

Effective 5/13/2014

16-10b-301 Standard of conduct for directors.

- (1) Subject to Subsection (2), the board of directors, committees of the board of directors, and individual directors of a benefit corporation, in discharging the duties of their respective positions and in considering the best interests of the benefit corporation:
 - (a) shall consider the effects of an action or inaction upon:
 - (i) the shareholders of the benefit corporation;
 - (ii) the employees and workforce of the benefit corporation, its subsidiaries, and its suppliers;
 - (iii) the interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;
 - (iv) community and societal factors, including those of each community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;
 - (v) the local and global environment;
 - (vi) the short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and
 - (vii) the ability of the benefit corporation to accomplish its general public benefit purpose and a specific public benefit purpose; and
 - (b) may consider other pertinent factors or the interests of any other group that they consider appropriate.
- (2)
 - (a) Subject to Subsection (2)(b), in discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board of directors, and individual directors of a benefit corporation need not give priority to a particular interest or factor referred to in Subsection (1) over any other interest or factor.
 - (b) Subsection (2)(a) does not apply if the benefit corporation has stated in its articles of incorporation its intention to give priority to certain interests or factors related to its accomplishment of its general public benefit purpose or of a specific public benefit purpose identified in its articles of incorporation.
- (3) The consideration of interests and factors in the manner required by Subsections (1) and (2) does not constitute a violation of Section 16-10a-840.
- (4) Except as provided in the articles of incorporation or bylaws, a director is not personally liable for monetary damages for:
 - (a) an action or inaction in the course of performing the duties of a director under Subsections (1) and (2) if the director performed the duties of office in compliance with Section 16-10a-840 and this section; or
 - (b) failure of the benefit corporation to pursue or create general public benefit or specific public benefit.
- (5) A director does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Enacted by Chapter 394, 2014 General Session