

**BENEFIT CORPORATION AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Keven J. Stratton

Cosponsor: Patricia W. Jones

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**LONG TITLE**

**General Description:**

This bill modifies corporate provisions to enact the Benefit Corporation Act.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Benefit Corporation Act, including:
  - providing for the application and effect of chapter;
  - defining terms;
  - providing for incorporation as a benefit corporation;
  - providing for election to become a benefit corporation;
  - allowing for termination of benefit corporation status;
  - addressing establishment of corporate purposes;
  - imposing standards of conduct for directors;
  - providing for a benefit director;
  - imposing standards of conduct for officers;
  - providing for a benefit officer;
  - establishing a right of action;
  - requiring an annual benefit report; and
  - addressing availability of an annual benefit report; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **16-11-6**, as last amended by Laws of Utah 2010, Chapter 378

35 ENACTS:

36 **16-10b-101**, Utah Code Annotated 1953

37 **16-10b-102**, Utah Code Annotated 1953

38 **16-10b-103**, Utah Code Annotated 1953

39 **16-10b-104**, Utah Code Annotated 1953

40 **16-10b-105**, Utah Code Annotated 1953

41 **16-10b-106**, Utah Code Annotated 1953

42 **16-10b-201**, Utah Code Annotated 1953

43 **16-10b-301**, Utah Code Annotated 1953

44 **16-10b-302**, Utah Code Annotated 1953

45 **16-10b-303**, Utah Code Annotated 1953

46 **16-10b-304**, Utah Code Annotated 1953

47 **16-10b-305**, Utah Code Annotated 1953

48 **16-10b-401**, Utah Code Annotated 1953

49 **16-10b-402**, Utah Code Annotated 1953

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51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section **16-10b-101** is enacted to read:

53 **CHAPTER 10b. BENEFIT CORPORATION ACT**

54 **Part 1. General Provisions**

55 **16-10b-101. Title.**

56 This chapter is known as the "Benefit Corporation Act."

57 Section 2. Section **16-10b-102** is enacted to read:

58 **16-10b-102. Application and effect of chapter.**

59 (1) This chapter applies to a benefit corporation organized under this chapter.

60 (2) The existence of a provision of this chapter does not of itself create an implication  
61 that a contrary or different rule of law is applicable to a business corporation that is not a  
62 benefit corporation. This chapter does not affect a statute or rule of law that is applicable to a  
63 business corporation that is not a benefit corporation.

64 (3) (a) Except as otherwise provided in this chapter, Chapter 10a, Utah Revised  
65 Business Corporation Act, is applicable to a benefit corporation.

66 (b) A benefit corporation may be subject simultaneously to this chapter and other  
67 chapters of this title, including Chapter 11, Professional Corporation Act.

68 (c) This chapter controls over Chapter 10a, Utah Revised Business Corporation Act,  
69 and Chapter 11, Professional Corporation Act, or other laws.

70 (4) The articles of incorporation or bylaws of a benefit corporation may not limit, be  
71 inconsistent with, or supersede a provision of this chapter.

72 Section 3. Section **16-10b-103** is enacted to read:

73 **16-10b-103. Definitions.**

74 As used in this chapter:

75 (1) "Annual benefit report" means a report required under Section [16-10b-401](#).

76 (2) "Benefit corporation" means a business corporation:

77 (a) that elects to become subject to this chapter; and

78 (b) the status of which as a benefit corporation has not been terminated.

79 (3) "Benefit director" means the director designated as the benefit director of a benefit  
80 corporation under Section [16-10b-302](#).

81 (4) "Benefit enforcement proceeding" means a proceeding in a court of competent  
82 jurisdiction for:

83 (a) failure of a benefit corporation to pursue or create general public benefit or a  
84 specific public benefit purpose set forth in its articles of incorporation; or

85 (b) a violation of an obligation, duty, or standard of conduct under this chapter.

86 (5) "Benefit officer" means the individual designated as the benefit officer of a benefit  
87 corporation under Section 16-10b-304.

88 (6) "Business corporation" means a corporation formed under Chapter 10a, Utah  
89 Revised Business Corporation Act, or Chapter 11, Professional Corporation Act.

90 (7) "Division" means the Division of Corporations and Commercial Code.

91 (8) "Executive officer" means:

92 (a) a benefit corporation's president;

93 (b) a vice president of the benefit corporation in charge of a principal business unit,  
94 division, or function; or

95 (c) any other officer who performs a policy-making function for the benefit  
96 corporation.

