

**Effective 5/13/2014**

**16-10b-401 Preparation of annual benefit report.**

- (1) A benefit corporation shall prepare an annual benefit report that includes all of the following:
  - (a) a narrative description of:
    - (i) the ways in which the benefit corporation pursued general public benefit during the year and the extent to which general public benefit was created;
    - (ii)
      - (A) the ways in which the benefit corporation pursued a specific public benefit that the articles of incorporation state it is the purpose of the benefit corporation to create; and
      - (B) the extent to which that specific public benefit was created; and
    - (iii) circumstances that have hindered the creation by the benefit corporation of general public benefit or specific public benefit;
  - (b) an assessment of the overall social and environmental performance of the benefit corporation against a third-party standard:
    - (i) applied consistently with the application of that third-party standard in prior benefit reports; or
    - (ii) accompanied by an explanation of the reasons for an inconsistent application;
  - (c) the name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed;
  - (d) the statement of the benefit director described in Subsection 16-10b-302(3);
  - (e) an identification of the third-party standard that will be used to prepare the next benefit report of the benefit corporation and a discussion of:
    - (i) the process and rationale for selecting that third-party standard and, if it is different from the previous third-party standard used by the benefit corporation, the reasons for the change; and
    - (ii) any connection between the organization that established the third-party standard, or its directors, officers, or a holder of 5% or more of the governance interests in the organization, and the benefit corporation or its directors, officers, or a holder of 5% or more of the outstanding shares of the benefit corporation, including a financial or governance relationship that might materially affect the credibility of the use of the third-party standard; and
  - (f) if the benefit corporation has dispensed with, or restricted the discretion or powers of, the board of directors, a description of the persons that exercise the powers, duties, and rights and who have the immunities of the board of directors.
- (2) If, during the year covered by a benefit report, a benefit director resigns, refuses to stand for reelection to the position of benefit director, or is removed from the position of benefit director, and the benefit director furnishes the benefit corporation with written correspondence concerning the circumstances surrounding the resignation, refusal, or removal, the benefit report shall include that correspondence as an exhibit.
- (3) Neither the benefit report nor the assessment of the performance of the benefit corporation in the benefit report required by Subsection (1)(b) needs to be audited or certified by a third party.

Enacted by Chapter 394, 2014 General Session