public organic document, if any,
16 that determines the internal governance of an unincorporated
17 entity. Where a private organic document has been amended
18 or restated, the term means the private organic document as
19 last amended or restated;

20
21 ~~(xxxi)~~ "Public organic document" means the
22 document, if any, that is filed of public record to create an
23 unincorporated entity. Where a public organic document has

1 been amended or restated, the term means the public organic
2 document as last amended or restated;

3
4 ~~(xix)~~ (xxxii) "Proceeding" includes civil suit and
5 criminal, administrative, and investigatory action;

6
7 (xxxiii) "Public corporation" means a
8 corporation that has shares listed on a national securities
9 exchange or regularly traded in a market maintained by one
10 (1) or more members of a national securities association;

11
12 (xxxiv) "Qualified director" is defined in W.S.
13 17-16-143;

14
15 ~~(xx)~~ (xxxv) "Record date" means the date
16 established under article 6 or 7 on which a corporation
17 determines the identity of its shareholders and their
18 shareholdings for purposes of this act. The determinations
19 shall be made as of the close of business on the record
20 date unless another time for doing so is specified when the
21 record date is fixed;

22

1 ~~(xxi)~~ (xxxvi) "Secretary" means the corporate
2 officer to whom the board of directors has delegated
3 responsibility under W.S. 17-16-840(c) for custody of the
4 minutes of the meetings of the board of directors and of
5 the shareholders and for authenticating records of the
6 corporation;

7

8 ~~(xxii)~~ (xxxvii) "Shareholder" means the person in
9 whose name shares are registered in the records of a
10 corporation or the beneficial owner of shares to the extent
11 of the rights granted by a nominee certificate on file with
12 a corporation;

13

14 ~~(xxiii)~~ (xxxviii) "Shares" means the units into
15 which the proprietary interests in a corporation are
16 divided;

17

18 (xxxix) "Sign" or "signature" includes any manual,
19 facsimile, conformed or electronic signature;

20

21 ~~(xxiv)~~ (xl) "State," when referring to a part of
22 the United States, includes a state and commonwealth, and
23 their agencies and governmental subdivisions, and a

1 territory and insular possession, and their agencies and
2 governmental subdivisions, of the United States;

3

4 ~~(xxv)~~ (xli) "Subscriber" means a person who
5 subscribes for shares in a corporation, whether before or
6 after incorporation;

7

8 (xlii) "Unincorporated entity" means an
9 organization or artificial legal person that either has a
10 separate legal existence or has the power to acquire an
11 estate in real property in its own name and that is not any
12 of the following: a domestic or foreign business or
13 nonprofit corporation, an estate, a trust, a state, the
14 United States or a foreign government. The term includes,
15 but is not limited to, a general partnership, limited
16 liability company, limited partnership, limited liability
17 limited partnership, registered limited liability
18 partnership, business trust, statutory trust, cooperative,
19 joint stock association, joint venture and unincorporated
20 nonprofit association;

21

1 ~~(xxvi)~~(xliii) "United States" includes district,
2 authority, bureau, commission, department, and any other
3 agency of the United States;

4
5 ~~(xxvii)~~(xliv) "Voting group" means all shares of
6 one (1) or more classes or series that under the articles
7 of incorporation or this act are entitled to vote and be
8 counted together collectively on a matter at a meeting of
9 shareholders. All shares entitled by the articles of
10 incorporation or this act to vote generally on the matter
11 are for that purpose a single voting group;

12
13 (xlv) "Voting power" means the current power to
14 vote in the election of directors;

15
16 ~~(xxviii)~~(xlvi) "Electronic transmission" or
17 "transmitted electronically" means any process of
18 communication not directly involving the physical transfer
19 of paper that is suitable for the retention, retrieval and
20 reproduction of information by the recipient;

21
22 ~~(xxix)~~(xlvii) "Registered agent" means as
23 provided in W.S. 17-28-101 through 17-28-111;

1

2 ~~(xxx)~~ (xlvi) "This act" means W.S. 17-16-101

3 through 17-16-1803.

4

5 **17-16-141. Notice.**

6

7 (a) Notice under this act shall be in writing unless

8 oral notice is reasonable under the circumstances. Notice9 by electronic transmission is written notice.

10

11 (c) Written notice by a domestic or foreign

12 corporation to its shareholder, if in a comprehensible

13 form, is effective: ~~when mailed, if mailed postpaid and~~14 ~~correctly addressed to the shareholder's address shown in~~15 ~~the corporation's current record of shareholders~~

16

17 (i) Upon deposit in the United States mail, if18 mailed postpaid and correctly addressed to the19 shareholder's address shown in the corporation's current20 record of the shareholders; or

21

22 (ii) When electronically transmitted to the23 shareholder in a manner authorized by the shareholder.

1

2 **17-16-202. Articles of incorporation.**

3

4 (d) The articles of incorporation shall be accompanied
5 by a written consent to appointment ~~manually~~ signed by the
6 registered agent.

7

8 **17-16-205. Organization of corporation.**

9

10 (b) Action required or permitted by this act to be
11 taken by incorporators at an organizational meeting may be
12 taken without a meeting if the action taken is evidenced by
13 one (1) or more written consents describing the action
14 taken and signed, ~~either manually or in facsimile,~~ by each
15 incorporator.

16

17 **17-16-401. Corporate name.**

18

19 (c) A corporation may apply to the secretary of state
20 for authorization to use a name that is not distinguishable
21 upon the secretary of state's records from one (1) or more
22 of the names described in subsection (b) of this section.

1 The secretary of state shall authorize use of the name
2 applied for if:

3

4 (i) The other person whose name is not
5 distinguishable from the name which the applicant desires
6 to register or reserve, irrevocably consents to the use in
7 writing and submits an undertaking in a form satisfactory
8 to the secretary of state to change its name to a name that
9 is distinguishable upon the records of the secretary of
10 state from the name of the applicant; or

11

12 (d) A corporation may use the name, including the
13 fictitious name, of another domestic or foreign corporation
14 that is used in this state if the other corporation is
15 incorporated or authorized to transact business in this
16 state and the proposed user corporation:

17

18 (iii) Has acquired all or substantially all of
19 the assets, including the corporate name, of the other
20 corporation; or.

21

22 (v) Where the other corporation is affiliated
23 with the proposed user corporation and has consented in

1 writing to the use of the name by the proposed user
2 corporation, and the written consent also sets forth a
3 description of a proposed merger, consolidation,
4 dissolution, amendment to articles of incorporation or
5 other intended corporate action which establishes to the
6 reasonable satisfaction of the secretary of state that the
7 coexistence of two (2) corporations using the same name
8 will not continue for more than one hundred twenty (120)
9 days.

10

11 **17-16-402. Reserved name.**

12

13 (a) A person may apply to reserve the exclusive use of
14 a corporate name, including a fictitious name for a foreign
15 corporation whose corporate name is not available, by
16 delivering an application to the secretary of state for
17 filing. The application shall set forth the name and
18 address of the applicant and the name proposed to be
19 reserved. If the secretary of state finds that the
20 corporate name applied for is available, he shall ~~file the~~
21 ~~application pursuant to W.S. 17-16-125 and~~ reserve the name
22 for the applicant's exclusive use for a nonrenewable one
23 hundred twenty (120) day period.

1

2 **17-16-601. Authorized shares.**

3

4 (a) The articles of incorporation shall ~~prescribe~~set
5 forth the classes of shares and series of shares within a
6 class, and the number, which may be unlimited, of shares of
7 each class and series that the corporation is authorized to
8 issue. If more than one (1) class or series of shares is
9 authorized, the articles of incorporation shall prescribe a
10 distinguishing designation for each class or series, and
11 shall prescribe, prior to the issuance of shares of a class
12 or series, the terms, including preferences, rights and
13 ~~limitations, and relative rights~~ of that class ~~shall be~~
14 ~~described in the articles of incorporation~~ or series.
15 Except to the extent varied as permitted by this section,
16 all shares of a class or series shall have terms, including
17 preferences, rights and limitations, ~~and relative rights~~
18 that are identical with those of other shares of the same
19 class ~~except to the extent otherwise permitted by W.S.~~
20 ~~17-16-602~~ or series.

21

22 (b) The articles of incorporation shall authorize:

23

1 (i) One (1) or more classes or series of shares
2 that together have unlimited voting rights; and

3

4 (ii) One (1) or more classes or series of shares,
5 which may be the same class or classes as those with voting
6 rights, that together are entitled to receive the net
7 assets of the corporation upon dissolution.

8

9 (c) The articles of incorporation may authorize one
10 (1) or more classes or series of shares that:

11

12 (i) Have special, conditional, or limited voting
13 rights, or no right to vote, except to the extent
14 ~~prohibited~~ otherwise provided by this act;

15

16 (ii) Are redeemable or convertible as specified
17 in the articles of incorporation: ~~as follows:~~

18

19 (A) At the option of the corporation, the
20 shareholder, or another person or upon the occurrence of a
21 ~~designated~~ specified event;

22

1 (B) For cash, indebtedness, securities, or
2 other property; and

3
4 (C) ~~In a designated amount or~~ At prices and
5 in ~~an amount~~ amounts specified or determined in accordance
6 with a ~~designated~~ formula. ~~or by reference to extrinsic~~
7 ~~data or events.~~

8
9 (iv) Have preference over any other class or
10 series of shares with respect to distributions, including
11 ~~dividends and~~ distributions upon the dissolution of the
12 corporation.

13
14 (d) The description of the ~~designations,~~ preferences,
15 rights and limitations, ~~and relative rights~~ of ~~share~~
16 ~~classes~~ classes or series of shares in subsection (c) of
17 this section is not exhaustive.

18
19 (e) Terms of shares may be made dependent upon facts
20 objectively ascertainable outside the articles of
21 incorporation.

22

1 (f) Any of the terms of shares may vary among holders
2 of the same class or series so long as such variations are
3 expressly set forth in the articles of incorporation.

4
5 **17-16-602. Terms of class or series determined by**
6 **board of directors.**

7
8 (a) If the articles of incorporation so provide, the
9 board of directors ~~may determine, in whole or part, the~~
10 ~~preferences, limitations, and relative rights, within the~~
11 ~~limits set forth in W.S. 17-16-601, of~~ is authorized,
12 without shareholder approval, to:

13
14 (iii) Classify any unissued shares into one (1)
15 or more classes or into one (1) or more series within a
16 class;

17
18 (iv) Reclassify any unissued shares of any class
19 into one (1) or more classes or into one (1) or more series
20 within one (1) or more classes; or

21

1 (v) Reclassify any unissued shares of any series
2 of any class into one (1) or more classes or into one (1)
3 or more series within a class.

4
5 (b) ~~Each series of a class shall be given a~~
6 ~~distinguishing designation~~ If the board of directors acts
7 pursuant to subsection (a) of this section, it shall
8 determine the terms, including the preferences, rights and
9 limitations, to the same extent permitted under W.S. 17-16-
10 601, of:

11
12 (i) Any class of shares before the issuance of
13 any shares of that class, or

14
15 (ii) Any series within a class before the
16 issuance of any shares of that series.

17
18 (d) Before issuing any shares of a class or series
19 created under this section, the corporation shall deliver
20 to the secretary of state for filing articles of amendment,
21 ~~which are effective without shareholder action, that set~~
22 ~~forth:~~ effecting the provisions of this section in

1 accordance with article 10 of this act and setting forth
2 the terms determined under subsection (a) of this section.

3
4 **17-16-621. Issuance of shares.**

5
6 (f) An issuance of shares or other securities
7 convertible into or rights exercisable for shares, in a
8 transaction or a series of integrated transactions, requires
9 approval of the shareholders, at a meeting at which a
10 quorum exists, if:

11
12 (i) The shares, other securities, or rights are
13 issued for consideration other than cash or cash
14 equivalents; and

15
16 (ii) The voting power of shares that are issued
17 and issuable as a result of the transaction or series of
18 integrated transactions will comprise more than twenty
19 percent (20%) of the voting power of the shares of the
20 corporation that were outstanding immediately before the
21 transaction.

22
23 (g) In subsection (f) of this section:

1

2

(i) For purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares shall be the greater of:

6

7

(A) The voting power of the shares to be issued; or

9

10

(B) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

14

15

(ii) A series of transactions is integrated if consummation of one (1) transaction is made contingent on consummation of one (1) or more of the other transactions.

18

19

17-16-624. Share options.

20

21

(a) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which

23

1 the rights, options, or warrants are issued, ~~their form and~~
2 ~~content,~~ and the terms, including the consideration for
3 which the shares are to be issued. The authorization by
4 the board of directors for the corporation to issue such
5 rights, options, or warrants constitutes authorization of
6 the issuance of the shares or other securities for which
7 the rights, options or warrants are exercisable.

8
9 (b) The terms and conditions of such rights, options
10 or warrants, including those outstanding on July 1, 2009,
11 may include, without limitation, restrictions or conditions
12 that:

13
14 (i) Preclude or limit the exercise, transfer or
15 receipt of such rights, options or warrants by any person
16 owning or offering to acquire a specified number or
17 percentage of the outstanding shares or other securities of
18 the corporation or by any transferee of any such person; or

19
20 (ii) Invalidate or void such rights, options or
21 warrants held by any such person or transferee.

22
23 **17-16-626. Shares without certificates.**

1

2 (a) Unless the articles of incorporation or bylaws
3 provide otherwise, the board of directors of a corporation
4 may authorize the issue of some or all of the shares of any
5 or all of ~~the~~its classes or series without certificates.
6 The authorization does not affect shares already
7 represented by certificates until they are surrendered to
8 the corporation.

9

10 **17-16-627. Restriction on transfer of shares and other**
11 **securities.**

12

13 (b) A restriction on the transfer or registration of
14 transfer of shares is valid and enforceable against the
15 holder or a transferee of the holder if the restriction is
16 authorized by this section and its existence is noted
17 conspicuously on the front or back of the certificate or is
18 contained in the information statement required by W.S.
19 17-16-626(b). Unless so noted or contained, a restriction
20 is not enforceable against a person without knowledge of
21 the restriction.

22

1 **17-16-631. Corporation's acquisition of its own**
2 **shares.**

3
4 (b) If the articles of incorporation prohibit the
5 reissue of the acquired shares, the number of authorized
6 shares is reduced by the number of shares acquired.7
7 ~~effective upon amendment of the articles of incorporation.~~

8
9 (c) The board of directors may adopt articles of
10 amendment effecting the provisions of this section under
11 ~~this section~~ article 10 of this act without shareholder
12 action and deliver them to the secretary of state for
13 filing. ~~The articles shall set forth:~~

14
15 **17-16-640. Distributions to shareholders.**

16
17 (a) A board of directors may authorize and the
18 corporation may make distributions to its shareholders
19 subject to ~~restrictions imposed~~ restriction by the articles
20 of incorporation and the limitation in subsection (c) of
21 this section.

22

1 (h) This section shall not apply to distributions in
2 liquidation under article 14 of this act.

3
4 **17-16-701. Annual meeting.**

5
6 (a) Unless directors are elected by written consent in
7 lieu of an annual meeting as permitted by W.S. 17-16-704, a
8 corporation shall hold a meeting of shareholders annually
9 at a time stated in or fixed in accordance with the bylaws.

10
11 **17-16-702. Special meeting.**

12
13 (a) A corporation shall hold a special meeting of
14 shareholders:

15
16 (ii) If the holders of at least ten percent (10%)
17 of all the votes entitled to be cast on any issue proposed
18 to be considered at the proposed special meeting sign,
19 ~~either manually or in facsimile,~~ date, and deliver to the
20 corporation one (1) or more written demands for the meeting
21 describing the purpose or purposes for which it is to be
22 held, provided that the articles of incorporation may fix a
23 lower percentage or a higher percentage not exceeding

1 twenty-five percent (25%) of all the votes entitled to be
2 cast on any issue proposed to be considered. Unless
3 otherwise provided in the articles of incorporation, a
4 written demand for a special meeting may be revoked by a
5 writing to that effect received by the corporation prior to
6 the receipt by the corporation of demands sufficient in
7 number to require the holding of a special meeting.

8

9 **17-16-703. Court-ordered meeting.**

10

11 (a) The district court of the county where a
12 corporation's principal office or, if none in this state,
13 its registered office is located may summarily order a
14 meeting to be held:

15

16 (i) On application of any shareholder of the
17 corporation entitled to participate in an annual meeting if
18 an annual meeting was not held or action by written consent
19 in lieu thereof did not become effective within the earlier
20 of six (6) months after the end of the corporation's fiscal
21 year or fifteen (15) months after its last annual meeting;
22 or

23

1 (ii) On application of a shareholder who signed a
2 demand for a special meeting valid under W.S. 17-16-702,
3 if:

4
5 (A) Notice of the special meeting was not
6 given within ~~sixty (60)~~ thirty (30) days after the date the
7 demand was delivered to the corporation's secretary; or

8
9 **17-16-704. Action without meeting.**

10
11 (a) Action required or permitted by this act to be
12 taken at a shareholders' meeting may be taken without a
13 meeting if ~~notice of the proposed action is given to all~~
14 ~~voting shareholders and~~ the action is taken by ~~the holders~~
15 ~~of all shares~~ all the shareholders entitled to vote on the
16 action. The action shall be evidenced by one (1) or more
17 written consents bearing the date of signature and
18 describing the action taken, signed, ~~either manually, by~~
19 ~~electronic transmittal or in facsimile, by the holders of~~
20 ~~the requisite number of shares~~ by all the shareholders
21 entitled to vote on the action, and delivered to the
22 corporation for inclusion in the minutes or filing with the
23 corporate records.