97 (9) "General public benefit" means a material positive impact on society and the  
98 environment:

99 (a) taken as a whole;

100 (b) assessed against a third-party standard; and

101 (c) from the business of a benefit corporation.

102 (10) "Immediate family" means a parent, spouse, surviving spouse, child, or sibling of  
103 a person.

104 (11) (a) "Independent" means having no material relationship with a benefit  
105 corporation or a subsidiary of the benefit corporation.

106 (b) Serving as a benefit director or benefit officer does not make an individual not  
107 independent.

108 (c) A material relationship between an individual and a benefit corporation or any of its  
109 subsidiaries will be conclusively presumed to exist if one or more of the following apply:

110 (i) the individual is, or has been within the last three years, an employee other than a  
111 benefit officer of the benefit corporation or a subsidiary of the benefit corporation;

112 (ii) an immediate family member of the individual is, or has been within the last three

113 years, an executive officer other than a benefit officer of the benefit corporation or a subsidiary  
114 of the benefit corporation; or

115 (iii) there is beneficial or record ownership of 5% or more of the outstanding shares of  
116 the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the  
117 benefit corporation had been exercised, by:

118 (A) the individual; or

119 (B) an entity of which the individual is a director, an officer, or a manager, or in which  
120 the individual owns beneficially or of record 5% or more of the outstanding equity interests,  
121 calculated as if all outstanding rights to acquire equity interests in the entity had been  
122 exercised.

123 (12) "Minimum status vote" means:

124 (a) in the case of a business corporation, in addition to any other required approval or  
125 vote, the satisfaction of the following conditions:

126 (i) the shareholders of every class or series may vote as a separate voting group on the  
127 corporate action regardless of a limitation stated in the articles of incorporation or bylaws on  
128 the voting rights of a class or series; or

129 (ii) the corporate action is required to be approved by vote of the shareholders of each  
130 class or series entitled to cast at least two-thirds of the votes that all shareholders of the class or  
131 series are entitled to cast on the action; or

132 (b) in the case of a domestic entity other than a business corporation, in addition to any  
133 other required approval, vote, or consent, the satisfaction of the following conditions:

134 (i) the holders of every class or series of equity interest in the entity that are entitled to  
135 receive a distribution of any kind from the entity may vote on or consent to the action  
136 regardless of any otherwise applicable limitation on the voting or consent rights of a class or  
137 series; or

138 (ii) the action must be approved by vote or consent of the holders described in  
139 Subsection (12)(b)(i) entitled to cast at least two-thirds of the votes or consents that all of those  
140 holders are entitled to cast on the action.

141 (13) "Publicly traded corporation" means a business corporation that has shares listed  
142 on a national securities exchange or traded in a market maintained by one or more members of  
143 a national securities association.

144 (14) "Specific public benefit" includes:

145 (a) providing low-income or underserved individuals or communities with beneficial  
146 products or services;

147 (b) promoting economic opportunity for individuals or communities beyond the  
148 creation of jobs in the normal course of business;

149 (c) protecting or restoring the environment;

150 (d) improving human health;

151 (e) promoting the arts, sciences, or advancement of knowledge;

152 (f) increasing the flow of capital to entities with a purpose to benefit society or the  
153 environment; and

154 (g) conferring any other particular benefit on society or the environment.

155 (15) "Subsidiary" means, in relation to a person, an entity in which the person owns  
156 beneficially or of record 50% or more of the outstanding equity interests, calculated as if all  
157 outstanding rights to acquire equity interests in the entity had been exercised.

158 (16) "Third-party standard" means a recognized standard for defining, reporting, and  
159 assessing corporate social and environmental performance that:

160 (a) assesses the effect of the business and its operations upon the interests listed in  
161 Subsections [16-10b-301\(1\)\(a\)\(ii\)](#), [\(iii\)](#), [\(iv\)](#), and [\(v\)](#);

162 (b) is developed by an entity that is not controlled by the benefit corporation;

163 (c) is developed by an entity that both:

164 (i) has access to necessary expertise to assess overall corporate social and  
165 environmental performance; and

166 (ii) uses a balanced multistakeholder approach to develop the standard, including a  
167 reasonable public comment period; or

168 (d) makes the following information publicly available:

- 169            (i) about the standard:  
170            (A) the criteria considered when measuring the overall social and environmental  
171 performance of a business; and  
172            (B) the relative weightings, if any, of those criteria; and  
173            (ii) about the development and revision of the standard:  
174            (A) the identity of the directors, officers, material owners, and the governing body of  
175 the entity that developed and controls revisions to the standard;  
176            (B) the process by which revisions to the standard and changes to the membership of  
177 the governing body are made; or  
178            (C) an accounting of the revenue and sources of financial support for the entity, with  
179 sufficient detail to disclose a relationship that could reasonably be considered to present a  
180 potential conflict of interest.

