

1 **CORPORATIONS SOLE AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

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**LONG TITLE**

6 **General Description:**

7 This bill modifies provisions of the Corporations Code related to corporation sole.

8 **Highlighted Provisions:**

9 This bill:

10 ▶ requires a corporation sole, when amending or restating its articles of incorporation,  
11 to:

- 12 • provide a name, title, and street address of an incorporator; and
- 13 • maintain an official representative;
- 14 ▶ modifies certain requirements related to filings by a corporation sole;
- 15 ▶ allows a corporation sole to maintain a registered office and registered agent;
- 16 ▶ prohibits the formation of a new corporation sole after May 3, 2004;
- 17 ▶ requires a corporation sole formed on or after January 1, 1990 to dissolve or convert  
18 to a nonprofit corporation prior to December 31, 2006; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **16-7-5**, Utah Code Annotated 1953  
27



28 16-7-8, as last amended by Chapter 66, Laws of Utah 1984

29 16-7-9, Utah Code Annotated 1953

30 16-7-12, as enacted by Chapter 178, Laws of Utah 1985

31 16-7-14, as last amended by Chapter 300, Laws of Utah 2000

32 ENACTS:

33 16-7-15, Utah Code Annotated 1953

34 16-7-16, Utah Code Annotated 1953

35 16-7-17, Utah Code Annotated 1953



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

38 Section 1. Section 16-7-5 is amended to read:

39 **16-7-5. Amendments of articles of incorporation.**

40 ~~[Any]~~ (1) A corporation [so] sole formed [shall have power from time to time to] under  
41 this chapter may alter or amend its articles of incorporation[; such].

42 (2) An amendment described in Subsection (1) shall:

43 (a) be made by the corporation sole [and];

44 (b) be executed by:

45 (i) the [same] person who executed the original articles of incorporation; or [by his]

46 (ii) the successor in office[; and shall] to the person described in Subsection (2)(b)(i);

47 (c) specify the name, title, and street address of the person described in Subsection

48 (2)(b); and

49 (d) be filed in the same manner as is provided for the filing of the original articles.

50 (3) A corporation sole altering or amending its articles of incorporation after May 3,

51 2004, shall comply with Subsection 16-7-15(1).

52 Section 2. Section 16-7-8 is amended to read:

53 **16-7-8. Execution of corporate instruments -- Authority of agents -- Revocation**  
54 **of authority.**

55 (1) All deeds and other instruments of writing shall be:

56 (a) made in the name of the corporation[;];

57 (b) signed by:

58 (i) the person representing the corporation in the official capacity designated in the

59 articles of incorporation[;]; or [by]

60 (ii) a duly authorized agent or agents designated and named in a certificate filed by  
61 [such] the corporation [in the office of] with the Division of Corporations and Commercial  
62 Code[, and sealed with the seal of the corporation, an impression of which seal shall be filed  
63 with the Division of Corporations and Commercial Code].

64 (2) The authority of [any] an agent or agents designated [as herein provided] pursuant  
65 to Subsection (1)(b)(ii) shall continue until revoked[-], notwithstanding the subsequent death,  
66 resignation, removal, incapacity, or incompetency of:

67 (a) the person who executed the original articles of incorporation; or

68 (b) the successor in office to the person described in Subsection (2)(a).

69 (3) A corporation sole designating an agent or agents to sign deeds and instruments of  
70 writing by certificate may revoke such authority by filing a notice of revocation of authority  
71 with the Division of Corporations and Commercial Code.

72 Section 3. Section **16-7-9** is amended to read:

73 **16-7-9. Succession in event of death, resignation, or removal of incumbent.**

74 (1) In the event of the death or resignation of any such archbishop, bishop, president,  
75 trustee in trust, president of stake, president of congregation, overseer, presiding elder or  
76 clergyman, being at the time a corporation sole, or of his removal from office by the person or  
77 body having authority to remove him, his successor in office, as such corporation sole, shall be  
78 vested with the title to any and all property held by his predecessor as such corporation sole,  
79 with like power and authority over the same and subject to all the legal liabilities and  
80 obligations with reference thereto. [~~Such successor shall file in the office of the county recorder~~  
81 ~~of each county wherein any of such real property is situated]~~

82 (2) A successor described in Subsection (1) shall file with the Division of Corporations  
83 and Commercial Code a certified copy or other adequate written proof of [his] the successor's  
84 commission, certificate, or letter of election or appointment.

85 Section 4. Section **16-7-12** is amended to read:

86 **16-7-12. Dissolution of corporation sole.**

87 (1) A corporation sole may be dissolved and its affairs wound up voluntarily by filing  
88 with the Division of Corporations and Commercial Code articles of dissolution, fully executed  
89 and signed under penalty of perjury, by the chief officer of the corporation. If any corporation

90 sole ceases to have assets, has failed to function, or desires to terminate its existence, the  
 91 articles of dissolution may be filed by any officer of the corporation authorized to administer  
 92 the affairs and property of the corporation.

93 (2) An original and a copy of the articles of dissolution shall be submitted to the  
 94 Division of Corporations and Commercial Code. If it conforms to law, the division shall file it  
 95 and issue a certificate of dissolution. After the issuance of this certificate, the corporation shall  
 96 cease to carry on business, except for the purpose of adjusting and winding up its affairs.

