

Effective 5/13/2014

16-10b-305 Right of action.

- (1) Except in a benefit enforcement proceeding, a person may not bring an action or assert a claim against a benefit corporation or its directors or officers with respect to:
 - (a) failure to pursue or create general public benefit or a specific public benefit set forth in its articles of incorporation; or
 - (b) violation of an obligation, duty, or standard of conduct under this chapter.
- (2) A benefit corporation may not be liable for monetary damages under this chapter for a failure of the benefit corporation to pursue or create general public benefit or a specific public benefit.
- (3)
 - (a) A benefit enforcement proceeding may be commenced or maintained only:
 - (i) directly by the benefit corporation; or
 - (ii) derivatively by:
 - (A) a person or group of persons that owns beneficially or of record at least 2% of the total number of shares of a class or series outstanding at the time of the act or omission complained of;
 - (B) a director;
 - (C) a person or group of persons that own beneficially or of record 5% or more of the outstanding equity interests in an entity of which the benefit corporation is a subsidiary at the time of the act or omission complained of; or
 - (D) other persons as specified in the articles of incorporation or bylaws of the benefit corporation.
 - (b) A benefit corporation may provide in its articles of incorporation a greater degree of ownership by a person or group of persons than those listed under Subsection (3)(a) to bring a derivative action.
- (4) For purposes of this section, a person is the beneficial owner of shares or equity interests if the shares or equity interests are held in a voting trust or by a nominee on behalf of the beneficial owner.

Enacted by Chapter 394, 2014 General Session