1

2 (b) If not otherwise fixed under W.S. 17-16-703 or

3 17-16-707, and if prior board action is not required4 respecting the action to be taken without a meeting, the

5 record date for determining shareholders entitled to take

6 action without a meeting ~~is the date the first shareholder~~7 ~~signs the consent under subsection (a) of this section~~8 shall be the first date on which a signed written consent9 is delivered to the corporation. If not otherwise fixed10 under W.S. 17-16-707 and if prior board action is required11 respecting the action to be taken without a meeting, the12 record date shall be the close of business on the day the13 resolution of the board taking such prior action is14 adopted. No written consent shall be effective to take the

15 corporate action referred to therein unless, within sixty

16 (60) days of the earliest date ~~appearing~~ on which a consent17 delivered to the corporation ~~in the manner~~ required by this18 section was signed, written consents signed by ~~all~~19 sufficient shareholders ~~entitled to vote on~~ to take the20 action ~~are received by~~ have been delivered to the

21 corporation. A written consent may be revoked by a writing

22 to that effect ~~received by~~ delivered to the corporation23 ~~prior to the receipt by the corporation of~~ before unrevoked

1 written consents sufficient in number to take corporate
2 action are delivered to the corporation.

3

4 (c) A consent signed ~~under~~ pursuant to the provisions
5 of this section has the effect of a vote taken at a meeting
6 ~~vote~~ and may be described as such in any document. Unless
7 the articles of incorporation, bylaws or a resolution of
8 the board of directors provides for a reasonable delay to
9 permit tabulation of written consents, the action taken by
10 written consent shall be effective when written consents
11 signed by sufficient shareholders to take the action are
12 delivered to the corporation.

13

14 (d) If this act requires that notice of proposed
15 action be given to nonvoting shareholders and the action is
16 to be taken by written consent of the voting shareholders,
17 the corporation shall give its nonvoting shareholders
18 written notice of the ~~proposed~~ action ~~at least~~ not more
19 than ten (10) days ~~before the action is taken~~ after written
20 consents sufficient to take the action have been delivered
21 to the corporation or such later date that tabulation of
22 consents is completed pursuant to the authorization under
23 subsection (c) of this section. The notice shall

1 reasonably describe the action taken and contain or be
2 accompanied by the same material that, under any provision
3 of this act, would have been required to be sent to
4 nonvoting shareholders in a notice of meeting at which the
5 proposed action would have been submitted to the
6 shareholders for action.

7
8 (e) The articles of incorporation may provide that any
9 action required or permitted by this act to be taken at a
10 shareholders' meeting may be taken without a meeting, and
11 without prior notice, if consents in writing setting forth
12 the action so taken are signed by the holders of
13 outstanding shares having not less than the minimum number
14 of votes that would be required to authorize or take the
15 action at a meeting at which all shares entitled to vote on
16 the action were present and voted. The written consent
17 shall bear the date of signature of the shareholder who
18 signs the consent and be delivered to the corporation for
19 inclusion in the minutes or filing with the corporate
20 records.

21
22 (f) If action is taken by less than unanimous written
23 consent of the voting shareholders, the corporation shall

1 give its non-consenting voting shareholders written notice
2 of the action not more than ten (10) days after written
3 consents sufficient to take the action have been delivered
4 to the corporation, or such later date that tabulation of
5 consents is completed pursuant to an authorization under
6 subsection (c) of this section. The notice shall
7 reasonably describe the action taken and contain or be
8 accompanied by the same material that, under any provision
9 of this act, would have been required to be sent to voting
10 shareholders in a notice of a meeting at which the action
11 would have been submitted to the shareholders for action.

12
13 (g) The notice requirements in subsections (d) and (f)
14 of this section shall not delay the effectiveness of
15 actions taken by written consent, and a failure to comply
16 with such notice requirements shall not invalidate actions
17 taken by written consent, provided that this subsection
18 shall not be deemed to limit judicial power to fashion any
19 appropriate remedy in favor of a shareholder adversely
20 affected by a failure to give such notice within the
21 required time period.

22

1 (h) An electronic transmission may be used to consent
2 to an action, if the electronic transmission contains or is
3 accompanied by information from which the corporation can
4 determine the date on which the electronic transmission was
5 signed and that the electronic transmission was authorized
6 by the shareholder, the shareholder's agent or the
7 shareholder's attorney-in-fact.

8
9 (j) Delivery of a written consent to the corporation
10 under this section is delivery to the corporation's
11 registered agent at its registered office or to the
12 secretary of the corporation at its principal office.

13
14 **17-16-706. Waiver of notice.**

15
16 (a) A shareholder may waive any notice required by
17 this act, the articles of incorporation, or bylaws before
18 or after the date and time stated in the notice. The
19 waiver shall be in writing, be signed, ~~either manually or~~
20 ~~in facsimile,~~ or shall be sent by electronic transmission
21 by the shareholder entitled to the notice, and be delivered
22 to the corporation for inclusion in the minutes or filing
23 with the corporate records.

1

2 **17-16-708. Conduct of the meeting.**

3

4 (b) The chair, unless the articles of incorporation or
5 bylaws provide otherwise, shall determine the order of
6 business and shall have the authority to establish rules
7 for the conduct of the meeting.

8

9 **17-16-720. Shareholders' list for meeting.**

10

11 (b) The shareholders' list shall be available for
12 inspection by any shareholder, beginning two (2) business
13 days after notice of the meeting is given for which the
14 list was prepared and continuing through the meeting, at
15 the corporation's principal office or at a place identified
16 in the meeting notice in the city where the meeting will be
17 held. A shareholder, his agent, or attorney is entitled on
18 written demand to inspect and, subject to the requirements
19 of W.S. 17-16-1602(c), to copy the list, during regular
20 business hours and at ~~his~~ the shareholder's expense, during
21 the period it is available for inspection.

22

23 **17-16-721. Voting entitlement of shares.**

1

2 (a) Except as provided in subsections (b) and ~~(e)~~ (d)
3 of this section or unless the articles of incorporation
4 provide otherwise, each outstanding share, regardless of
5 class, is entitled to one (1) vote on each matter voted on
6 at a shareholders' meeting. Only shares are entitled to
7 vote.

8

9 (b) Unless authorized by a district court, the shares
10 of a corporation are not entitled to vote if they are
11 owned, directly or indirectly, by a second corporation,
12 domestic or foreign, and the first corporation owns,
13 directly or indirectly, a majority of the shares entitled
14 to vote for directors of the second corporation.

15

16 **17-16-722. Proxies.**

17

18 (b) A shareholder or his agent or attorney-in-fact may
19 appoint a proxy to vote or otherwise act for the
20 shareholder by signing, ~~either manually or in facsimile,~~ an
21 appointment form or by an electronic transmission. An
22 electronic transmission ~~must~~ shall contain or be
23 accompanied by information from which one can determine

1 that the shareholder, the shareholder's agent, or the
2 shareholder's attorney-in-fact authorized the electronic
3 transmission.

4
5 (c) An appointment of a proxy is effective when a
6 signed appointment form or an electronic transmission of
7 the appointment is received by the inspector of election or
8 the officer or agent of the corporation authorized to
9 tabulate votes. An appointment is valid for eleven (11)
10 months unless a longer period is expressly provided in the
11 appointment form.

12

13 **17-16-725. Quorum and voting requirements for voting**
14 **groups.**

15

16 (d) ~~Reserved~~ An amendment of articles of incorporation
17 adding, changing or deleting a quorum or voting requirement
18 for a voting group greater than specified in subsection (a)
19 or (c) of this section is governed by W.S. 17-16-727.

20

21 **17-16-727. Changing quorum or voting requirements.**

22

1 (a) The articles of incorporation may provide for a
2 greater or lesser quorum or voting requirement for
3 shareholders, or voting groups of shareholders, than is
4 provided for by this act.

5
6 (b) An amendment to the articles of incorporation that
7 adds, changes or deletes a quorum or voting requirement
8 shall meet the same quorum requirement and be adopted by
9 the same vote and voting groups required to take action
10 under the quorum and voting requirements then in effect or
11 proposed to be adopted, whichever is greater.

12
13 **17-16-728. Voting for directors; cumulative voting.**

14
15 (d) Shares otherwise entitled to vote cumulatively may
16 not be voted cumulatively at a particular meeting unless:

17
18 (ii) A shareholder who has the right to cumulate
19 his votes gives notice to the corporation not less than
20 forty-eight (48) hours before the time set for the meeting
21 of ~~his~~ the shareholder's intent to cumulate his votes
22 during the meeting. If one (1) shareholder gives this
23 notice all other shareholders in the same voting group

1 participating in the election are entitled to cumulate
2 their votes without giving further notice.

3

4 **17-16-729. Inspectors of election.**

5

6 (a) A public corporation ~~having any shares listed on a~~
7 ~~national securities exchange or regularly traded in a~~
8 ~~market maintained by one (1) or more members of a national~~
9 ~~or affiliated securities association~~ shall, and any other
10 corporation may, appoint one (1) or more inspectors to act
11 at a meeting of shareholders and make a written report of
12 the inspectors' determinations. Each inspector shall take
13 and sign an oath faithfully to execute the duties of
14 inspector with strict impartiality and according to the
15 best of the inspector's ability.

16

17 **17-16-730. Voting trusts.**

18

19 (a) One (1) or more shareholders may create a voting
20 trust, conferring on a trustee the right to vote or
21 otherwise act for them, by signing, ~~either manually or in~~
22 ~~facsimile,~~ an agreement setting out the provisions of the
23 trust, which may include anything consistent with its

1 purpose, and transferring their shares to the trustee.
2 When a voting trust agreement is signed, the trustee shall
3 prepare a list of the names and addresses of all owners of
4 beneficial interests in the trust, together with the number
5 and class of shares each transferred to the trust, and
6 deliver copies of the list and agreement to the
7 corporation's principal office.

8
9 (c) All or some of the parties to a voting trust may
10 extend it for additional terms of not more than ten (10)
11 years each by signing, ~~either manually or in facsimile, an~~
12 ~~extension agreement and obtaining the voting trustee's~~
13 written consent to the extension. An extension is valid
14 for ten (10) years from the date the first shareholder
15 signs the extension agreement. The voting trustee shall
16 deliver copies of the extension agreement and list of
17 beneficial owners to the corporation's principal office.
18 An extension agreement binds only those parties signing it.

19

20 **17-16-731. Voting agreements.**

21

22 (a) ~~Any shareholder may agree with one (1)~~ Two (2) or
23 more ~~other~~ shareholders ~~or the corporation to~~ may provide

1 for the manner in which ~~he~~they will vote ~~his~~their shares
2 by signing, ~~either manually or in facsimile,~~ an agreement
3 for that purpose. A voting agreement created under this
4 section is not subject to the provisions of W.S. 17-16-730.

5

6 **17-16-732. Shareholder agreements.**

7

8 (b) An agreement authorized by this section shall be:

9

10 (i) Set forth:

11

12 (B) In a written agreement that is signed by
13 all persons who are shareholders at the time of the
14 agreement and which agreement is made known to the
15 corporation.

16

17 (d) An agreement authorized by this section shall
18 cease to be effective when ~~shares of~~ the corporation ~~are~~
19 ~~listed on a national securities exchange or regularly~~
20 ~~traded in a market maintained by one (1) or more members of~~
21 ~~a national or affiliated securities association~~ becomes a
22 public corporation. If the agreement ceases to be
23 effective for any reason, the board of directors may, if

1 the agreement is contained or referred to in the
2 corporation's articles of incorporation or bylaws, adopt an
3 amendment to the articles of incorporation or bylaws,
4 without shareholder action, to delete the agreement and any
5 references to it.

6

7 **17-16-744. Dismissal.**

8

9 (a) A derivative proceeding shall be dismissed by the
10 court on motion by the corporation if ~~the panel~~ one (1) of
11 the groups specified in subsection (b) or (e) of this
12 section has determined in good faith after conducting a
13 reasonable inquiry upon which its conclusions are based
14 that the maintenance of the derivative proceeding is not in
15 the best interests of the corporation.

16

17 (b) ~~The court may appoint a panel of one (1) or more~~
18 ~~independent persons upon motion by the corporation to make~~
19 ~~a determination whether the maintenance of the derivative~~
20 ~~proceeding is in the best interests of the corporation. In~~
21 ~~such case, the plaintiff shall have the burden of proving~~
22 ~~that the requirements of~~ Unless a panel is appointed
23 pursuant to subsection (e) of this section, the

1 determination in subsection (a) of this section ~~have not~~
2 ~~been met.~~ shall be made by:

3

4 (i) A majority vote of qualified directors
5 present at a meeting of the board of directors if the
6 qualified directors constitute a quorum; or

7

8 (ii) A majority vote of a committee consisting of
9 two (2) or more qualified directors appointed by majority
10 vote of qualified directors present at a meeting of the
11 board of directors, regardless of whether such qualified
12 directors constitute a quorum.

13

14 (c) If a derivative proceeding is commenced after a
15 determination has been made rejecting a demand by a
16 shareholder, the complaint shall allege with particularity
17 facts establishing either:

18

19 (i) That a majority of the board of directors did
20 not consist of qualified directors at the time the
21 determination was made; or

22

1 (ii) That the requirements of subsection (a) of
2 this section have not been met.

3
4 (d) If a majority of the board of directors consisted
5 of qualified directors at the time the determination was
6 made, the plaintiff shall have the burden of proving that
7 the requirements of subsection (a) of this section have not
8 been met; if not, the corporation shall have the burden of
9 proving that the requirements of subsection (a) of this
10 section have been met.

11
12 (e) Upon motion by the corporation, the court may
13 appoint a panel of one (1) or more individuals to make a
14 determination whether the maintenance of the derivative
15 proceeding is in the best interests of the corporation. In
16 such case, the plaintiff shall have the burden of proving
17 that the requirements of subsection (a) of this section
18 have not been met.

19
20 **17-16-801. Requirement for and duties of board of**
21 **directors.**

22

1 (b) All corporate powers shall be exercised by or
2 under the authority of the board of directors of the
3 corporation, and the business and affairs of the
4 corporation shall be managed by or under the direction, and
5 subject to the oversight, of⁷ its board of directors,
6 subject to any limitation set forth in the articles of
7 incorporation or in an agreement authorized under W.S.
8 17-16-732.

9
10 (d) In the case of a public corporation, the board's
11 oversight responsibilities include attention to:

12
13 (i) Business performance and plans;

14
15 (ii) Major risks to which the corporation is or
16 may be exposed;

17
18 (iii) The performance and compensation of senior
19 officers;

20
21 (iv) Policies and practices to foster the
22 corporation's compliance with law and ethical conduct;

23

1 (v) Preparation of the corporation's financial
2 statements;

3
4 (vi) The effectiveness of the corporation's
5 internal controls;

6
7 (vii) Arrangements for providing adequate and
8 timely information to directors; and

9
10 (viii) The composition of the board and its
11 committees, taking into account the important role of
12 independent directors.

13
14 **17-16-803. Number and election of directors.**

15
16 ~~(b) If a board of directors has power to fix or change~~
17 ~~the number of directors, the board may increase or decrease~~
18 ~~by thirty percent (30%) or less the number of directors~~
19 ~~last approved by the shareholders, but only the~~
20 ~~shareholders may increase or decrease by more than thirty~~
21 ~~percent (30%) the number of directors last approved by the~~
22 ~~shareholders.~~ The number of directors may be increased or
23 decreased from time to time by amendment to, or in the

1 manner provided in, the articles of incorporation or the
2 bylaws.

3
4 **17-16-805. Terms of directors generally.**

5
6 (b) The terms of all other directors expire at the
7 next, or if their terms are staggered in accordance with
8 W.S. 17-16-806, at the applicable second or third, annual
9 shareholders' meeting following their election ~~unless their~~
10 ~~terms are staggered under W.S. 17-16-806~~ except to the
11 extent:

12
13 (i) Provided in W.S. 17-16-1022 if a bylaw
14 electing to be governed by that section is in effect; or

15
16 (ii) A shorter term is specified in the articles
17 of incorporation in the event of a director nominee failing
18 to receive a specified vote for election.

19
20 **17-16-806. Staggered terms for directors.**

21
22 ~~If there are three (3) or more directors,~~ The articles of
23 incorporation may provide for staggering ~~their~~ the terms of

1 directors by dividing the total number of directors into
2 two (2) or three (3) groups, with each group containing
3 one-half (1/2) or one-third (1/3) of the total, as near as
4 may be practicable. In that event, the terms of directors
5 in the first group expire at the first annual shareholders'
6 meeting after their election, the terms of the second group
7 expire at the second annual shareholders' meeting after
8 their election, and the terms of the third group, if any,
9 expire at the third annual shareholders' meeting after
10 their election. At each annual shareholders' meeting held
11 thereafter, directors shall be chosen for a term of two (2)
12 years or three (3) years, as the case may be, to succeed
13 those whose terms expire.

14

15 **17-16-807. Resignation of directors.**

16

17 (b) A resignation is effective when the notice
18 resignation is delivered unless the ~~notice~~resignation
19 specifies a later effective date or an effective date
20 determined upon the happening of an event or events. A
21 resignation that is conditioned upon failing to receive a
22 specified vote for election as a director may provide that
23 it is irrevocable.

1

2 **17-16-808. Removal of directors by shareholders.**

3

4 (b) If a director is elected by a voting group of
5 shareholders, only the shareholders of that voting group
6 may participate in the vote to remove ~~him~~that director.