181            Section 4. Section **16-10b-104** is enacted to read:

182            **16-10b-104. Incorporation of benefit corporation.**

183            A person shall incorporate a benefit corporation in accordance with Chapter 10a, Part 2,  
184 Incorporation, but its articles of incorporation shall also state that it is a benefit corporation.

185            Section 5. Section **16-10b-105** is enacted to read:

186            **16-10b-105. Election of benefit corporation status.**

187            (1) A business corporation may become a benefit corporation under this chapter by  
188 amending its articles of incorporation so that the articles of incorporation contain, in addition to  
189 the requirements of Section [16-10a-202](#), a statement that the corporation is a benefit  
190 corporation. To be effective, the amendment must be adopted by at least the minimum status  
191 vote.

192            (2) (a) Except as provided in Subsection (2)(b), if a domestic entity that is not a benefit  
193 corporation is a party to a merger or the exchanging entity in a share exchange and the  
194 surviving entity in the merger or share exchange is to be a benefit corporation, the plan of  
195 merger or share exchange must be approved by the domestic entity by at least the minimum  
196 status vote.

197 (b) Subsection (2)(a) does not apply in the case of a corporation that is a party to a  
198 merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to  
199 Section 16-10a-1104.

200 Section 6. Section 16-10b-106 is enacted to read:

201 **16-10b-106. Termination of benefit corporation status.**

202 (1) A benefit corporation may terminate its status as a benefit corporation and cease to  
203 be subject to this chapter by amending its articles of incorporation to delete the provision  
204 required by Section 16-10b-104 or 16-10b-105 to be stated in the articles of incorporation of a  
205 benefit corporation. To be effective, the amendment must be adopted by at least the minimum  
206 status vote.

207 (2) (a) Except as provided in Subsection (2)(b), if a plan of merger or share exchange  
208 would have the effect of terminating the status of a business corporation as a benefit  
209 corporation, the plan must be adopted by at least the minimum status vote to be effective.

210 (b) Subsection (2)(a) does not apply in the case of a corporation that is a party to a  
211 merger if the shareholders of the corporation are not entitled to vote on the merger pursuant to  
212 Section 16-10a-1104.

213 (3) A sale, lease, exchange, or other disposition of all or substantially all of the assets  
214 of a benefit corporation, unless the transaction is in the usual and regular course of business, is  
215 not effective unless the transaction is approved by at least the minimum status vote.

216 Section 7. Section 16-10b-201 is enacted to read:

217 **Part 2. Corporate Purposes**

218 **16-10b-201. Corporate purposes.**

219 (1) A benefit corporation shall have a purpose of creating general public benefit. This  
220 purpose is in addition to its purpose under Section 16-10a-301.

221 (2) The articles of incorporation of a benefit corporation may identify one or more  
222 specific public benefits that it is the purpose of the benefit corporation to create in addition to  
223 its purposes under Section 16-10a-301 and Subsection (1). The identification of a specific  
224 public benefit under this Subsection (2) does not limit the purpose of a benefit corporation to



225 create general public benefit under Subsection (1).

226 (3) The creation of general public benefit and a specific public benefit under  
227 Subsections (1) and (2) is considered in the best interests of the benefit corporation.

228 (4) A benefit corporation may amend its articles of incorporation to add, amend, or  
229 delete the identification of a specific public benefit that it is the purpose of the benefit  
230 corporation to create. To be effective, the amendment must be adopted by at least the  
231 minimum status vote.

232 (5) A professional corporation that is a benefit corporation does not violate Section  
233 16-11-6 by having the purpose to create general public benefit or a specific public benefit.