7

8 (c) If cumulative voting is authorized, a director may
9 not be removed if the number of votes sufficient to elect
10 ~~him~~the director under cumulative voting is voted against
11 his removal. If cumulative voting is not authorized, a
12 director may be removed only if the number of votes cast to
13 remove ~~him~~the director exceeds the number of votes cast
14 not to remove ~~him~~the director.

15

16 (d) A director may be removed by the shareholders only
17 at a meeting called for the purpose of removing ~~him~~the
18 director and the meeting notice shall state that the
19 purpose, or one (1) of the purposes, of the meeting is
20 removal of the director.

21

22 **17-16-809. Removal of directors by judicial**
23 **proceeding.**

1

2 (a) The district court of the county where a
3 corporation's principal office, or if none in this state,
4 its registered office, is located may remove a director of
5 the corporation from office in a proceeding commenced
6 ~~either by the corporation or by its shareholders holding at~~
7 ~~least ten percent (10%) of the outstanding shares of any~~
8 ~~class~~ by or in the right of the corporation if the court
9 finds that:

10

11 (i) The director engaged in fraudulent ~~or~~
12 ~~dishonest conduct, or gross abuse of authority or~~
13 ~~discretion, with respect to~~ conduct with respect to the
14 corporation or its shareholders, grossly abused the
15 position of director, or intentionally inflicted harm on
16 the corporation; and

17

18 (ii) ~~Removal is~~ Considering the director's
19 course of conduct and the inadequacy of other available
20 remedies, removal would be in the best interest of the
21 corporation.

22

1 (b) The court ~~that removes~~ in addition to removing a
2 director may bar the director from reelection for a period
3 prescribed by the court.

4
5 (c) ~~If shareholders commence a~~ A shareholder
6 proceeding on behalf of the corporation under subsection
7 (a) of this section, ~~they~~ shall ~~make the corporation a~~
8 ~~party defendant~~ comply with all of the requirements of W.S.
9 17-16-740 through 17-16-747 excluding W.S. 17-16-741(a)(i).

10
11 (d) Nothing in this section limits the equitable
12 powers of the court to order other relief including, but
13 not limited to, reasonable attorney's fees.

14
15 **17-16-810. Vacancy on board.**

16
17 (b) If the vacant office was held by a director
18 elected by a voting group of shareholders, only the holders
19 of shares of that voting group are entitled to vote to fill
20 the vacancy if it is filled by the shareholders, and only
21 the directors elected by that voting group are entitled to
22 fill the vacancy if it is filled by the directors.

23

1 (c) A vacancy that will occur at a ~~specific~~ later
2 date, by reason of a resignation effective at a later date
3 under W.S. 17-16-807(b) or otherwise, may be filled before
4 the vacancy occurs but the new director may not take office
5 until the vacancy occurs.

6
7 **17-16-821. Action without meeting.**

8
9 (b) Action taken under this section is ~~effective when~~
10 ~~the last director signs the consent, unless the consent~~
11 ~~specifies a different effective date~~ the act of the board
12 of directors when one (1) or more consents signed by all
13 the directors are delivered to the corporation. The
14 consent may specify the time at which the action taken
15 thereunder is to be effective. A director's consent may be
16 withdrawn by a revocation signed by the director and
17 delivered to the corporation prior to delivery to the
18 corporation of unrevoked written consents signed by all the
19 directors.

20
21 (c) A consent signed under this section has the effect
22 of action taken at a meeting ~~vote~~ of the board of directors
23 and may be described as such in any document.

1

2 **17-16-823. Waiver of notice.**

3

4 (a) A director may waive any notice required by this
5 act, the articles of incorporation, or bylaws before or
6 after the date and time stated in the notice. Except as
7 provided by subsection (b) of this section, the waiver
8 shall be in writing, signed, ~~either manually or in~~
9 ~~facsimile,~~ by the director entitled to the notice, and
10 filed with the minutes or corporate records.

11

12 (b) A director's attendance at or participation in a
13 meeting waives any required notice to ~~him~~ the director of
14 the meeting unless the director at the beginning of the
15 meeting or promptly upon his arrival objects to holding the
16 meeting or transacting business at the meeting and does not
17 thereafter vote for or assent to action taken at the
18 meeting.

19

20 **17-16-824. Quorum and voting.**

21

22 (d) The right to dissent or abstention is not
23 available to a director who votes in favor of the action

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

5

6 (i) ~~He~~The director objects at the beginning of
7 the meeting or promptly upon his arrival to holding the
8 meeting or transacting business at the meeting;

9

10 (ii) ~~His~~The director's dissent or abstention
11 from the action taken is entered in the minutes of the
12 meeting; or

13

14 (iii) ~~He~~The director delivers written notice of
15 his dissent or abstention to the presiding officer of the
16 meeting before its adjournment or to the corporation
17 immediately after adjournment of the meeting.

18

19 **17-16-825. Committees.**

20

21 (a) Unless this act, the articles of incorporation or
22 bylaws provide otherwise, a board of directors may create
23 one (1) or more committees and appoint one (1) or more

1 members of the board of directors to serve on ~~them.~~ ~~Each~~
2 ~~committee shall have one (1) or more members, who serve at~~
3 ~~the pleasure of the board of directors~~ any such committee.

4
5 (c) W.S. 17-16-820 through 17-16-824, ~~which govern~~
6 ~~meetings, action without meetings, notice and waiver of~~
7 ~~notice, and quorum and voting requirements of the board of~~
8 ~~directors,~~ apply to committees and their members as well.

9
10 (e) A committee may not, unless specifically
11 authorized by the board of directors:

12
13 (i) Authorize or approve distributions except
14 according to a formula or method, or within limits,
15 prescribed by the board of directors;

16
17 (iii) Fill vacancies on the board of directors
18 or, subject to subsection (g) of this section, on any of
19 its committees;

20
21 (g) The board of directors may appoint one (1) or
22 more directors as alternate members of any committee to
23 replace any absent or disqualified member during the

1 member's absence or disqualification. Unless the articles
2 of incorporation or the bylaws or the resolution creating
3 the committee provide otherwise, in the event of the
4 absence or disqualification of a member of a committee, the
5 member or members present at any meeting and not
6 disqualified from voting, unanimously, may appoint another
7 director to act in place of the absent or disqualified
8 member.

9

10 **17-16-830. General standards for directors.**

11

12 (a) ~~A director shall discharge his duties as a~~
13 ~~director, including his duties as a member of a committee~~
14 Each member of the board of directors, when discharging the
15 duties of a director, shall act:

16

17 (i) In good faith; and

18

19 (b) ~~In discharging his duties~~ A director is entitled
20 to rely in accordance with subsections (h) and (j) of this
21 section on ~~information, opinions, reports or statements,~~
22 ~~including financial statements and other financial data, if~~
23 ~~prepared or presented by:~~

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(i) One (1) or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the ~~matters presented~~ functions performed or the information, opinions, reports or statements provided;

(ii) Legal counsel, public accountants or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(A) Within the person's professional or expert competence; or

(B) As to which the particular person merits confidence; or

(f) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like

1 position would reasonably believe appropriate under similar
2 circumstances.

3
4 (g) In discharging board or committee duties a
5 director shall disclose, or cause to be disclosed, to the
6 other board or committee members information not already
7 known by them but known by the director to be material to
8 the discharge of their decision-making or oversight
9 functions, except that disclosure is not required to the
10 extent that the director reasonably believes that doing so
11 would violate a duty imposed under law, a legally enforceable
12 obligation of confidentiality, or a professional ethics
13 rule.

14
15 (h) In discharging board or committee duties a
16 director who does not have knowledge that makes reliance
17 unwarranted is entitled to rely on the performance by any of
18 the persons specified in subsection (b)(i) or (iii) of this
19 section to whom the board may have delegated, formally or
20 informally by course of conduct, the authority or duty to
21 perform one (1) or more of the board's functions that are
22 delegable under applicable law.

23

1 (j) In discharging board or committee duties a
2 director who does not have knowledge that makes reliance
3 unwarranted is entitled to rely on information, opinions,
4 reports or statements, including financial statements and
5 other financial data, prepared or presented by any of the
6 persons specified in subsection (b) of this section.

7
8 **17-16-833. Liability for unlawful distributions.**

9
10 (a) A director who votes for or assents to a
11 distribution ~~made in violation of~~ in excess of what may be
12 authorized and made pursuant to W.S. 17-16-640 ~~or the~~
13 ~~articles of incorporation or 17-16-1409(a)~~ is personally
14 liable to the corporation for the amount of the
15 distribution that exceeds what could have been distributed
16 without violating W.S. 17-16-640 or ~~the articles of~~
17 ~~incorporation 17-16-1409(a)~~ if ~~it is established that he~~
18 ~~did not perform his duties in compliance~~ the party
19 asserting liability establishes that when taking the action
20 the director did not comply with W.S. 17-16-830. ~~In any~~
21 ~~proceeding commenced under this section, a director has all~~
22 ~~of the defenses ordinarily available to a director.~~

23

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

3 ~~contribution.~~

4
5 (i) Contribution from every other director who
6 could be held liable under subsection (a) of this section
7 for the unlawful distribution; and

8
9 (ii) Recoupment from each shareholder ~~for the~~
10 ~~amount of the pro-rata portion of the amount of the~~
11 unlawful distribution the shareholder accepted knowing the
12 distribution was made in violation of W.S. 17-16-640 or ~~the~~
13 ~~articles of incorporation~~ 17-16-1409 (a).

14
15 (c) A proceeding ~~under this section is barred unless~~
16 ~~it is commenced within two (2) years after the date on~~
17 ~~which the effect of the distribution was measured under~~
18 ~~W.S. 17-16-640(e) or (g)~~ to enforce:

19
20 (i) The liability of a director under subsection
21 (a) of this section is barred unless it is commenced within
22 two (2) years after the date:

23

1 (A) On which the effect of the distribution
2 was measured under W.S. 17-16-640(e) or (g);

3
4 (B) As of which the violation of W.S. 17-
5 16-640(a) occurred as the consequence of disregard of a
6 restriction in the articles of incorporation; or

7
8 (C) On which the distribution of assets to
9 shareholders under W.S. 17-16-1409(a) was made.

10
11 (ii) Contribution or recoupment under subsection
12 (b) of this section is barred unless it is commenced within
13 one (1) year after the liability of the claimant has been
14 finally adjudicated under subsection (a) of this section.

15
16 **17-16-840. Required officers.**

17
18 (b) The board of directors may elect individuals to
19 fill one (1) or more offices of the corporation. A ~~duly~~
20 ~~appointed~~ An officer may appoint one (1) or more officers
21 ~~or assistant officers~~ if authorized by the bylaws or the
22 board of directors.

1 (c) The bylaws or the board of directors shall
2 ~~delegate~~assign to one (1) of the officers responsibility
3 for preparing minutes of the directors' and shareholders'
4 meetings and for maintaining and authenticating records of
5 the corporation required to be kept under W.S. 17-16-
6 1601(a) and (e).

7
8 **17-16-841. Functions of officers.**

9
10 Each officer has the authority and shall perform the ~~duties~~
11 functions set forth in the bylaws or, to the extent
12 consistent with the bylaws, the ~~duties~~functions prescribed
13 by the board of directors or by direction of an officer
14 authorized by the board of directors to prescribe the
15 ~~duties~~functions of other officers.

16
17 **17-16-842. Standards of conduct for officers.**

18
19 (a) An officer ~~with discretionary authority shall~~
20 ~~discharge his duties under that authority~~when performing
21 in such capacity, has the duty to act:
22

1 (ii) With the care ~~an ordinarily prudent~~ that a
2 person in a like position would reasonably exercise under
3 similar circumstances; and

4
5 (iii) In a manner ~~he~~ the officer reasonably
6 believes to be in or at least not opposed to the best
7 interests of the corporation.

8
9 (b) In discharging his duties an officer who does not
10 have knowledge that makes reliance unwarranted is entitled
11 to rely on ~~information, opinions, reports or statements,~~
12 ~~including financial statements and other financial data, if~~
13 ~~prepared or presented by:~~

14
15 (i) The performance of properly delegated
16 responsibilities by one (1) or more ~~officers or~~ employees
17 of the corporation whom the officer reasonably believes to
18 be reliable and competent in ~~the matters presented~~
19 performing the responsibilities delegated; or

20
21 (ii) Information, opinions, reports or
22 statements, including financial statements and other
23 financial data, prepared or presented by one (1) or more

1 employees of the corporation whom the officer reasonably
2 believes to be reliable and competent in the matters
3 presented or by legal counsel, public accountants or other
4 persons retained by the corporation as to matters involving
5 skills or expertise the officer reasonably believes are
6 matters:

7
8 (A) Within the particular person's
9 professional or expert competence; or

10
11 (B) As to which the particular person
12 merits confidence.

13
14 (d) An officer ~~is~~ shall not be liable to the
15 corporation or its shareholders for any decisions to take
16 or not to take action ~~taken~~ as an officer, or any failure
17 to take any action, if he performed the duties of his
18 office in compliance with this section. Whether an officer
19 who does not comply with this section shall have liability
20 shall depend in such instance on applicable law, including
21 those principles of W.S. 17-16-831.1 that have relevance.

22
23 (f) The duty of an officer includes the obligation:

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17-16-843. Resignation and removal of officers.

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23

(a) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective ~~date~~time. If a resignation is made effective at a later ~~date~~time and the ~~corporation~~board or appointing

1 officer accepts the future effective ~~date~~time, ~~its~~the
2 board ~~of directors~~or appointing officer may fill the
3 pending vacancy before the effective ~~date~~time if the board
4 ~~of directors~~or appointing officer provides that the
5 successor does not take office until the effective ~~date~~
6 time.

7

8 (b) ~~A board of directors may remove any~~An officer may
9 be removed at any time with or without cause by:

10

11 (i) The board of directors;

12

13 (ii) The officer who appointed such officer,
14 unless the bylaws or the board of directors provide
15 otherwise; or

16

17 (iii) Any other officer if authorized by the
18 bylaws or the board of directors.

19

20 (c) In this section, "appointing officer" means the
21 officer, including any successor to that officer, who
22 appointed the officer resigning or being removed.

23

1 **17-16-850. Subarticle definitions.**

2

3 (a) In this subarticle:

4

5 (ii) "Director" or "officer" means an individual
6 who is or was a director or officer, respectively, of a
7 corporation or who, while a director or officer of the
8 corporation, is or was serving at the corporation's request
9 as a director, officer, manager, partner, trustee, employee
10 or agent of another ~~domestic or foreign corporation,~~
11 ~~partnership, joint venture, trust, employee benefit plan or~~
12 ~~other~~ entity or employee benefit plan. A director or
13 officer is considered to be serving an employee benefit
14 plan at the corporation's request if ~~his~~ the individual's
15 duties to the corporation also impose duties on, or
16 otherwise involve services by, ~~him~~ the individual to the
17 plan or to participants in or beneficiaries of the plan.
18 "Director" or "officer" includes, unless the context
19 requires otherwise, the estate or personal representative
20 of a director or officer;

21

22 (vi) "Official capacity" means:

23

1 (A) When used with respect to a director,
2 the office of director in a corporation; and

3
4 (B) When used with respect to an officer, as
5 contemplated in W.S. 17-16-856, the office in a corporation
6 held by the officer. "Official capacity" does not include
7 service for any other domestic or foreign corporation or any
8 partnership, joint venture, trust, employee benefit plan or
9 other entity.

10

11

12 ~~(vii)~~ (vii) "Party" means an individual who was, is
13 or is threatened to be made, a defendant or respondent in a
14 proceeding;

15

16 ~~(vii)~~ (viii) "Proceeding" means any threatened,
17 pending or completed action, suit or proceeding, whether
18 civil, criminal, administrative, arbitratve or
19 investigative and whether formal or informal.

20

21 **17-16-851. Permissible indemnification.**

22

1 (a) Except as otherwise provided in this section, a
2 corporation may indemnify an individual who is a party to a
3 proceeding because ~~he~~the individual is a director against
4 liability incurred in the proceeding if:

5
6 (i) ~~He~~The director conducted himself in good
7 faith; and

8
9 (iii) In the case of any criminal proceeding, ~~he~~
10 the director had no reasonable cause to believe his conduct
11 was unlawful; or

12
13 (iv) ~~He~~The director engaged in conduct for which
14 broader indemnification has been made permissible or
15 obligatory under a provision of the articles of
16 incorporation, as authorized by W.S. 17-16-202(b)(v).

17
18 (b) A director's conduct with respect to an employee
19 benefit plan for a purpose ~~he~~the director reasonably
20 believed to be in the interests of the participants in and
21 beneficiaries of the plan is conduct that satisfies the
22 requirement of paragraph (a)(ii) of this section.

23

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

6
7 (d) Unless ordered by a court under W.S.
8 17-16-854(a)(iii) a corporation may not indemnify a
9 director under this section:

10
11 (ii) In connection with any proceeding with
12 respect to conduct for which he was adjudged liable on the
13 basis that he received a financial benefit to which he was
14 not entitled, whether or not involving action in the
15 director's capacity.

16
17 **17-16-852. Mandatory indemnification.**

18
19 A corporation shall indemnify a director who was wholly
20 successful, on the merits or otherwise, in the defense of
21 any proceeding to which ~~he~~the director was a party because
22 he was a director of the corporation against reasonable

1 expenses incurred by ~~him~~the director in connection with
2 the proceeding.

3

4 **17-16-853. Advance for expenses.**

5

6 (a) A corporation may, before final disposition of a
7 proceeding, advance funds to pay for or reimburse the
8 reasonable expenses incurred ~~by a director~~in connection
9 with the proceeding by an individual who is a party to a
10 proceeding because ~~he~~that individual is a ~~director~~member
11 of the board of directors if he delivers to the
12 corporation:

13

14 (i) A written affirmation of his good faith
15 belief that ~~he has met~~ the relevant standard of conduct
16 described in W.S. 17-16-851 has been met by the director or
17 that the proceeding involves conduct for which liability
18 has been eliminated under a provision of the articles of
19 incorporation as authorized by W.S. 17-16-202(b)(iv); and

20

21 (ii) His written undertaking to repay any funds
22 advanced if ~~he~~the director is not entitled to mandatory
23 indemnification under W.S. 17-16-852 and it is ultimately

1 determined under W.S. 17-16-854 or 17-16-855 that he has
2 not met the relevant standard of conduct described in W.S.
3 17-16-851.

4

5 (c) Authorizations under this section shall be made:

6

7 (i) By the board of directors:

8

9 (A) If there are two (2) or more
10 ~~disinterested~~qualified directors, by a majority vote of
11 all the ~~disinterested~~qualified directors (a majority of
12 whom shall for such purpose constitute a quorum) or by a
13 majority of the members of a committee of two (2) or more
14 ~~disinterested~~qualified directors appointed by such a vote;
15 or

16

17 (B) If there are fewer than two (2)
18 ~~disinterested~~qualified directors, by the vote necessary
19 for action by the board in accordance with W.S.
20 17-16-824(c), in which authorization directors who ~~do not~~
21 ~~qualify as disinterested~~are not qualified directors may
22 participate; or

23

1 (ii) By the shareholders, but shares owned by or
2 voted under the control of a director who at the time ~~does~~
3 ~~not qualify as a disinterested~~ is not a qualified director
4 may not be voted on the authorization.

5
6 **17-16-854. Court-ordered indemnification and advance**
7 **for expenses.**

8
9 (a) A director who is a party to a proceeding because
10 he is a director may apply for indemnification or an
11 advance for expenses to the court conducting the proceeding
12 or to another court of competent jurisdiction. After
13 receipt of an application and after giving any notice it
14 considers necessary, the court shall:

15
16 (iii) Order indemnification or advance for
17 expenses if the court determines, in view of all the
18 relevant circumstances, that it is fair and reasonable:

19
20 (B) To advance expenses to the director,
21 even if he has not met the relevant standard of conduct set
22 forth in W.S. 17-16-851(a), failed to comply with W.S.
23 17-16-853 or was adjudged liable in a proceeding referred

1 to in W.S. 17-16-851(d)(i) or (ii), but if ~~he~~the director
2 was adjudged so liable his indemnification shall be limited
3 to ~~reasonable~~ expenses incurred in connection with the
4 proceeding.

5
6 (b) If the court determines that the director is
7 entitled to indemnification under paragraph (a)(i) of this
8 section or to indemnification or advance for expenses under
9 paragraph (a)(ii) of this section, it shall also order the
10 corporation to pay the director's ~~reasonable~~ expenses
11 incurred in connection with obtaining court-ordered
12 indemnification or advance for expenses. If the court
13 determines that the director is entitled to indemnification
14 or advance for expenses under paragraph (a)(iii) of this
15 section, it may also order the corporation to pay the
16 director's ~~reasonable~~ expenses to obtain court-ordered
17 indemnification or advance for expenses.

18

19 **17-16-855. Determination and authorization of**
20 **indemnification.**

21

22 (a) A corporation may not indemnify a director under
23 W.S. 17-16-851 unless authorized for a specific proceeding

1 after a determination has been made that indemnification of
2 the director is permissible because ~~he~~ the director has met
3 the relevant standard of conduct set forth in W.S.
4 17-16-851.

5

6 (b) The determination shall be made:

7

8 (i) If there are two (2) or more ~~disinterested~~
9 qualified directors, by the board of directors by majority
10 vote of all the ~~disinterested~~ qualified directors (a
11 majority of whom shall for such purpose constitute a
12 quorum), or by a majority of the members of a committee of
13 two (2) or more ~~disinterested~~ qualified directors appointed
14 by such a vote;

15

16 (iii) By special legal counsel:

17

18 (B) If there are fewer than two (2)
19 ~~disinterested~~ qualified directors, selected by the board of
20 directors (in which selection directors who ~~do not qualify~~
21 ~~as~~ ~~disinterested~~ are not qualified directors may
22 participate); or

23

1 (iv) By the shareholders, but shares owned by or
2 voted under the control of a director who at the time ~~does~~
3 ~~not qualify as a disinterested~~ is not a qualified director
4 may not be voted on the determination.

5
6 (c) Authorization of indemnification shall be made in
7 the same manner as the determination that indemnification
8 is permissible, except that if there are fewer than two (2)
9 ~~disinterested~~ qualified directors, authorization of
10 indemnification shall be made by those entitled under
11 paragraph (b)(iii) of this section to select special legal
12 counsel.

13
14 **17-16-856. Indemnification of officers.**

15
16 (a) A corporation may indemnify and advance expenses
17 under this subarticle to an officer of the corporation who
18 is a party to a proceeding because he is an officer of the
19 corporation:

20
21 (ii) If he is an officer but not a director, to
22 such further extent as may be provided by the articles of

1 incorporation, the bylaws, a resolution of the board of
2 directors or contract, except for:

3

4 (A) Liability in connection with a
5 proceeding by or in the right of the corporation other than
6 for ~~reasonable~~ expenses incurred in connection with the
7 proceeding; or

8

9 (B) Liability arising out of conduct that
10 constitutes:

11

12 (I) Receipt by ~~him~~ the officer of a
13 financial benefit to which he is not entitled;

14

15 **17-16-857. Insurance.**

16

17 A corporation may purchase and maintain insurance on behalf
18 of an individual who is a director or officer of the
19 corporation, or who, while a director or officer of the
20 corporation, serves at the corporation's request as a
21 director, officer, partner, trustee, employee or agent of
22 another domestic or foreign corporation, partnership, joint
23 venture, trust, employee benefit plan, or other entity,

1 against liability asserted against or incurred by ~~him~~the
2 individual in that capacity or arising from his status as a
3 director or officer whether or not the corporation would
4 have power to indemnify or advance expenses to ~~him~~the
5 individual against the same liability under this
6 subarticle.

7

8 **17-16-1001. Authority to amend.**

9

10 (a) A corporation may amend its articles of
11 incorporation at any time to add or change a provision that
12 is required or permitted in the articles of incorporation
13 as of the effective date of the amendment or to delete a
14 provision that is not required to be contained in the
15 articles of incorporation. ~~Whether a provision is required~~
16 ~~or permitted in the articles of incorporation is determined~~
17 ~~as of the effective date of the amendment.~~

18

19 **17-16-1002. Amendment by board of directors.**

20

21 (a) Unless the articles of incorporation provide
22 otherwise, a corporation's board of directors may adopt ~~one~~

1 ~~(1) or more~~ amendments to the corporation's articles of
2 incorporation without shareholder ~~action to~~ approval:

3
4 (i) To extend the duration of the corporation if
5 it was incorporated at a time when limited duration was
6 required by law;

7
8 (ii) To delete the names and addresses of the
9 initial directors;

10
11 (iii) To delete the name and address of the
12 initial registered agent or registered office, if a
13 statement of change is on file with the secretary of state;

14
15 (iv) If the corporation has only one (1) class of
16 shares outstanding;

17
18 (A) To change each issued and unissued
19 authorized share of ~~an outstanding the~~ class into a greater
20 number of whole shares ~~if the corporation has only shares~~
21 of that class ~~outstanding~~; or

22

1 (B) To increase the number of authorized
2 shares of the class to the extent necessary to permit the
3 issuance of shares as a share dividend.

4
5 (v) To change the corporate name by substituting
6 the word "corporation," "incorporated," "company,"
7 "limited," or the abbreviation "corp.," "inc.," "co.," or
8 "ltd.," for a similar word or abbreviation in the name, or
9 by adding, deleting, or changing a geographical attribution
10 for the name; ~~or~~

11
12 (vi) To reflect a reduction in authorized shares,
13 as a result of the operation of W.S. 17-16-631(b), when the
14 corporation has acquired its own shares and the articles of
15 incorporation prohibit the reissue of the acquired shares;

16
17 (vii) To delete a class of shares from the
18 articles of incorporation, as a result of the operation of
19 W.S. 17-16-631(b), when there are no remaining shares of the
20 class because the corporation has acquired all shares of
21 the class and the articles of incorporation prohibit the
22 reissue of the acquired shares; or

23

1 ~~(vi)~~(viii) To make any other change expressly
2 permitted by ~~this act~~ W.S. 17-16-602(a) or (b) to be made
3 without shareholder ~~action~~ approval.

4
5 **17-16-1003. Amendment by board of directors and**
6 **shareholders.**

7
8 (b) ~~For the amendment to~~ If a corporation has issued
9 shares, an amendment to the articles of incorporation shall
10 be adopted in the following manner:

11
12 (i) The proposed amendment shall be adopted by
13 the board of directors;

14
15 ~~(i)~~(ii) Except as provided in W.S. 17-16-1002,
16 17-16-1007 and 17-16-1008, after adopting the proposed
17 amendment the board of directors shall ~~recommend~~ submit the
18 amendment to the shareholders for their approval. The
19 board of directors shall also transmit to the shareholders
20 a recommendation that the shareholders approve the
21 amendment, unless the board of directors ~~determines~~ makes a
22 determination that because of conflict of interest or other
23 special circumstances it should ~~make no~~ not make such a

1 recommendation ~~and communicates~~ in which case the board of
2 directors shall transmit the basis for ~~its~~ that
3 determination to the shareholders; ~~with the amendment, and~~

4
5 (iv) The board of directors may condition its
6 submission of the amendment to the shareholders on any
7 basis;

8
9 (v) If the amendment is required to be approved
10 by the shareholders and the approval is to be given at a
11 meeting, the corporation shall notify each shareholder,
12 whether or not entitled to vote, of the shareholders'
13 meeting at which the amendment is to be submitted for
14 approval. The notice shall state that the purpose, or one
15 (1) of the purposes, of the meeting is to consider the
16 amendment and shall contain or be accompanied by a copy of
17 the amendment;

18
19 (vi) Unless the articles of incorporation, or the
20 board of directors acting pursuant to subsection (c) of
21 this section require a greater vote or a greater number of
22 shares to be present, approval of the amendment requires
23 the approval of the shareholders at a meeting at which a

1 quorum exists, and, if any class or series of shares is
2 entitled to vote as a separate group on the amendment,
3 except as provided in W.S. 17-16-1004(c), the approval of
4 each such separate voting group at a meeting at which a
5 quorum of the voting group exists.

6
7 **17-16-1004. Voting on amendments by voting groups.**

8
9 (a) If a corporation has more than one (1) class of
10 shares outstanding, the holders of the outstanding shares
11 of a class are entitled to vote as a separate voting group,
12 if shareholder voting is otherwise required by this act, on
13 a proposed amendment to the articles of incorporation if
14 the amendment would:

15
16 (iv) Change the ~~designation,~~ rights, preferences,
17 or limitations of all or part of the shares of the class;

18
19 (vi) Create a new class of shares having rights
20 or preferences with respect to distributions or to
21 dissolution that are prior, ~~or~~ superior, ~~or substantially~~
22 ~~equal~~ to the shares of the class;

23

1 (vii) Increase the rights, preferences, or number
2 of authorized shares of any class that, after giving effect
3 to the amendment, have rights or preferences with respect
4 to distributions or to dissolution that are prior, ~~or~~
5 superior, ~~or substantially equal~~ to the shares of the
6 class;

7
8 (ix) Cancel or otherwise affect rights to
9 distributions ~~or dividends~~ that have accumulated but not
10 yet been ~~declared~~ authorized on all or part of the shares
11 of the class.

12
13 (b) If a proposed amendment would affect a series of a
14 class of shares in one (1) or more of the ways described in
15 subsection (a) of this section, the holders of shares of
16 that series are entitled to vote as a separate voting group
17 on the proposed amendment.

18
19 (c) If a proposed amendment that entitles two (2) or
20 more classes or series of shares to vote as separate voting
21 groups under this section would affect those two (2) or
22 more classes or series in the same or a substantially
23 similar way, the holders of shares of all the classes or

1 series so affected shall vote together as a single voting
2 group on the proposed amendment, unless otherwise provided
3 in the articles of incorporation or required by the board
4 of directors.

5
6 **17-16-1005. Amendment before issuance of shares.**

7
8 If a corporation has not yet issued shares, its
9 ~~incorporators or~~ board of directors, or its incorporators
10 if it has no board of directors, may adopt one (1) or more
11 amendments to the corporation's articles of incorporation.

12
13 **17-16-1006. Articles of amendment.**

14
15 (a) ~~A~~ After an amendment to the articles of
16 incorporation has been adopted and approved in the manner
17 required by this act and by the articles of incorporation,
18 the corporation ~~amending its articles of incorporation~~
19 shall deliver to the secretary of state for filing articles
20 of amendment setting forth:

21
22 (iii) If an amendment provides for an exchange,
23 reclassification, or cancellation of issued shares,

1 provisions for implementing the amendment if not contained
2 in the amendment itself which may be made dependent upon
3 facts objectively ascertainable outside the articles of
4 amendment;

5
6 (iv) The date of each amendment's adoption; and

7
8 (v) If an amendment:

9
10 (A) Was adopted by the incorporators or
11 board of directors without shareholder ~~action~~ approval, a
12 statement ~~to that effect~~ that the amendment was duly
13 approved by the incorporators or by the board of directors
14 as the case may be and that shareholder ~~action~~ approval was
15 not required; ~~and~~ or

16
17 (B) Required approval by the shareholders, a
18 statement that the amendment was duly approved by the
19 shareholders in the manner required by this act and by the
20 articles of incorporation.

21
22 **17-16-1007. Restated articles of incorporation.**

23

1 (a) A corporation's board of directors may restate its
2 articles of incorporation at any time with or without
3 shareholder ~~action~~approval, to consolidate all amendments
4 into a single document.

5
6 (b) ~~The restatement may include one (1) or more~~
7 ~~amendments to the articles.~~ If the ~~restatement includes an~~
8 ~~amendment~~restated articles include one (1) or more new
9 amendments requiring shareholder approval, ~~it~~the
10 amendments shall be adopted and approved as provided in
11 W.S. 17-16-1003.

12
13 (d) A corporation restating its articles of
14 incorporation shall deliver to the secretary of state for
15 filing articles of restatement setting forth the name of
16 the corporation and the text of the restated articles of
17 incorporation together with a certificate ~~setting~~
18 ~~forth~~which states that the restated articles consolidate
19 all amendments into a single document and, if a new
20 amendment is included in the restated articles, which also
21 includes the statements required under W.S. 17-16-1006.

22

1 **17-16-1008. Amendment pursuant to court-ordered**
2 **reorganization.**

3
4 (a) A corporation's articles of incorporation may be
5 amended without action by the board of directors or
6 shareholders to carry out a plan of reorganization ordered
7 or decreed by a court of competent jurisdiction under
8 ~~federal statute if the articles of incorporation after~~
9 ~~amendment contain only provisions required or permitted by~~
10 ~~W.S. 17-16-202~~ the authority of a law of the United States.

11
12 **17-16-1020. Amendment by board of directors or**
13 **shareholders.**

14
15 (a) A corporation's board of directors may amend or
16 repeal the corporation's bylaws unless:

17
18 (i) The articles of incorporation, W.S. 17-16-
19 1022 or ~~this act~~ if applicable W.S. 17-16-1023 reserve this
20 power exclusively to the shareholders in whole or part; or

21
22 (ii) The shareholders in amending, ~~or~~ repealing or
23 adopting a ~~particular~~ bylaw provide expressly that the

1 board of directors may not amend, ~~or~~ repeal or reinstate
2 that bylaw.

3

4 (b) A corporation's shareholders may amend or repeal
5 the corporation's bylaws. ~~even though the bylaws may also be~~
6 ~~amended or repealed by its board of directors.~~

7

8 **17-16-1022. Bylaw increasing quorum or voting**
9 **requirement for directors.**

10

11 (a) A bylaw that ~~fixes a greater~~ increases a quorum or
12 voting requirement for the board of directors may be
13 amended or repealed:

14

15 (i) If originally adopted by the shareholders,
16 only by the shareholders, unless the bylaw otherwise
17 provides;

18

19 (ii) If ~~originally~~ adopted by the board of
20 directors, either by the shareholders or by the board of
21 directors.

22

1 (b) A bylaw adopted or amended by the shareholders
2 that ~~fixes a greater~~ increases a quorum or voting
3 requirement for the board of directors may provide that it
4 may be amended or repealed only by a specified vote of
5 either the shareholders or the board of directors.

6
7 (c) Action by the board of directors under ~~paragraph~~
8 ~~(a)(ii)~~ subsection (a) of this section to ~~adopt or amend or~~
9 repeal a bylaw that changes the quorum or voting
10 requirement for the board of directors shall meet the same
11 quorum requirement and be adopted by the same vote required
12 to take action under the quorum and voting requirement then
13 in effect or proposed to be adopted, whichever is greater.