234 Section 8. Section **16-10b-301** is enacted to read:

235 **Part 3. Accountability**

236 **16-10b-301. Standard of conduct for directors.**

237 (1) Subject to Subsection (2), the board of directors, committees of the board of  
238 directors, and individual directors of a benefit corporation, in discharging the duties of their  
239 respective positions and in considering the best interests of the benefit corporation:

240 (a) shall consider the effects of an action or inaction upon:

241 (i) the shareholders of the benefit corporation;

242 (ii) the employees and workforce of the benefit corporation, its subsidiaries, and its  
243 suppliers;

244 (iii) the interests of customers as beneficiaries of the general public benefit or specific  
245 public benefit purposes of the benefit corporation;

246 (iv) community and societal factors, including those of each community in which  
247 offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;

248 (v) the local and global environment;

249 (vi) the short-term and long-term interests of the benefit corporation, including benefits  
250 that may accrue to the benefit corporation from its long-term plans and the possibility that these  
251 interests may be best served by the continued independence of the benefit corporation; and

252 (vii) the ability of the benefit corporation to accomplish its general public benefit

253 purpose and a specific public benefit purpose; and

254 (b) may consider other pertinent factors or the interests of any other group that they  
255 consider appropriate.

256 (2) (a) Subject to Subsection (2)(b), in discharging the duties of their respective  
257 positions and in considering the best interests of the benefit corporation, the board of directors,  
258 committees of the board of directors, and individual directors of a benefit corporation need not  
259 give priority to a particular interest or factor referred to in Subsection (1) over any other  
260 interest or factor.

261 (b) Subsection (2)(a) does not apply if the benefit corporation has stated in its articles  
262 of incorporation its intention to give priority to certain interests or factors related to its  
263 accomplishment of its general public benefit purpose or of a specific public benefit purpose  
264 identified in its articles of incorporation.

265 (3) The consideration of interests and factors in the manner required by Subsections (1)  
266 and (2) does not constitute a violation of Section [16-10a-840](#).

267 (4) Except as provided in the articles of incorporation or bylaws, a director is not  
268 personally liable for monetary damages for:

269 (a) an action or inaction in the course of performing the duties of a director under  
270 Subsections (1) and (2) if the director performed the duties of office in compliance with  
271 Section [16-10a-840](#) and this section; or

272 (b) failure of the benefit corporation to pursue or create general public benefit or  
273 specific public benefit.

274 (5) A director does not have a duty to a person that is a beneficiary of the general  
275 public benefit purpose or a specific public benefit purpose of a benefit corporation arising from  
276 the status of the person as a beneficiary.

277 Section 9. Section **16-10b-302** is enacted to read:

278 **16-10b-302. Benefit director.**

279 (1) The board of directors of a benefit corporation that is a publicly traded corporation  
280 shall, and the board of directors of any other benefit corporation may, include a director, who:

281 (a) is designated the benefit director; and

282 (b) shall have, in addition to the powers, duties, rights, and immunities of the other  
283 directors of the benefit corporation, the powers, duties, rights, and immunities provided in this  
284 chapter.

285 (2) (a) A benefit director shall be elected, and may be removed, in the manner provided  
286 by Sections [16-10a-801](#) through [16-10a-810](#).

287 (b) Except as provided in Subsection (6), the benefit director shall be an individual  
288 who is independent.

289 (c) The benefit director may serve as the benefit officer at the same time as serving as  
290 the benefit director.

291 (d) The articles of incorporation or bylaws of a benefit corporation may prescribe  
292 additional qualifications of the benefit director not inconsistent with this Subsection (2).

293 (3) The benefit director shall prepare, and the benefit corporation shall include in the  
294 annual benefit report to shareholders required by Section [16-10b-401](#), the opinion of the benefit  
295 director on all of the following:

296 (a) whether the benefit corporation acted in accordance with its general public benefit  
297 purpose and any specific public benefit purpose in all material respects during the period  
298 covered by the report;

299 (b) whether the directors and officers complied with Subsections [16-10b-301\(1\)](#) and  
300 [16-10b-303\(1\)](#), respectively; and

301 (c) if, in the opinion of the benefit director, the benefit corporation or its directors or  
302 officers failed to act or comply in the manner described in Subsections (3)(a) and (b), a  
303 description of the ways in which the benefit corporation or its directors or officers failed to act  
304 or comply.

305 (4) The act or inaction of an individual in the capacity of a benefit director shall  
306 constitute for all purposes an act or inaction of that individual in the capacity of a director of  
307 the benefit corporation.

308 (5) Regardless of whether the articles of incorporation or bylaws of a benefit

309 corporation include a provision eliminating or limiting the personal liability of directors  
310 authorized by Section 16-10a-841, a benefit director may not be personally liable for an act or  
311 omission in the capacity of a benefit director unless the act or omission constitutes self-dealing,  
312 willful misconduct, or a knowing violation of law.