14
15 **17-16-1101. Merger.**

16
17 (a) One (1) or more domestic business corporations may
18 merge ~~into another corporation if the board of directors of~~
19 ~~each corporation adopts and, if required by W.S.~~
20 ~~17-16-1103, its shareholders approve a plan of merger with~~
21 one (1) or more domestic or foreign business corporations or
22 eligible entities pursuant to a plan of merger, or two (2)
23 or more foreign business corporations or domestic or

1 foreign eligible entities may merge into a new domestic
2 business corporation to be created in the merger in the
3 manner provided in this chapter.

4
5 (b) The plan of merger shall ~~set forth~~ include:

6
7 (i) The name of each domestic or foreign business
8 corporation ~~planning to merge and the name of the surviving~~
9 ~~corporation into which each other corporation plans to~~
10 ~~merge~~ or eligible entity that will merge and the name of
11 the domestic or foreign business corporation or eligible
12 entity that will be the survivor of the merger;

13
14 (ii) The terms and conditions of the merger; ~~and~~

15
16 (iii) The manner and basis of ~~converting the~~
17 disposition, if any, of the shares of each domestic or
18 foreign business corporation ~~into shares, obligations or~~
19 ~~other securities of the surviving or any other corporation~~
20 ~~or into cash or other property in whole or part.~~ and
21 eligible interests of each domestic or foreign eligible
22 entity;

23

1 (iv) The articles of incorporation of any
2 domestic or foreign business or nonprofit corporation, or
3 the organic documents of any domestic or foreign
4 unincorporated entity, to be created by the merger, or if a
5 new domestic or foreign business or nonprofit corporation
6 or unincorporated entity is not to be created by the merger,
7 any amendments to the survivor's articles of incorporation
8 or organic documents; and

9
10 (v) Any other provisions required by the laws
11 under which any party to the merger is organized or by which
12 it is governed, or by the articles of incorporation or
13 organic document of any such party.

14
15
16 (c) The terms of the plan of merger may ~~set forth: be~~
17 made dependent on facts objectively ascertainable outside
18 the plan.

19
20 (d) A foreign business corporation, or a foreign
21 eligible entity, may be a party to a merger with a domestic
22 business corporation, or may be created by the terms of the
23 plan of merger, only if the merger is permitted by the

1 foreign business corporation or eligible entity. If the
2 organic law of a domestic eligible entity does not provide
3 procedures for the approval of a merger, a plan of merger
4 may be adopted and approved, the merger effectuated, and
5 appraisal rights exercised in accordance with the
6 procedures in this article and article 13 of this act. For
7 the purposes of applying this article and article 13:

8
9 (i) The eligible entity, its members or interest
10 holders, eligible interests and organic documents taken
11 together shall be deemed to be a domestic business
12 corporation, shareholders, shares and articles of
13 incorporation, respectively and vice versa as the context
14 may require; and

15
16 (ii) If the business and affairs of the eligible
17 entity are managed by a group of persons that is not
18 identical to the members or interest holders, that group
19 shall be deemed to be the board of directors.

20
21 (e) The plan of merger may also include a provision
22 that the plan may be amended prior to filing articles of
23 merger, but if the shareholders of a domestic corporation

1 that is a party to the merger are required or permitted to
2 vote on the plan, the plan must provide that subsequent to
3 approval of the plan by such shareholders the plan may not
4 be amended to change:

5
6 (i) The disposition of shares or other securities,
7 eligible interests, obligations, rights to acquire shares,
8 other securities or eligible interests, cash, or other
9 property, if any, to be received under the plan by the
10 shareholders of or owners of eligible interests in any
11 party to the merger;

12
13 (ii) The articles of incorporation of any
14 corporation, or the organic documents of any unincorporated
15 entity, that will survive or be created as a result of the
16 merger, except for changes permitted by W.S. 17-16-1002 or
17 by comparable provisions of the organic laws of any such
18 foreign corporation or domestic or foreign unincorporated
19 entity; or

20
21 (iii) Any of the other terms or conditions of
22 the plan if the change would adversely affect such
23 shareholders in any material respect.

1

2 (f) Property held in trust or for charitable purposes
3 under the laws of this state by a domestic or foreign
4 eligible entity shall not be diverted by a merger from the
5 objects for which it was donated, granted or devised,
6 unless and until the eligible entity obtains an order of
7 the district court specifying the disposition of the
8 property to the extent required by and pursuant to the laws
9 of this state.

10

11 **17-16-1102. Share exchange.**

12

13 (a) Through a share exchange:

14

15 (i) A domestic corporation may acquire all of the
16 ~~outstanding~~ shares of one (1) or more classes or series of
17 shares of another domestic or foreign corporation ~~if the~~
18 ~~board of directors of each corporation adopts and, if~~
19 ~~required by W.S. 17-16-1103, its shareholders approve the~~
20 exchange, or all of the interests of one (1) or more
21 classes or series of interests of a domestic or foreign
22 other entity, in exchange for shares or other securities,
23 interests, obligations, rights to acquire shares or other

1 securities, cash, other property, or any combination of the
2 foregoing, pursuant to a plan of share exchange; or

3
4 (ii) All of the shares of one (1) or more classes
5 or series of shares of a domestic corporation may be acquired
6 by another domestic or foreign corporation or other entity,
7 in exchange for shares or other securities, interests,
8 obligations, rights to acquire shares or other securities,
9 cash, other property, or any combination of the foregoing,
10 pursuant to a plan of share exchange.

11
12 (b) The plan of exchange shall ~~set forth~~ include:

13
14 (i) The name of ~~the each~~ corporation or other
15 entity whose shares or interests will be acquired and the
16 name of the ~~acquiring~~ corporation or other entity that will
17 acquire those shares or interests;

18
19 (ii) The terms and conditions of the share
20 exchange; and

21
22 (iii) The manner and basis of exchanging the
23 shares ~~to~~ of a corporation or interests in any other entity

1 whose shares or interests will be acquired ~~for~~ under the
2 share exchange into shares or other securities, interests,
3 obligations ~~or~~, rights to acquire shares, other securities
4 ~~of the acquiring or any other corporation or for cash or~~
5 ~~other property in whole or part~~ or interests, cash, other
6 property or any combination of the foregoing; and

7
8 (iv) Any other provisions required by the laws
9 under which any party to the share exchange is organized or
10 by the articles of incorporation or organic document of any
11 such party.

12
13 (c) ~~The~~ Terms of a plan of share exchange may ~~set~~
14 ~~forth other provisions relating to the exchange~~ be made
15 dependent on fact objectively ascertainable outside the
16 plan.

17
18 (d) This section does not limit the power of a
19 domestic corporation to acquire ~~all or part of the~~ shares
20 of ~~one (1) or more classes or series of~~ another corporation
21 ~~through a voluntary exchange or otherwise~~ or interests in
22 another entity in a transaction other than a share
23 exchange.

1

2 (e) A foreign corporation or eligible entity, may be a
3 party to a share exchange only if the share exchange is
4 permitted by the corporation or other entity is organized
5 or by which it is governed. If the organic law of a
6 domestic other entity does not provide procedures for the
7 approval of a share exchange, a plan of share exchange may
8 be adopted and approved, and the share exchange effectuated,
9 in accordance with the procedures, if any, for a merger. If
10 the organic law of a domestic other entity does not provide
11 procedures for the approval of either a share exchange or a
12 merger, a plan of share exchange may be adopted and approved,
13 the share exchange effectuated, and appraisal rights
14 exercised, in accordance with the procedures in this article
15 and article 13 of this act. For the purposes of applying
16 this article and article 13:

17

18 (i) The other entity, its interest holders,
19 interests and organic documents taken together shall be
20 deemed to be a domestic business corporation, shareholders,
21 shares and articles of incorporation, respectively and vice
22 versa as the context may require; and

23

1 (ii) If the business and affairs of the other
2 entity are managed by a group of persons that is not
3 identical to the interest holders, that group shall be
4 deemed to be the board of directors.

5
6 (f) The plan of share exchange may also include a
7 provision that the plan may be amended prior to filing
8 articles of share exchange, but if the shareholders of a
9 domestic corporation that is a party to the share exchange
10 are required or permitted to vote on the plan, the plan
11 shall provide that subsequent to approval of the plan by such
12 shareholders the plan may not be amended to change:

13
14 (i) The amount or kind of shares or other
15 securities, interests, obligations, rights to acquire
16 shares, other securities or interests, cash, or other
17 property to be issued by the corporation or to be received
18 under the plan by the shareholders of or owners of
19 interests in any party to the share exchange; or

20
21 (ii) Any of the other terms or conditions of the
22 plan if the change would adversely affect such shareholders
23 in any material respect.

1

2 **17-16-1103. Action on plan of merger or share**3 **exchange.**

4

5 (a) In the case of a domestic corporation that is a
6 party to a merger or share exchange, the plan of merger or
7 share exchange shall be adopted by the board of directors.8 After adopting a plan of merger or share exchange, the
9 board of directors ~~of each corporation party to the merger,~~
10 ~~and the board of directors of the corporation whose shares~~
11 ~~will be acquired in the share exchange, shall submit the~~
12 ~~plan of merger,~~ except as provided in subsection (g) of
13 this section and W.S. 17-16-1105, ~~or share exchange for~~
14 ~~approval by its~~ shall submit the plan to the shareholders
15 for their approval. The board of directors shall also
16 transmit to the shareholders a recommendation that the
17 shareholders approve the plan, unless the board of directors
18 makes a determination that because of conflicts of interest
19 or other special circumstances it should not make such a
20 recommendation, in which case the board of directors shall
21 transmit to the shareholders the basis for that
22 determination.

23

1 (c) The board of directors may condition its
2 submission of the proposed merger or share exchange to the
3 shareholders on any basis.

4
5 (d) If the plan of merger or share exchange is
6 required to be approved by the shareholders and if the
7 approval is to be given at a meeting, the corporation shall
8 notify each shareholder, whether or not entitled to vote,
9 of the ~~proposed~~ shareholders' meeting ~~in accordance with~~
10 ~~W.S. 17-16-705~~ at which the plan is to be submitted for
11 approval. The notice shall ~~also~~ state that the purpose, or
12 one (1) of the purposes, of the meeting is to consider the
13 plan ~~of merger or share exchange~~ and contain or be
14 accompanied by a copy or summary of the plan. If the
15 corporation is to be merged into an existing corporation or
16 other entity, the notice shall also include or be
17 accompanied by a copy or summary of the articles of
18 incorporation or organizational documents of that
19 corporation or other entity. If the corporation is to be
20 merged into a corporation or other entity that is to be
21 created pursuant to the merger, the notice shall include or
22 be accompanied by a copy or a summary of the articles of

1 incorporation or organizational documents of the new
2 corporation or other entity.

3
4 (e) Unless ~~this act,~~ the articles of incorporation or
5 the board of directors acting pursuant to subsection (c) of
6 this section require a greater vote or a ~~vote by voting~~
7 ~~groups~~ greater number of votes to be present, approval of
8 the plan of merger or share exchange ~~to be authorized shall~~
9 ~~be approved by each voting group entitled to vote~~
10 ~~separately on the plan by a majority of all the votes~~
11 ~~entitled to be cast on the plan by that voting group~~
12 requires the approval of the shareholders at a meeting at
13 which a quorum exists, and, if any class or series of
14 shares is entitled to vote as a separate group on the plan
15 of merger or share exchange, the approval of each such
16 separate voting group at a meeting at which a quorum of the
17 voting group is present.

18
19 (f) Separate voting by voting groups is required:

20
21 (i) On a plan of merger ~~if the plan contains a~~
22 ~~provision that, if contained in a proposed amendment to~~
23 ~~articles of incorporation, would require action by one (1)~~

1 ~~or more separate voting groups on the proposed amendment~~
2 ~~under W.S. 17-16-1004; or~~ by each class or series of shares

3 that:

4
5 (A) Are to be converted under the plan of
6 merger into other securities, interests, obligations, rights
7 to acquire shares, other securities or interests, cash, other
8 property, or any combination of the foregoing; or

9
10 (B) Would be entitled to vote as a separate
11 group on a provision in the plan that, if contained in a
12 proposed amendment to articles of incorporation, would
13 require action by separate voting groups under W.S. 17-16-
14 1004;

15
16 (ii) On a plan of share exchange by each class or
17 series of shares included in the exchange, with each class
18 or series constituting a separate voting group-; and

19
20 (iii) On a plan of merger or share exchange, if
21 the voting group is entitled under the articles of
22 incorporation to vote as a voting group to approve a plan
23 of merger or share exchange.

1

2 (g) ~~Action by the~~ Unless the articles of incorporation
3 otherwise provide, approval by the corporation's
4 shareholders of the surviving corporation on of a plan of
5 merger or share exchange is not required if:

6

7 (v) The corporation will survive the merger or is
8 the acquiring corporation in a share exchange;

9

10 (vi) Except for amendments permitted by W.S. 17-
11 16-1002, its articles of incorporation will not be changed;

12

13 (vii) Each shareholder of the corporation whose
14 shares were outstanding immediately before the effective
15 date of the merger or share exchange will hold the same
16 number of shares, with identical preferences, limitations,
17 and relative rights, immediately after the effective date of
18 change; and

19

20 (viii) The issuance in the merger or share
21 exchange of shares or other securities convertible into or
22 rights exercisable for shares does not require a vote under
23 W.S. 17-16-621(f).

1

2 (k) If as a result of a merger or share exchange one
3 (1) or more shareholders of a domestic corporation would
4 become subject to owner liability for the debts,
5 obligations or liabilities of any other person or entity,
6 approval of the plan of merger or share exchange shall
7 require the execution, by each such shareholder, of a
8 separate written consent to become subject to such owner
9 liability.

10

11 **17-16-1104. Merger between parent and subsidiary.**

12

13 (a) A domestic parent corporation ~~owning~~ that owns
14 shares of a domestic or foreign subsidiary corporation that
15 carry at least eighty percent (80%) of the ~~outstanding~~
16 ~~shares~~ voting power of each class and series of the
17 outstanding shares of a subsidiary ~~corporation~~ that have
18 voting power may merge the subsidiary into itself or into
19 another such subsidiary, or merge itself into the
20 subsidiary, without approval of the board of directors or
21 shareholders of the ~~parent~~ ~~or~~ subsidiary, unless the
22 articles of incorporation of any of the corporations
23 otherwise provide, and unless, in the case of a foreign

1 subsidiary, approval by the subsidiary's board of directors
2 or shareholders is required by the laws under which the
3 subsidiary is organized.

4
5 (f) If under subsection (a) of this section approval
6 of a merger by the subsidiary's shareholders is not
7 required, the parent corporation shall, within ten (10)
8 days after the effective date of the merger, notify each of
9 the subsidiary's shareholders that the merger has become
10 effective.

11
12 (g) Except as provided in subsections (a) and (b) of
13 this section, a merger between a parent and a subsidiary
14 shall be governed by the provisions of this article
15 applicable to mergers generally.

16
17 **17-16-1105. Articles of merger or share exchange.**

18
19 (a) After a plan of merger or share exchange ~~is~~
20 ~~approved by the shareholders, or adopted by the board of~~
21 ~~directors if shareholder approval is not required, the~~
22 ~~surviving or acquiring corporation shall deliver to the~~
23 ~~secretary of state for filing articles of merger or share~~

1 ~~exchange setting~~ has been adopted and approved as required
2 by this act, articles of merger or share exchange shall be
3 executed on behalf of the surviving or acquiring
4 corporation by any officer or other duly authorized
5 representative. The articles shall set forth:

6
7 (iv) The names of the parties to the merger or
8 share exchange;

9
10 (v) If the articles of incorporation of the
11 survivor of a merger are amended, or if a new corporation
12 is created as a result of a merger, the amendments to the
13 survivor's articles of incorporation or the articles of
14 incorporation of the new corporation;

15
16 (vi) If the plan of merger or share exchange
17 required approval by the shareholders of a domestic
18 corporation that was a party to the merger or share
19 exchange, a statement that the plan was duly approved by
20 the shareholders and, if voting by any separate voting
21 group was required, by each such separate voting group, in
22 the manner required by this act and the articles of
23 incorporation;

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(vii) If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(viii) As to each foreign corporation or eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

(b) A~~Articles of~~ merger or share exchange ~~takes~~ shall be delivered to the secretary of state for filing by the survivor of the merger or the acquiring corporation in a share exchange, and shall take effect upon the effective ~~date of the articles of merger or share exchange~~ time provided in W.S. 17-16-123. Articles of merger or share exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

1

2

17-16-1106. Effect of merger or share exchange.

3

4

(a) When a merger ~~takes effect~~ becomes effective:

5

6

(i) ~~Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation~~ The corporation or eligible entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be and the separate existence of every corporation or eligible entity that is merged into the survivor ceases;

10

11

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22

(iii) ~~The surviving corporation has~~ All liabilities of each corporation ~~party to the merger~~ or

1 eligible entity that is merged into the survivor are vested
2 in the survivor;

3
4 (iv) ~~A proceeding pending against any corporation~~
5 ~~party to the merger may be continued as if the merger did~~
6 ~~not occur or the surviving corporation~~ The name of the
7 survivor may, but need not be, substituted in ~~the any~~
8 pending proceeding for the ~~corporation~~ name of any party to
9 the merger whose separate existence ceased in the merger;

10
11 (v) The articles of incorporation or organic
12 documents of the ~~surviving corporation~~ survivor are amended
13 to the extent provided in the plan of merger; ~~and~~

14
15 (vi) The shares of each corporation that is a
16 party to the merger, and the interests in an eligible
17 entity that is a party to a merger, that are to be
18 converted under the plan of merger into shares, eligible
19 interests, obligations, ~~or other securities of the surviving~~
20 ~~or any other corporation or into cash or other property~~
21 rights to acquire securities, other securities, or eligible
22 interests, cash, other property, or any combination of the
23 foregoing, are converted, and the former holders of the

1 shares or eligible interests are entitled only to the
2 rights provided in the ~~articles-plan~~ of merger or to ~~their~~
3 any rights they may have under article 13 or the organic
4 law of the eligible entity-; and

5
6 (vii) The articles of incorporation or organic
7 documents of a survivor that is created by the merger become
8 effective.

9
10 (b) When a share exchange ~~takes-effect~~ becomes
11 effective, the shares of each ~~acquired-domestic~~ corporation
12 that are to be exchanged ~~as provided in the plan, and the~~
13 ~~former holders of the shares~~ for shares or other securities,
14 interests, obligations, rights to acquire shares or other
15 securities, cash, other property, or any combination of the
16 foregoing, are entitled only to the ~~exchange~~-rights
17 provided to them in the ~~articles-plan~~ of share exchange or
18 to ~~their-any~~ rights they may have under article 13.

19
20 (c) A person who becomes subject to owner liability
21 for some or all of the debts, obligations or liabilities of
22 any entity as a result of a merger or share exchange shall
23 have owner liability only to the extent provided in the

1 organic law of the entity and only for those debts,
2 obligations and liabilities that arise after the effective
3 time of the articles of merger or share exchange.

4
5 (d) Upon a merger becoming effective, a foreign
6 corporation, or a foreign eligible entity, that is the
7 survivor of the merger is deemed to:

8
9 (i) Appoint the secretary of state as its agent for
10 service of process in a proceeding to enforce the rights of
11 shareholders of each domestic corporation that is a party to
12 the merger who exercise appraisal rights; and

13
14 (ii) Agree that it will promptly pay the amount,
15 if any, to which such shareholders are entitled under
16 article 13.

17
18 (e) The effect of a merger or share exchange on the
19 owner liability of a person who had owner liability for
20 some or all of the debts, obligations or liabilities of a
21 party to the merger or share exchange shall be as follows:

22

1 (i) The merger or share exchange does not
2 discharge any owner liability under the organic law of the
3 entity in which the person was a shareholder or interest
4 holder to the extent any such owner liability arose before
5 the effective time of the articles of merger or share
6 exchange;

7
8 (ii) The person shall not have owner liability
9 under the organic law of the entity in which the person was
10 a shareholder or interest holder prior to the merger or
11 share exchange for any debt, obligation or liability that
12 arises after the effective time of the articles of merger or
13 share exchange;

14
15 (iii) The provisions of the organic law of any
16 entity for which the person had owner liability before the
17 merger or share exchange shall continue to apply to the
18 collection or discharge of any owner liability preserved by
19 paragraph (i) of this subsection, as if the merger or share
20 exchange had not occurred;

21
22 (iv) The person shall have whatever rights of
23 contribution from other persons are provided by the organic

1 law of the entity for which the person had owner liability
2 with respect to any owner liability preserved by paragraph
3 (i) of this subsection, as if the merger or share exchange
4 had not occurred.

5
6 **17-16-1115. Conversion of corporation to limited**
7 **liability company.**

8
9 (a) A domestic corporation may be converted to a
10 domestic limited liability company pursuant to ~~this section~~
11 chapter 26 of this title.

12
13 (b) A foreign corporation may be converted to a
14 domestic limited liability company pursuant to ~~this section~~
15 chapter 26 of this title.

16
17 **17-16-1201. Disposition of assets not requiring**
18 **shareholder approval.**

19
20 (a) ~~A corporation may, on the terms and conditions and~~
21 ~~for the consideration determined by the board of directors~~
22 No approval of the shareholders of a corporation is

1 required unless the articles of incorporation otherwise
2 provide:

3

4 (i) To sell, lease, exchange, or otherwise
5 dispose of any or all, ~~or substantially all,~~ of ~~its~~
6 ~~property~~ the corporation's assets in the usual and regular
7 course of business;

8

9 (ii) To mortgage, pledge, dedicate to the
10 repayment of indebtedness, whether with or without
11 recourse, or otherwise encumber any or all of ~~its property~~
12 the corporation's assets whether or not in the usual and
13 regular course of business; or

14

15 (iii) To transfer any or all of ~~its property~~ the
16 corporation's assets to ~~a corporation~~ one (1) or more
17 corporations or other entities all of the shares or
18 interests of which are owned by the corporation; ~~or-~~

19

20 (iv) To distribute assets pro rata to the holders
21 of one (1) or more classes or series of the corporation's
22 shares.

23

1 **17-16-1202. Shareholder approval of certain**
2 **dispositions.**

3
4 (a) A ~~corporation may sell~~ sale, lease, exchange, or
5 ~~otherwise dispose of all, or substantially all, of its~~
6 ~~property, with or without the good will, otherwise than in~~
7 ~~the usual and regular course of business, on the terms and~~
8 ~~conditions and for the consideration determined by the~~
9 ~~corporation's board of directors, if the board of directors~~
10 ~~proposes and its shareholders approve the proposed~~
11 ~~transaction~~ other disposition of assets, other than a
12 disposition described in W.S. 17-16-1201, requires approval
13 of the corporation's shareholders if the disposition would
14 leave the corporation without a significant continuing
15 business activity. If a significant business activity of
16 the corporation prior to any such disposition of assets was
17 the active or passive holding, maintenance or management of
18 investments, then such holding, maintenance or management
19 of investments shall be considered a significant continuing
20 business activity. If a corporation retains a business
21 activity that represented at least twenty-five percent
22 (25%) of total assets at the end of the most recently
23 completed fiscal year, and twenty-five percent (25%) of

1 either income from continuing operations before taxes or
2 revenues from continuing operations for that fiscal year,
3 in each case of the corporation and its subsidiaries on a
4 consolidated basis, the corporation will conclusively be
5 deemed to have retained a significant continuing business
6 activity.

7
8 (b) ~~For a transaction to be authorized:~~ A disposition
9 that requires approval of the shareholders under subsection
10 (a) of this section shall be initiated by a resolution by
11 the board of directors authorizing the disposition. After
12 adoption of such a resolution, the board of directors shall
13 submit the proposed disposition to the shareholders for
14 their approval. The board of directors shall also transmit
15 to the shareholders a recommendation that the shareholders
16 approve the proposed disposition, unless the board of
17 directors makes a determination that because of conflicts
18 of interest or other special circumstances it should not
19 make such a recommendation, in which case the board of
20 directors shall transmit to the shareholders the basis for
21 that determination.

22

1 (c) The board of directors may condition its
2 submission of ~~the proposed transaction~~ a disposition to the
3 shareholders under subsection (b) of this section on any
4 basis.

5
6 (d) If a disposition is required to be approved by the
7 shareholders under subsection (a) of this section and if
8 the approval is to be given at a meeting, the corporation
9 shall notify each shareholder, whether or not entitled to
10 vote, of the ~~proposed shareholders'~~ meeting ~~in accordance~~
11 ~~with W.S. 17-16-705~~ of shareholders at which the
12 disposition is to be submitted for approval. The notice
13 shall ~~also~~ state that the purpose, or one (1) of the
14 purposes, of the meeting is to consider the ~~sale, lease,~~
15 ~~exchange, or other~~ disposition ~~of all, or substantially~~
16 ~~all, the property of the corporation~~ and shall contain ~~or~~
17 ~~be accompanied by~~ a description of the ~~transaction~~
18 disposition, including the terms and conditions thereof and
19 the consideration to be received by the corporation.

20
21 (e) Unless the articles of incorporation or the board
22 of directors, acting pursuant to subsection (c) of this
23 section, require a greater vote or a ~~vote by voting groups,~~

1 ~~the transaction to be authorized shall be approved by a~~
2 ~~majority of all the votes entitled to be cast on the~~
3 ~~transaction~~ greater number of votes to be present, the
4 approval of a disposition by the shareholders shall require
5 the approval of the shareholders at a meeting at which a
6 quorum exists.

7
8 (f) After a ~~sale, lease, exchange or other disposition~~
9 ~~of property is authorized, the transaction~~ disposition has
10 been approved by the shareholders under subsection (b) of
11 this section and at any time before the disposition has
12 been consummated, it may be abandoned, ~~subject to any~~
13 ~~contractual rights, by the corporation~~ without ~~further~~
14 ~~shareholder~~ action by the shareholders, subject to any
15 contractual rights of other parties to the disposition.

16
17 (g) A ~~transaction that constitutes a distribution~~
18 disposition of assets in the course of dissolution under
19 article 14 is not governed by ~~W.S. 17-16-640 and not by~~
20 this section.

21
22 (h) For purposes of this section, the ownership
23 interests of a parent corporation in its subsidiaries,

1 whether owned directly by the parent corporation or
2 indirectly through other subsidiaries shall be valued at
3 the net asset values of such subsidiaries, without
4 application of any discount to the valuation of such
5 ownership interests because of a lack of marketability or
6 otherwise.

7
8 ARTICLE 13

9 APPRAISAL RIGHTS

10
11 **17-16-1301. Definitions.**

12
13 (a) As used in this article:

14
15 (i) "Beneficial shareholder" means the person who
16 is ~~a~~the beneficial owner of shares held in a voting trust
17 or by a nominee ~~as the record shareholder~~on the beneficial
18 owner's behalf;

19
20 (ii) "Corporation" means the issuer of the shares
21 held by a ~~dissenter before the corporate action, or the~~
22 ~~surviving, new, or acquiring corporation by merger,~~
23 ~~consolidation, or share exchange of that issuer~~shareholder

1 demanding appraisal and, for matters covered in W.S. 17-16-
2 1322 through 17-16-1331, includes the surviving entity in a
3 merger;

4
5 (iv) "Fair value," ~~with respect to a dissenter's~~
6 ~~shares,~~ means the value of the corporation's shares
7 determined:

8
9 (A) Immediately before the effectuation of
10 the corporate action to which the ~~dissenter~~ shareholder
11 objects, ~~excluding any appreciation or depreciation in~~
12 ~~anticipation of the corporate action unless exclusion would~~
13 ~~be inequitable,~~

14
15 (B) Using customary and current valuation
16 concepts and techniques generally employed for similar
17 businesses in the context of the transaction requiring
18 appraisal; and

19
20 (C) Without discounting for lack of
21 marketability or minority status except, if appropriate,
22 for amendments to the articles pursuant to W.S. 17-16-
23 1302(a)(vi).

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(vii) "Shareholder" means the record shareholder or the beneficial shareholder;i

(viii) "Affiliate" means a person that directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof;

(ix) "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two (2) or more persons agree to act together for the purpose of voting their shares of the

1 corporation, each member of the group formed thereby is
2 deemed to have acquired beneficial ownership, as of the
3 date of the agreement, of all voting shares of the
4 corporation beneficially owned by any member of the group;

5
6 (x) "Preferred shares" means a class or series of
7 shares whose holders have preference over any other class or
8 series with respect to distributions.

9
10 **17-16-1302. Right to appraisal.**

11
12 (a) A shareholder is entitled to ~~dissent from~~
13 appraisal rights, and to obtain payment of the fair value
14 of his shares in the event of, any of the following
15 corporate actions:

16
17 (i) Consummation of a plan of merger or
18 consolidation to which the corporation is a party if:

19
20 (A) Shareholder approval is required for the
21 merger or the consolidation by W.S. 17-16-1103 or
22 17-16-1111 ~~or the articles of incorporation~~ and the
23 shareholder is entitled to vote on the merger or

1 consolidation, except that appraisal rights shall not be
2 available to any shareholder of the corporation with respect
3 to shares of any class or series that remain outstanding
4 after consummation of the merger; or

5
6 (ii) Consummation of a ~~plan of~~ share exchange to
7 which the corporation is a party as the corporation whose
8 shares will be acquired, if the shareholder is entitled to
9 vote on the ~~plan~~ exchange, except that appraisal rights
10 shall not be available to any shareholder of the
11 corporation with respect to any class or series of shares
12 of the corporation that is not exchanged;

13
14 (iii) Consummation of a ~~sale or exchange of all,~~
15 ~~or substantially all, of the property of the corporation~~
16 ~~other than in the usual and regular course of business,~~
17 disposition of assets pursuant to W.S. 17-16-1202 if the
18 shareholder is entitled to vote on the ~~sale or exchange,~~
19 ~~including a sale in dissolution, but not including a sale~~
20 ~~pursuant to court order or a sale for cash pursuant to a~~
21 ~~plan by which all or substantially all of the net proceeds~~
22 ~~of the sale will be distributed to the shareholders within~~
23 ~~one (1) year after the date of sale~~ disposition;

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(iv) An amendment of the articles of incorporation ~~that materially and adversely affects rights in respect of a dissenter's shares because it~~ with respect to a class or series of shares that:

(E) Reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created. ~~is to be acquired for cash under W.S. 17-16-604.~~

(vi) Any other amendment to the articles of incorporation, merger, share exchange or disposition of assets to the extent provided by the articles of incorporation, bylaws or a resolution of the board of directors;

(vii) Consummation of a domestication if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the

1 total voting rights of the outstanding shares of the
2 corporation, as the shares held by the shareholder before the
3 domestication;

4
5 (viii) Consummation of a conversion of the
6 corporation to nonprofit status; or

7
8 (ix) Consummation of a conversion of the
9 corporation to an unincorporated entity.

10
11 (c) Notwithstanding subsection (a) of this section,
12 the availability of appraisal rights under subsections
13 (a)(i), (ii), (iii), (iv), (vii) and (ix) of this section
14 shall be limited in accordance with the following
15 provisions:

16
17 (i) Appraisal rights shall not be available for
18 the holders of shares of any class or series of shares which
19 is

20
21 (A) A covered security under section
22 18(b)(1)(A) or (B) of the Securities Act of 1933, as
23 amended; or

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(B) Traded in an organized market and has at least two thousand (2,000) shareholders and a market value of at least twenty million dollars (\$20,000,000.00), exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial shareholders owning more than ten percent (10%) of such shares; or

(C) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and may be redeemed at the option of the holder at net asset value.

(ii) The applicability of paragraph (c)(i) of this subsection shall be determined as of:

(A) The record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights; or

1 (B) The day before the effective date of
2 such corporate action if there is no meeting of
3 shareholders.

4
5 (iii) Paragraph (c)(i) of this subsection shall
6 not be applicable and appraisal rights shall be available
7 pursuant to subsection (a) of this section for the holders
8 of any class or series of shares who are required by the
9 terms of the corporate action requiring appraisal rights to
10 accept for such shares anything other than cash or shares
11 of any class or any series of shares of any corporation, or
12 any other proprietary interest of any other entity, that
13 satisfies the standards set forth in paragraph (c)(i) of
14 this subsection at the time the corporate action becomes
15 effective.

16
17 **17-16-1303. Assertion of rights by nominees and**
18 **beneficial owners.**

19
20 (a) A record shareholder may assert ~~dissenters'~~
21 appraisal rights as to fewer than all the shares registered
22 in ~~his~~ the record shareholder's name but owned by a
23 beneficial shareholder only if ~~he dissents~~ the record

1 shareholder objects with respect to all shares ~~beneficially~~
2 ~~owned by any one (1) person asserted~~ of the class or series
3 owned by the beneficial shareholder and notifies the
4 corporation in writing of the name and address of each
5 ~~person~~ beneficial shareholder on whose behalf ~~he asserts~~
6 ~~dissenters' rights~~ appraisal rights are being asserted.
7 The rights of a ~~partial dissenter under this subsection are~~
8 record shareholder who asserts appraisal rights for only
9 part of the shares held of record in the record
10 shareholder's name under this subsection shall be
11 determined as if the shares as to which ~~he dissents~~ the
12 record shareholder objects and ~~his~~ the record shareholder's
13 other shares were registered in the names of different
14 record shareholders.

15
16 (b) A beneficial shareholder may assert ~~dissenters'~~
17 appraisal rights as to shares of any class or series held
18 on ~~his~~ behalf of the shareholder only if the shareholder:

19
20 (i) ~~He~~ Submits to the corporation the record
21 shareholder's written consent to the ~~dissent~~ assertion of
22 those rights not later than the ~~time~~ the beneficial

1 ~~shareholder asserts dissenters' rights~~ date provided in
2 W.S. 17-16-1322(b)(ii)(B); and

3
4 (ii) ~~He~~ Does so with respect to all shares of
5 ~~which he is~~ the class or series that are beneficially owned
6 by the beneficial shareholder. ~~or over which he has power~~
7 ~~to direct the vote.~~

8
9 **17-16-1320. Notice of appraisal rights.**

10
11 (a) If proposed corporate action ~~creating dissenters'~~
12 ~~rights under~~ described in W.S. 17-16-1302 is to be
13 submitted to a vote at a shareholders' meeting, the meeting
14 notice shall state that corporation has concluded that
15 shareholders are, are not or may be entitled to assert
16 ~~dissenters'~~ appraisal rights under this article. ~~and be~~
17 ~~accompanied by a copy of this article.~~ If the corporation
18 concludes that appraisal rights are or may be available, a
19 copy of this article shall accompany the meeting notice sent
20 to those record shareholders entitled to exercise appraisal
21 rights.