313 (6) The benefit director of a professional corporation does not need to be independent.

314 Section 10. Section **16-10b-303** is enacted to read:

315 **16-10b-303. Standard of conduct for officers.**

316 (1) An officer of a benefit corporation shall consider the interests and factors described  
317 in Subsection 16-10b-301(1) in the manner provided in Subsections 16-10b-301(1) and (2) if:

318 (a) the officer has discretion to act with respect to a matter; and

319 (b) it reasonably appears to the officer that the matter may have a material effect on the  
320 creation by the benefit corporation of general public benefit or a specific public benefit  
321 identified in the articles of incorporation of the benefit corporation.

322 (2) The consideration of interests and factors in the manner described in Subsection (1)  
323 may not constitute a violation of Section 16-10a-831 or 16-10a-840.

324 (3) Except as provided in the articles of incorporation or bylaws of a benefit  
325 corporation, an officer is not personally liable for monetary damages for:

326 (a) an action or inaction as an officer in the course of performing the duties of an  
327 officer under Subsection (1) if the officer performed the duties of the position in compliance  
328 with Section 16-10a-831 or 16-10a-840 and this section; or

329 (b) failure of the benefit corporation to pursue or create general public benefit or  
330 specific public benefit.

331 (4) An officer does not have a duty to a person that is a beneficiary of the general  
332 public benefit purpose or a specific public benefit purpose of a benefit corporation arising from  
333 the status of the person as a beneficiary.

334 Section 11. Section **16-10b-304** is enacted to read:

335 **16-10b-304. Benefit officer.**

336 (1) A benefit corporation may have an officer designated as the benefit officer.

337           (2) A benefit officer has:  
338           (a) the powers and duties relating to the purpose of the corporation to create general  
339 public benefit or specific public benefit provided:  
340           (i) by the bylaws; or  
341           (ii) absent controlling provisions in the bylaws, by resolutions or orders of the board of  
342 directors; and  
343           (b) the duty to prepare the benefit report required by Section [16-10b-401](#).

344           Section 12. Section **16-10b-305** is enacted to read:

345           **16-10b-305. Right of action.**

346           (1) Except in a benefit enforcement proceeding, a person may not bring an action or  
347 assert a claim against a benefit corporation or its directors or officers with respect to:  
348           (a) failure to pursue or create general public benefit or a specific public benefit set forth  
349 in its articles of incorporation; or  
350           (b) violation of an obligation, duty, or standard of conduct under this chapter.

351           (2) A benefit corporation may not be liable for monetary damages under this chapter  
352 for a failure of the benefit corporation to pursue or create general public benefit or a specific  
353 public benefit.

354           (3) (a) A benefit enforcement proceeding may be commenced or maintained only:

355           (i) directly by the benefit corporation; or

356           (ii) derivatively by:

357           (A) a person or group of persons that owns beneficially or of record at least 2% of the  
358 total number of shares of a class or series outstanding at the time of the act or omission  
359 complained of;

360           (B) a director;

361           (C) a person or group of persons that own beneficially or of record 5% or more of the  
362 outstanding equity interests in an entity of which the benefit corporation is a subsidiary at the  
363 time of the act or omission complained of; or

364           (D) other persons as specified in the articles of incorporation or bylaws of the benefit

365 corporation.

366 (b) A benefit corporation may provide in its articles of incorporation a greater degree of  
367 ownership by a person or group of persons than those listed under Subsection (3)(a) to bring a  
368 derivative action.

369 (4) For purposes of this section, a person is the beneficial owner of shares or equity  
370 interests if the shares or equity interests are held in a voting trust or by a nominee on behalf of  
371 the beneficial owner.