22

1 (b) ~~If corporate action creating dissenters' rights~~
2 ~~under W.S. 17-16-1302 is taken without a vote of~~
3 ~~shareholders~~ In a merger pursuant to W.S. 17-16-1105, the
4 parent corporation shall notify in writing all record
5 shareholders of the subsidiary who are entitled to assert
6 ~~dissenters'~~ appraisal rights that the corporate action ~~was~~
7 ~~taken and send them the dissenters' notice described in~~
8 ~~W.S. 17-16-1322~~ became effective. The notice shall be sent
9 within ten (10) days after the corporate action became
10 effective and include the materials described in W.S. 17-
11 16-1322.

12
13 (c) Where any corporate action specified in W.S. 17-
14 16-1302(a) is to be approved by written consent of the
15 shareholders pursuant to W.S. 17-16-704:

16
17 (i) Written notice that appraisal rights are,
18 are not or may be available shall be given to each record
19 shareholder from whom a consent is solicited at the time
20 consent of such shareholder is first solicited and, if the
21 corporation has concluded that appraisal rights are or may be
22 available, shall be accompanied by a copy of this article;
23 and

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(ii) Written notice that appraisal rights are, are not or may be available shall be delivered together with the notice to nonconsenting and nonvoting shareholders required by W.S. 17-16-704(e) and (f), may include the materials described in W.S. 17-16-1322 and, if the corporation has concluded that appraisal rights are or may be available, shall be accompanied by a copy of this article.

(d) Where corporate action described in W.S. 17-16-1302(a) is proposed, or a merger pursuant to W.S. 17-16-1105 is effected, the notice referred to in subsection (a) or (c) of this section, if the corporation concludes that appraisal rights are or may be available, and in subsection (b) of this section shall be accompanied by:

(i) The annual financial statements specified in W.S. 17-16-1620(a) of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than sixteen (16) months before the date of the notice and shall comply with W.S. 17-16-1620(b); provided that, if such annual financial statements are not

1 reasonably available, the corporation shall provide
2 reasonably equivalent financial information; and

3
4 (ii) The latest available quarterly financial
5 statements of such corporation, if any.

6
7 (e) The right to receive the information described
8 in subsection (d) of this section may be waived in writing
9 by a shareholder before or after the corporate action.

10
11 **17-16-1321. Notice of intent to demand payment.**

12
13 (a) If proposed corporate action ~~creating dissenters'~~
14 ~~rights—~~requiring appraisal under W.S. 17-16-1302 is
15 submitted to a vote at a shareholders' meeting, a
16 shareholder who wishes to assert ~~dissenters'~~appraisal
17 rights with respect to any class or series of shares:

18
19 (i) Shall deliver to the corporation before the
20 vote is taken written notice of ~~his—the~~ shareholder's
21 intent to demand payment ~~for his shares~~ if the proposed
22 action is effectuated; and

23

1 (ii) Shall not vote ~~his~~ or cause or permit to be
2 voted any shares of the class or series in favor of the
3 proposed action.

4
5 (b) A shareholder who does not satisfy the
6 requirements of subsection (a) or (c) of this section is
7 not entitled to payment for his shares under this article.

8
9 (c) If a corporate action specified in W.S. 17-16-
10 1302(a) is to be approved by less than unanimous written
11 consent, a shareholder who wishes to assert appraisal
12 rights with respect to any class or series of shares shall
13 not execute a consent in favor of the proposed action with
14 respect to that class or series of shares.

15
16 **17-16-1322. Appraisal notice and form.**

17
18 (a) If ~~proposed~~ corporate action ~~creating dissenters'~~
19 ~~rights under W.S. 17-16-1302 is authorized at a~~
20 ~~shareholders' meeting~~ requiring appraisal under W.S. 17-16-
21 1302(a) becomes effective, the corporation shall deliver a
22 written ~~dissenters'~~ appraisal notice to all shareholders
23 who satisfied the requirements of W.S. ~~17-16-1321~~ 17-16-

1 1321(a) or (b). In the case of a merger under W.S. 17-16-
2 1105, the parent shall deliver a written appraisal notice
3 and form to all record shareholders who may be entitled to
4 assert appraisal rights.

5
6 (b) The ~~dissenters'~~appraisal notice shall be sent no
7 later than ten (10) days after the corporate action ~~was~~
8 ~~taken~~specified in W.S. 17-16-1302(a) became effective, and
9 shall:

10
11 (iii) Supply a form ~~for demanding payment~~ that:

12
13 (A) ~~includes~~Specifies the first date of ~~the~~
14 ~~first~~any announcement ~~to news media or~~ to shareholders
15 made prior to the date the corporate action became
16 effective of the principal terms of the proposed corporate
17 action; and

18
19 (B) If such announcement was made, requires
20 that the ~~person~~shareholder asserting ~~dissenters'~~appraisal
21 rights certify whether ~~or not he acquired~~ beneficial
22 ownership of the shares for which appraisal rights are
23 asserted was acquired before that date; and

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(C) Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction.

(v) Be accompanied by a copy of this article;
and-

(vi) State:

(A) Where the form shall be sent and where certificates for certificated shares shall be deposited and the date by which those certificates shall be deposited, which date may not be earlier than the date for receiving the required form under paragraph (vi) (B) of this subsection;

(B) Date by which the corporation shall receive the form, which date may not be fewer than forty (40) nor more than sixty (60) days after the date the appraisal notice and form are sent pursuant to subsection (a) of this section, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by

1 such specified date;

2

3 (C) The corporation's estimate of the fair
4 value of the shares;

5

6 (D) That, if requested in writing, the
7 corporation will provide, to the shareholder so requesting,
8 within ten (10) days after the date specified in paragraph
9 (vi)(B) of this subsection the number of shareholders who
10 return the forms by the specified date and the total number
11 of shares owned by them; and

12

13 (E) The date by which the notice to withdraw
14 under W.S. 17-16-1323 must be received, which date shall be
15 within twenty (20) days after the date specified in
16 paragraph (vi)(B) of this subsection.

17

18 **17-16-1323. Duty to demand payment.**

19 (a) A shareholder ~~sent a dissenters'~~ who receives
20 notice described in pursuant W.S. 17-16-1322 ~~shall demand~~
21 ~~payment, certify whether he acquired beneficial ownership~~
22 ~~of the shares before the date required to be set forth in~~
23 ~~the dissenters' notice pursuant to W.S. 17-16-1322(b)(iii),~~
24 and who wishes to exercise appraisal rights shall sign

1 and return the form sent by the corporation and, in the
2 case of certificated shares, deposit his certificates in
3 accordance with the terms of the notice by the date referred
4 to in the notice pursuant to W.S. 17-16-1322(b)(ii)(B). In
5 addition, if applicable, the shareholder shall certify on
6 the form whether the beneficial owner of such shares acquired
7 beneficial ownership of the shares before the date required
8 to be set forth in the notice pursuant to W.S. 17-16-
9 1322(b)(i). If a shareholder fails to make this
10 certification, the corporation may elect to treat the
11 shareholder's shares as after-acquired shares under W.S.
12 17-16-1325. Once a shareholder deposits that shareholder's
13 certificates or, in the case of uncertificated shares,
14 returns the signed forms, that shareholder loses all rights
15 as a shareholder, unless the shareholder withdraws pursuant
16 to subsection (b) of this section.

17

18 (b) The shareholder who ~~demands payment and deposits~~
19 ~~his share certificates under subsection (a) of this section~~
20 ~~retains all other rights of a shareholder until these~~
21 ~~rights are cancelled or modified by the taking of the~~
22 ~~proposed corporate action~~ has complied with subsection (a)
23 of this section may nevertheless decline to exercise

1 appraisal rights and withdraw from the appraisal process by
2 so notifying the corporation in writing by the date set
3 forth in the appraisal notice pursuant to W.S. 17-16-
4 1322(b)(ii)(E). A shareholder who fails to so withdraw
5 from the appraisal process may not thereafter withdraw
6 without the corporation's written consent.

7
8 (c) A shareholder who does not ~~demand payment or sign~~
9 and return the form and, in the case of certificated
10 shares, deposit his share certificates where required, each
11 by the date set forth in the ~~dissenters'~~ notice described
12 in W.S. 17-16-1322(b), is not entitled to payment ~~for his~~
13 ~~shares~~ under this article.

14
15 **17-16-1325. Payment.**

16
17 (a) Except as provided in W.S. 17-16-1327, ~~as soon as~~
18 ~~the proposed corporate action is taken, or upon receipt of~~
19 ~~a payment demand~~ within one hundred twenty (120) days after
20 the form required by W.S. 17-16-1322(b)(ii)(B) is due, the
21 corporation shall pay ~~each dissenter~~ in cash or other
22 agreed upon consideration to those shareholders who
23 complied with W.S. 17-16-1323 the amount the corporation

1 estimates to be the fair value of his shares, plus ~~accrued~~
2 interest.

3

4 (b) The payment to each shareholder pursuant to
5 subsection (a) of this section shall be accompanied by:

6

7 (i) The ~~corporation's balance sheet as of the end~~
8 ~~of a fiscal year~~ annual financial statements specified in
9 W.S. 17-16-1620(a) of the corporation that issued the
10 shares to be appraised, which shall be of a date ending not
11 more than sixteen (16) months before the date of payment
12 and shall comply with W.S. 17-16-1620(b), ~~an income~~
13 ~~statement for that year, a statement of changes in~~
14 ~~shareholders' equity for that year, and~~ provided that if
15 such annual financial statements are not reasonably
16 available, the corporation shall provide reasonably
17 equivalent financial information. The corporation shall
18 also provide the latest available ~~interim~~ quarterly
19 financial statements, if any;

20

21 (ii) A statement of the corporation's estimate of
22 the fair value of the shares which estimate shall equal or

1 exceed the corporation's estimate given pursuant to W.S.
2 17-16-1322(b)(ii)(C);

3
4 (iv) A statement ~~of the dissenter's~~ that
5 shareholders described in subsection (a) of this section
6 have the right to demand further payment under W.S.
7 17-16-1328 and that if any the shareholder does not do so
8 within the time period specified therein, the shareholder
9 shall be deemed to have accepted such payment in full
10 satisfaction of the corporation's obligations under this
11 article. ~~and~~

12
13 **17-16-1327. After-acquired shares.**

14
15 (a) A corporation may elect to withhold payment
16 required by W.S. 17-16-1325 from ~~a dissenter unless he was~~
17 ~~the beneficial owner of the shares before the date set~~
18 ~~forth in the dissenters' notice as the date of the first~~
19 ~~announcement to news media or to shareholders of the terms~~
20 ~~of the proposed corporate action~~ any shareholder who was
21 required to, but did not certify that beneficial ownership
22 of all of the shareholder's shares for which appraisal
23 rights are asserted was acquired before the date set forth

1 in the appraisal notice sent pursuant to W.S. 17-16-
2 1322(b)(i).

3
4 (b) ~~To the extent the corporation elects to withhold~~
5 ~~payment under subsection (a) of this section, after taking~~
6 ~~the proposed corporate action, it shall estimate the fair~~
7 ~~value of the shares, plus accrued interest, and shall pay~~
8 ~~this amount to each dissenter who agrees to accept it in~~
9 ~~full satisfaction of his demand. The corporation shall~~
10 ~~send with its offer a statement of its estimate of the fair~~
11 ~~value of the shares, an explanation of how the interest was~~
12 ~~calculated, and a statement of the dissenter's right to~~
13 ~~demand payment under W.S. 17-16-1328~~ If the corporation
14 elected to withhold payment under subsection (a) of this
15 section, it shall, within thirty (30) days after the form
16 required by W.S. 17-16-1322(b)(ii)(B) is due, notify all
17 shareholders described in subsection (a) of this section:

18
19 (i) Of the information required by W.S. 17-16-
20 1325(b)(i);

21
22 (ii) Of the corporation's estimate of fair
23 value pursuant to W.S. 17-16-1325(b)(ii);

24

1 (iii) That they may accept the corporation's
2 estimate of fair value, plus interest, in full satisfaction
3 of their demands or demand appraisal under W.S. 17-16-1328;
4

5 (iv) That those shareholders who wish to accept
6 the offer shall so notify the corporation of their acceptance
7 of the corporation's offer within thirty (30) days after
8 receiving the offer; and
9

10 (v) That those shareholders who do not satisfy
11 the requirements for demanding appraisal under W.S. 17-16-
12 1328 shall be deemed to have accepted the corporation's
13 offer.
14

15 (c) Within ten (10) days after receiving the
16 shareholder's acceptance pursuant to subsection (b) of this
17 section, the corporation shall pay in cash or other
18 agreed upon consideration the amount it offered under
19 subsection (b)(ii) of this section to each shareholder who
20 agreed to accept the corporation's offer in full
21 satisfaction of the shareholder's demand.
22

23 (d) Within one hundred thirty (130) days after

1 sending the notice described in subsection (b) of this
2 section, the corporation shall pay in cash the amount it
3 offered to pay under subsection (b)(ii) of this section to
4 each shareholder described in subsection (b)(v) of this
5 section.

6
7 **17-16-1328. Procedure if shareholder dissatisfied with**
8 **payment or offer.**

9
10 (a) A ~~dissenter~~ shareholder paid pursuant to W.S. 17-
11 16-1325 who is dissatisfied with the amount of the payment
12 may notify the corporation in writing of ~~his own that~~
13 shareholder's estimate of the fair value of his shares ~~and~~
14 ~~amount of interest due,~~ and demand payment of his estimate
15 plus interest, less any payment under W.S. 17-16-1325., ~~or~~
16 ~~reject the corporation's offer under W.S. 17 16 1327 and~~
17 ~~demand payment of the fair value of his shares and interest~~
18 ~~due, if:~~ A shareholder offered payment under W.S. 17-16-
19 1327 who is dissatisfied with that offer shall reject the
20 offer and demand payment of the shareholder's stated
21 estimate of the fair value of the shares plus interest.

22

1 (b) ~~A dissenter waives his right to demand payment~~
2 ~~under this section unless he notifies the corporation of~~
3 ~~his demand in writing under subsection (a) of this section~~
4 ~~within thirty (30) days after the corporation made or~~
5 ~~offered payment for his shares~~ A shareholder who fails to
6 notify the corporation in writing of that shareholder's
7 demand to be paid the shareholder's stated estimate of the
8 fair value plus interest under subsection (a) of this
9 section within thirty (30) days after receiving the
10 corporation's payment or offer of payment under W.S. 17-16-
11 1325 or 17-16-1327, respectively, waives the right to
12 demand payment under this section and shall be entitled only
13 to the payment made or offered pursuant to those respective
14 sections.

15

16 **17-16-1330. Court action.**

17

18 (a) If a shareholder makes a demand for payment under
19 W.S. 17-16-1328 which remains unsettled, the corporation
20 shall commence a proceeding within sixty (60) days after
21 receiving the payment demand and petition the court to
22 determine the fair value of the shares and accrued
23 interest. If the corporation does not commence the

1 proceeding within the sixty (60) day period, it shall pay
2 each dissenter whose demand remains unsettled the amount
3 demanded pursuant to W.S. 17-16-1328 plus interest.

4
5 (b) The corporation shall commence the proceeding in
6 the district court of the county where a corporation's
7 principal office, or if none in this state, its registered
8 office, is located. If the corporation is a foreign
9 corporation without a registered office in this state, it
10 shall commence the proceeding in the county in this state
11 where the principal office or registered office of the
12 domestic corporation merged with or whose shares were
13 acquired by the foreign corporation was located at the time
14 of the transaction.

15
16 (c) The corporation shall make all ~~dissenters~~
17 shareholders, whether or not residents of this state, whose
18 demands remain unsettled parties to the proceeding as in an
19 action against their shares and all parties shall be served
20 with a copy of the petition. Nonresidents may be served by
21 registered or certified mail or by publication as provided
22 by law.

23

1 (d) The jurisdiction of the court in which the
2 proceeding is commenced under subsection (b) of this
3 section is plenary and exclusive. The court may appoint
4 one (1) or more persons as appraisers to receive evidence
5 and recommend decision on the question of fair value. The
6 appraisers have the powers described in the order
7 appointing them, or in the amendment to it. The ~~dissenters~~
8 shareholders demanding appraisal rights are entitled to the
9 same discovery rights as parties in other civil
10 proceedings.

11

12 (e) Each ~~dissenter~~shareholder made a party to the
13 proceeding is entitled to judgment for:

14

15 (i) The amount, if any, by which the court finds
16 the fair value of his shares, plus interest, exceeds the
17 amount paid by the corporation to the shareholder for those
18 shares; or

19

20 **17-16-1331. Court costs and counsel fees.**

21

22 (a) The court in an appraisal proceeding commenced
23 under W.S. 17-16-1330 shall determine all costs of the

1 proceeding, including the reasonable compensation and
2 expenses of appraisers appointed by the court. The court
3 shall assess the costs against the corporation, except that
4 the court may assess costs against all or some of the
5 ~~dissenters~~ shareholders demanding appraisal, in amounts the
6 court finds equitable, to the extent the court finds the
7 dissenters acted arbitrarily, vexatiously, or not in good
8 faith ~~in demanding payment under W.S. 17-16-1328~~ with
9 respect to the rights provided by this article.

10
11 (b) The court in an appraisal proceeding may also
12 assess the fees and expenses of counsel and experts for the
13 respective parties, in amounts the court finds equitable:

14
15 (i) Against the corporation and in favor of any
16 or all ~~dissenters~~ shareholders demanding appraisal if the
17 court finds the corporation did not substantially comply
18 with the requirements of W.S. 17-16-1320 through
19 17-16-1328; or

20
21 (ii) Against either the corporation or a
22 ~~dissenter~~ shareholder demanding appraisal, in favor of any
23 other party, if the court finds that the party against whom

1 the fees and expenses are assessed acted arbitrarily,
2 vexatiously, or not in good faith with respect to the
3 rights provided by this article.

4
5 (c) If the court in an appraisal proceeding finds that
6 the services of counsel and any other expenses incurred for
7 any ~~dissenter~~ shareholder demanding appraisal were of
8 substantial benefit to other ~~dissenters~~ shareholders
9 similarly situated, and that the fees for those services
10 and other expenses should not be assessed against the
11 corporation, the court may ~~award to these counsel~~
12 ~~reasonable fees to~~ direct that those fees and expenses be
13 paid out of the amounts awarded the ~~dissenters~~ shareholders
14 who were benefited.

15
16 (d) To the extent the corporation fails to make a
17 required payment pursuant to W.S. 17-16-1325, 17-16-1327 or
18 17-16-1328, the shareholder may sue directly for the amount
19 owed, and to the extent successful, shall be entitled to
20 recover from the corporation all expenses of the suit.

21
22 **17-16-1402. Dissolution by board of directors and**
23 **shareholders.**

1

2 (e) Unless the articles of incorporation or the board
3 of directors, acting pursuant to subsection (c) of this
4 section, require a greater vote or a vote by voting groups,
5 adoption of the proposal to dissolve ~~to be adopted~~ shall ~~be~~
6 ~~approved by a~~ require the approval of the shareholders at a
7 meeting at which a quorum consisting of at least a majority
8 of ~~all~~ the votes entitled to be cast ~~on that proposal~~
9 exists.

10

11 **17-16-1403. Articles of dissolution.**

12

13 (a) At any time after dissolution is authorized, the
14 corporation may dissolve by delivering to the secretary of
15 state for filing articles of dissolution setting forth:

16

17 (iii) If dissolution was approved by the
18 shareholders a statement that the proposal to dissolve was
19 duly approved by the shareholders in the manner required by
20 this act and by the articles of incorporation.+

21

22 (b) A corporation is dissolved upon the effective date
23 of its articles of dissolution.

1

2 (c) For purposes of this article, "dissolved
3 corporation" means a corporation whose articles of
4 dissolution have become effective and includes a successor
5 entity to which the remaining assets of the corporation are
6 transferred subject to its liabilities for purposes of
7 liquidation.

8

9 **17-16-1404. Revocation of dissolution.**

10

11 (c) After the revocation of dissolution is authorized,
12 the corporation may revoke the dissolution by delivering to
13 the secretary of state for filing articles of revocation of
14 dissolution, together with a copy of its articles of
15 dissolution, that set forth:

16

17 (vi) If shareholder action was required to revoke
18 the dissolution, the information required by W.S.
19 17-16-1403(a)(iii) ~~.or (iv).~~

20

21 **17-16-1406. Known claims against dissolved**
22 **corporation.**

23

1 (a) A dissolved corporation may dispose of the known
2 claims against it by ~~following the procedure described in~~
3 ~~this section~~ notifying its known claimants in writing of
4 the dissolution at any time after its effective date.

5
6 (b) ~~The dissolved corporation shall notify its known~~
7 ~~claimants in writing, by mail or private carrier or by~~
8 ~~personal delivery, of the dissolution at any time after its~~
9 ~~effective date.~~ The written notice shall:

10
11 **17-16-1407. Unknown claims against dissolved**
12 **corporation.**

13
14 (b) The notice shall:

15
16 (iii) State that a claim against the corporation
17 will be barred unless a proceeding to enforce the claim is
18 commenced within ~~four (4)~~ three (3) years or the applicable
19 statute of limitations, whichever is less, after the
20 publication of the notice.

21
22 (c) If the dissolved corporation publishes a newspaper
23 notice in accordance with subsection (b) of this section,

1 the claim of each of the following claimants is barred
2 unless the claimant commences a proceeding to enforce the
3 claim against the dissolved corporation within ~~four (4)~~
4 three (3) years after the publication date of the newspaper
5 notice:

6

7 (d) A claim that is not barred by W.S. 17-16-1406(c)
8 or subsection (c) of this section may be enforced: under
9 ~~this section.~~

10

11 (ii) Except as provided in W.S. 17-16-1408(d), if
12 the assets have been distributed in liquidation, against a
13 shareholder of the dissolved corporation to the extent of
14 his pro rata share of the claim or the corporate assets
15 distributed to him in liquidation, whichever is less, but a
16 shareholder's total liability for all claims under this
17 section may not exceed the total amount of assets
18 distributed to ~~him~~ the shareholder.

19

20 **17-16-1420. Grounds for administrative dissolution.**

21

1 (a) The secretary of state may commence a proceeding
2 under W.S. 17-16-1421 to administratively dissolve a
3 corporation if:

4
5 (vi) An incorporator, director, officer or agent
6 of the corporation signed a document he knew was false in
7 any material respect with intent that the document be
8 delivered to the secretary of state for filing; ~~or~~

9
10 (vii) The corporation has failed to respond to a
11 valid and enforceable subpoena; ~~or~~

12
13 (viii) The corporation is in violation of W.S.
14 17-16-401(d)(v) or 17-16-1506(d)(v).

15
16 **17-16-1422. Reinstatement following administrative**
17 **dissolution.**

18
19 (a) An officer or other person with proper authority
20 at the time a corporation was administratively dissolved
21 under W.S. 17-16-1421 may apply to the secretary of state
22 for reinstatement within two (2) years after the effective
23 date of dissolution. Reinstatement may be denied by the

1 secretary of state if the corporation has been the subject
2 of secretary of state and law enforcement investigation
3 pertaining to fraud or any other violation of state or
4 federal law, or if there is other reason to believe the
5 corporation was engaged in illegal operations. The
6 application shall:

7

8 (e) A person who files any document under this section
9 without proper corporate authority to do so is in violation
10 of W.S. 6-5-308.

11

12 **17-16-1430. Grounds for judicial dissolution.**

13

14 (a) The district court may dissolve a corporation:

15

16 (v) In a proceeding by a shareholder, if the
17 corporation has abandoned its business and has failed
18 within a reasonable time to liquidate and distribute its
19 assets and dissolve.

20

21 **17-16-1503. Application for certificate of authority.**

22

1 (a) A foreign corporation may apply for a certificate
2 of authority to transact business in this state by
3 delivering an application to the secretary of state for
4 filing. The application shall set forth:

5
6 (vi) The names and usual business addresses of
7 its current directors and officers; and

8
9 (viii) A statement that the corporation accepts
10 the constitution of the state of Wyoming in compliance with
11 the requirement of article 10, section 5 of the Wyoming
12 constitution. ~~and~~

13
14 **17-16-1506. Corporate name of foreign corporation.**

15
16 (c) A foreign corporation may apply to the secretary
17 of state for authorization to use a in this state the name
18 of another corporation, incorporated or authorized to do
19 business in this state, that is not distinguishable in
20 accordance with the provisions of W.S. 17-16-401(c).

21
22 (d) A foreign corporation may use in this state the
23 name, including the fictitious name, of another domestic or

1 foreign corporation that is used in this state if the other
2 corporation is incorporated or authorized to transact
3 business in this state and the foreign corporation has:

4
5 (iii) Acquired all or substantially all of the
6 assets, including the corporate name, of the other
7 corporation; or.

8
9 (v) Has received the written consent of the other
10 corporation, which written consent also sets forth a
11 description of a proposed merger, consolidation,
12 dissolution, amendment to articles of incorporation or
13 other intended corporate action which establishes to the
14 reasonable satisfaction of the secretary of state that the
15 coexistence of two (2) corporations using the same name
16 will not continue for more than one hundred twenty (120)
17 days.

18
19 **17-16-1602. Inspection of records by shareholders.**

20
21 (a) A shareholder of a corporation is entitled to
22 inspect and copy, during regular business hours at the
23 corporation's principal office, any of the records of the

1 corporation described in W.S. 17-16-1601(e) if ~~he~~the
2 shareholder gives the corporation written notice of ~~his~~the
3 shareholder's demand at least five (5) business days before
4 the date on which ~~he~~the shareholder wishes to inspect and
5 copy.

6

7 (b) A shareholder who has been of record for at least
8 six (6) months immediately preceding his demand and who
9 shall be the holder of record of at least five percent (5%)
10 of all the outstanding shares of a corporation is entitled
11 to inspect and copy, during regular business hours at a
12 reasonable location specified by the corporation, any of
13 the following records of the corporation if the shareholder
14 meets the requirements of subsection (c) of this section
15 and gives the corporation written notice of ~~his~~the
16 shareholder's demand at least five (5) business days before
17 the date on which ~~he~~the shareholder wishes to inspect and
18 copy:

19

20 (c) A shareholder may inspect and copy the records
21 described in subsection (b) of this section only if:

22

1 (i) ~~His~~The shareholder's demand is made in good
2 faith and for a proper purpose;

3
4 (ii) ~~He~~The shareholder describes with reasonable
5 particularity his purpose and the records he desires to
6 inspect; and

7
8 (iii) The records are directly connected with ~~his~~
9 the shareholder's purpose.

10
11 **17-16-1603. Scope of inspection right.**

12
13 (b) The right to copy records under W.S. 17-16-1602
14 includes, if reasonable, the right to receive copies ~~made~~
15 by ~~photographic,~~ xerographic~~,~~ or other means, including
16 copies through an electronic transmission if available and
17 so requested by the shareholder.

18
19 (c) The corporation may impose a reasonable charge,
20 covering the costs of labor and material, for copies of any
21 documents provided to the shareholder. The charge may not
22 exceed the estimated cost of production, ~~or~~ reproduction or
23 transmission of the records.

1

2 (d) The corporation may comply with a shareholder's
3 demand to inspect the record of shareholders under W.S.
4 17-16-1602(b)(iii) by providing ~~him~~ the shareholder with a
5 list of its shareholders that was compiled no earlier than
6 the date of the shareholder's demand.

7

8 **17-16-1604. Court-ordered inspection.**

9

10 (c) If the court orders inspection and copying of the
11 records demanded, it shall also order the corporation to
12 pay the shareholder's ~~costs~~ expenses, including reasonable
13 counsel fees, incurred to obtain the order unless the
14 corporation proves that it refused inspection in good faith
15 because it had a reasonable basis for doubt about the right
16 of the shareholder to inspect the records demanded.

17

18 **17-16-1620. Financial statements for shareholders.**

19

20 (c) A corporation shall mail, upon request, the annual
21 financial statements to each shareholder within one hundred
22 twenty (120) days after the close of each fiscal year.
23 Thereafter, on written request from a shareholder who was

1 not mailed the statements, the corporation shall mail him
2 the shareholder the latest financial statements.

3

4 **17-16-1630. Filing of reports and payment of tax**
5 **required; amount of tax; exemptions; records.**

6

7 (a) Every corporation organized under the laws of this
8 state and every foreign corporation which obtains the right
9 to transact and carry on business within this state (except
10 banks, insurance companies and savings and loan
11 associations) shall file with the secretary of state on or
12 before the first day of the month of registration of every
13 year a certification, under the penalty of perjury, by its
14 treasurer or other fiscal agent setting forth its net
15 capital, property and assets located and employed in the
16 state of Wyoming. The statement shall give the names and
17 addresses of its officers and directors and the address of
18 its principal office. On or before the first day of the
19 month of registration of every year the corporation shall
20 pay to the secretary of state in addition to all other
21 statutory taxes and fees a license tax based upon the sum
22 of its net capital, property and assets reported, of fifty

1 dollars (\$50.00) or two-tenths of one mill on the dollar
2 (\$.0002), whichever is greater.

3

4 **17-16-1720. Transfer of a Wyoming corporation to**
5 **another jurisdiction.**

6

7 (a) A corporation incorporated, domesticated or
8 continued under this act may, if authorized by resolution
9 duly adopted ~~by a vote of two thirds (2/3) of the holders~~
10 ~~of the issued shares of each class of stock of the~~
11 ~~corporation, whether or not entitled to vote on any other~~
12 ~~issue,~~ as set forth in subsection (g) of this section, and
13 by the laws of any other jurisdiction, within or without
14 the United States, apply to the proper officer of the other
15 jurisdiction for a certificate of registration, and to the
16 secretary of state of this state for a certificate of
17 transfer. The application for certificate of transfer
18 shall set forth the following:

19

20 (i) The name of the corporation immediately
21 prior to the transfer, and if that name is unavailable for
22 use in the foreign jurisdiction or the corporation desires
23 to change its name in connection with the transfer, the

1 name by which the corporation will be known in the foreign
2 jurisdiction;

3
4 (ii) A statement of the jurisdiction to which
5 the corporation is to be transferred;

6
7 (iii) A statement that the corporation shall
8 surrender its certificate of incorporation under this act
9 upon the effectiveness of the transfer;

10
11 (iv) A statement that the transfer was duly
12 approved by the directors and the shareholders in the
13 manner required under subsection (g) of this section; and

14
15 (v) Any other terms and conditions of the
16 transfer, including any desired amendments to the articles
17 of incorporation of the corporation following its transfer.

18
19 (e) Every corporation organized, domesticated or
20 continued under the laws of this state in order to receive
21 a certificate of transfer pursuant to subsection (c) of
22 this section shall pay to the secretary of state, in
23 addition to all other statutory taxes and fees, a special

1 toll charge ~~equal to the percentage of the net actual value~~
2 ~~of its~~ based on two-tenths of one mill on the dollar
3 (\$0.0002), of the sum of its capital property and assets,
4 ~~wherever~~ located and employed in Wyoming, as follows, but
5 ~~in no case shall any special toll charge be less than one~~
6 ~~thousand dollars (\$1,000.00):~~ or fifty dollars (\$50.00),
7 whichever is greater.

8
9 (g) A resolution to transfer the corporation to
10 another jurisdiction shall be adopted by the board of
11 directors, and shall thereafter be submitted to the
12 shareholders for their approval. The board of directors
13 shall also transmit to the shareholders a recommendation
14 that the shareholders approve the resolution, unless the
15 board of directors makes a determination that because of
16 conflicts of interest or other special circumstances it
17 should not make such a recommendation, in which case the
18 board of directors shall transmit to the shareholders the
19 basis for that determination. The board of directors may
20 condition its submission of the resolution to the
21 shareholders on any basis. If the approval of the
22 shareholders is to be given at a meeting, the corporation
23 shall notify each shareholder, whether or not entitled to

1 vote, of the meeting of shareholders at which the resolution
2 for transfer is to be submitted for approval. The notice
3 shall contain or be accompanied by a copy or summary of the
4 resolution and of the articles of incorporation of the
5 corporation as they will be in effect in the new
6 jurisdiction immediately after the transfer. Unless the
7 articles of incorporation or the board of directors requires
8 a greater vote or a greater number of votes to be present,
9 approval of the resolution requires the affirmative vote of
10 a majority of the shareholders at a meeting at which a
11 quorum, consisting of a majority of the votes entitled to be
12 cast, is present, and, if any class or series of shares is
13 entitled to vote as a separate group on the resolution, the
14 approval of each such separate voting group at a meeting at
15 which a quorum of the voting group consisting of at least a
16 majority of the votes entitled to be cast on the resolution
17 by that voting group exists. Separate voting by voting
18 groups is required to the extent the same would be required
19 for a proposed amendment to the articles of incorporation.

20

21 (h) The corporation may represent to the proper officer
22 of the jurisdiction to which the corporation is transferred
23 that the laws of the state of Wyoming permit such transfer,

1 and may describe the permission extended by this section as
2 authorizing the domestication, continuance or other transfer
3 of domicile as may be required by the laws of the foreign
4 jurisdiction in order for the corporation to be accepted in
5 that jurisdiction, provided that the corporation may not
6 misrepresent the requirements or effects of the provisions
7 of this section.

8
9 **26-24-102. Applicability of general corporation**
10 **statutes; exceptions.**

11
12 (b) Domestic stock insurers and domestic mutual
13 insurers are exempt from the provisions of W.S. 17-16-1630
14 and 17-16-1720(e) ~~and (f).~~

15
16 **Section 3.** W.S. 17-16-120(j)(i) through (iii),
17 17-16-602(a)(i) through (ii), (c) and (d)(i) through (iv),
18 17-16-631(c)(i) through (iii), 17-16-825(e)(iv) and (vi)
19 through (viii), 17-16-830(a)(ii), (c) and (d), 17-16-831,
20 17-16-832, 17-16-842(c), 17-16-850(a)(iii) and (iv), 17-16-
21 1003(a), (b)(ii) and (c) through (e), 17-16-1004(a)(i) and
22 (vi), 17-16-1007(c), (d)(i) and (ii), 17-16-1008(c),
23 17-16-1021, 17-16-1101(c)(i) and (ii), 17-16-1103(b),

1 (g)(i) through (iv) and (h), 17-16-1104(b) through (e),
2 17-16-1105(a)(i) through (iii), 17-16-1107, 17-16-1115(c),
3 17-16-1201(b), 17-16-1202(b)(i) and (ii),
4 17-16-1301(a)(iii), 17-16-1302(a)(v) and (b),
5 17-16-1322(b)(i), (ii) and (iv), 17-16-1324,
6 17-16-1325(b)(iii) and (v), 17-16-1326, 17-16-1328(a)(i)
7 through (iii), 17-16-1403(a)(iii)(A) and (B) and (iv),
8 17-16-1503(a)(vii) and (ix) and 17-16-1720(e)(i) through
9 (x) and (f) are repealed.

10

11 **Section 4.** This act is effective July 1, 2009.

12

13

(END)