372 Section 13. Section **16-10b-401** is enacted to read:

373 **Part 4. Transparency**

374 **16-10b-401. Preparation of annual benefit report.**

375 (1) A benefit corporation shall prepare an annual benefit report that includes all of the  
376 following:

377 (a) a narrative description of:

378 (i) the ways in which the benefit corporation pursued general public benefit during the  
379 year and the extent to which general public benefit was created;

380 (ii) (A) the ways in which the benefit corporation pursued a specific public benefit that  
381 the articles of incorporation state it is the purpose of the benefit corporation to create; and

382 (B) the extent to which that specific public benefit was created; and

383 (iii) circumstances that have hindered the creation by the benefit corporation of general  
384 public benefit or specific public benefit;

385 (b) an assessment of the overall social and environmental performance of the benefit  
386 corporation against a third-party standard:

387 (i) applied consistently with the application of that third-party standard in prior benefit  
388 reports; or

389 (ii) accompanied by an explanation of the reasons for an inconsistent application;

390 (c) the name of the benefit director and the benefit officer, if any, and the address to  
391 which correspondence to each of them may be directed;

392 (d) the statement of the benefit director described in Subsection [16-10b-302\(3\)](#);

393 (e) an identification of the third-party standard that will be used to prepare the next  
394 benefit report of the benefit corporation and a discussion of:

395 (i) the process and rationale for selecting that third-party standard and, if it is different  
396 from the previous third-party standard used by the benefit corporation, the reasons for the  
397 change; and

398 (ii) any connection between the organization that established the third-party standard,  
399 or its directors, officers, or a holder of 5% or more of the governance interests in the  
400 organization, and the benefit corporation or its directors, officers, or a holder of 5% or more of  
401 the outstanding shares of the benefit corporation, including a financial or governance  
402 relationship that might materially affect the credibility of the use of the third-party standard;  
403 and

404 (f) if the benefit corporation has dispensed with, or restricted the discretion or powers  
405 of, the board of directors, a description of the persons that exercise the powers, duties, and  
406 rights and who have the immunities of the board of directors.

407 (2) If, during the year covered by a benefit report, a benefit director resigns, refuses to  
408 stand for reelection to the position of benefit director, or is removed from the position of  
409 benefit director, and the benefit director furnishes the benefit corporation with written  
410 correspondence concerning the circumstances surrounding the resignation, refusal, or removal,  
411 the benefit report shall include that correspondence as an exhibit.

412 (3) Neither the benefit report nor the assessment of the performance of the benefit  
413 corporation in the benefit report required by Subsection (1)(b) needs to be audited or certified  
414 by a third party.

415 Section 14. Section **16-10b-402** is enacted to read:

416 **16-10b-402. Availability of annual benefit report.**

417 (1) A benefit corporation shall send its annual benefit report required by Section  
418 16-10b-401 to each shareholder on the earlier of:

419 (a) 120 days following the end of the fiscal year of the benefit corporation; or

420 (b) the same time that the benefit corporation delivers another annual report to its

421 shareholders.

422 (2) A benefit corporation shall post all of its benefit reports on the public portion of its  
423 Internet website, if any, but financial or proprietary information included in the benefit reports  
424 may be omitted from the benefit reports as posted.

425 (3) If a benefit corporation does not have an Internet website, the benefit corporation  
426 shall provide a copy of its most recent benefit report, without charge, to a person that requests a  
427 copy, but financial or proprietary information included in the benefit report may be omitted  
428 from the copy of the benefit report provided.

429 (4) (a) Concurrently with the delivery of the benefit report to shareholders under  
430 Subsection (2), the benefit corporation shall deliver a copy of the benefit report to the division  
431 for filing, but financial or proprietary information included in the benefit report may be omitted  
432 from the benefit report as delivered to the division.

433 (b) The division shall charge a fee established by the division in accordance with  
434 Section [63J-1-504](#) for filing an annual benefit report.

435 (c) The benefit corporation shall file the annual benefit report in addition to the annual  
436 report required by Section [16-10a-1603](#).

437 Section 15. Section **16-11-6** is amended to read:

438 **16-11-6. Purpose of professional corporation -- Power to own property and invest**  
439 **funds.**

440 (1) A professional corporation may be organized pursuant to the provisions of this [act]  
441 chapter only for the purpose of rendering one specific type of professional service and services  
442 ancillary [~~thereto~~] to the specific type of professional service and may not engage in any  
443 business other than rendering the professional service [~~which~~] that it was organized to render  
444 and services ancillary [~~thereto; provided, however, that~~] to the specific type of professional  
445 service.

446 (2) Notwithstanding Subsection (1), a professional corporation may:

447 (a) own real and personal property necessary or appropriate for rendering the type of  
448 professional service it was organized to render [~~and may~~];



449           **(b)** invest its funds in real estate, mortgages, stocks, bonds, and any other type of  
450 investments[-]; and

451           **(c)** if a benefit corporation, have as a purpose creating a general public benefit and a  
452 specific public benefit as provided in Chapter 10b, Benefit Corporation Act.