97 (3) The articles of dissolution shall set forth:

98 (a) the name of the corporation;

99 (b) the reason for its dissolution or winding up;

100 (c) that dissolution of the corporation has been duly authorized by the organization  
 101 governed by the corporation sole;

102 (d) the names and addresses of the persons who are to supervise the winding up of the  
 103 affairs of the corporation;

104 (e) that all debts, obligations, and liabilities of the corporation sole have been paid and  
 105 discharged or that adequate provision has been made therefor;

106 (f) that all the remaining property and assets of the corporation sole have been  
 107 transferred, conveyed, or distributed in accordance with the purposes of Section 16-7-1; and

108 (g) that there are no suits pending against the corporation sole in any court, or that  
 109 adequate provision has been made for the satisfaction of any judgment, order, or decree which  
 110 may be entered against it in any pending suit.

111 (4) The Division of Corporations and Commercial Code may administratively dissolve  
 112 a corporation sole that does not comply with Subsection 16-7-15(1) or Section 16-7-17 § IN  
 112a **ACCORDANCE WITH THE RELEVANT PROCEDURES FOR ADMINISTRATIVE DISSOLUTION OF A**  
 112b **NONPROFIT CORPORATION UNDER SECTIONS 16-6a-1411, 16-6a-1412, AND 16-6a-1413 § .**

113 Section 5. Section **16-7-14** is amended to read:

114 **16-7-14. Restatement of articles of incorporation.**

115 (1) A corporation sole organized under this chapter may restate its articles of  
 116 incorporation in the same manner allowed nonprofit corporations under Section 16-6a-1006.

117 (2) (a) The restated articles shall be adopted on behalf of the corporation by the  
 118 appropriate incorporator or the successor to an incorporator as described in Section 16-7-2.

119 (b) If there is no such incorporator or successor, the articles shall be signed by the  
 120 officer or official authorized to administer the affairs and property of the corporation according

121 to the practices and procedures of the church, denomination, or religious society.

122 (c) The restated articles described in this section shall specify the name, title, and street  
123 address of the person executing the restated articles.

124 (3) This chapter does not require the restated articles described in this section to  
125 specify a value of the property of the corporation sole.

126 (4) A corporation sole restating its articles of incorporation after May 3, 2004, shall  
127 comply with Subsection 16-7-15(1).

128 Section 6. Section **16-7-15** is enacted to read:

129 **16-7-15. Official representative -- Registered office -- Registered agent.**

130 (1) (a) A corporation sole altering, amending, or restating its articles of incorporation  
131 on or after May 3, 2004 shall continuously maintain with the Division of Corporations and  
132 Commercial Code the name, title, and Utah street address of an official representative for the  
133 corporation sole.

134 (b) The official representative described in Subsection (1)(a) shall, on behalf of the  
135 corporation sole, receive communication, notices, or demands from:

136 (i) the Division of Corporations and Commercial Code; or

137 (ii) any other state or federal authority, agency, or official.

138 (c) If a corporation sole appoints a registered agent pursuant to Subsection (2), that  
139 registered agent is the official representative of the corporation sole for purposes of this  
140 Subsection (1).

141 (2) (a) A corporation sole formed under this chapter may maintain a registered office  
142 and registered agent in Utah by:

143 (i) filing a statement with the Division of Corporations and Commercial Code; and

144 (ii) meeting the requirements imposed on a nonprofit corporation under Subsection  
145 16-6a-501(2).

146 (b) A corporation sole maintaining a registered office or registered agent may change  
147 the registered office or registered agent by complying with the requirements imposed on a  
148 nonprofit corporation under Section 16-6a-502.

149 (c) A registered agent of a corporation sole may resign by complying with the  
150 requirements imposed on a registered agent of a nonprofit corporation under Section  
151 16-6a-503.

152 (d) A registered agent described in this Subsection (2) is the agent of the corporation  
 153 sole for service of:

154 (i) process;

155 (ii) notice;

156 (iii) demand; or

157 (iv) any type required or permitted by law to be served on the corporation sole.

158 Section 7. Section **16-7-16** is enacted to read:

159 **16-7-16. Prohibition on formation of corporation sole after May 3, 2004.**

160 Notwithstanding any other provision of this chapter, a corporation sole may not be  
 161 formed or incorporated under this chapter after May 3, 2004.

162 ~~§ [Section 8. Section **16-7-17** is enacted to read:~~

163 ~~—— **16-7-17. Conversion or dissolution of corporation sole formed on or after January**~~  
 164 ~~**1, 1990:**~~

165 ~~—— **(1) On or before December 31, 2006, a corporation sole formed on or after January 1,**~~  
 166 ~~**1990 shall:**~~

167 ~~—— **(a) dissolve pursuant to Section 16-7-12; or**~~

168 ~~—— **(b) convert to a nonprofit corporation by:**~~

169 ~~—— **(i) filing an amendment to the articles of incorporation of the corporation sole with the**~~  
 170 ~~**Division of Corporations and Commercial Code; and**~~

171 ~~—— **(ii) complying with all the requirements of incorporation under Title 16, Chapter 6a,**~~  
 172 ~~**Utah Revised Nonprofit Corporation Act.**~~

173 ~~—— **(2) A corporation sole becomes a nonprofit corporation on the day on which the**~~  
 174 ~~**corporation sole complies with Subsection (1)(b):**~~

175 ~~—— **(3) The Division of Corporations and Commercial Code:**~~

176 ~~—— **(a) shall use any reasonable means to notify a corporation sole described in Subsection**~~  
 177 ~~**(1) of the requirements of this section; and**~~

178 ~~—— **(b) may dissolve a corporation sole that does not comply with this section.]** h~~

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**Legislative Review Note**

as of 1-21-04 1:23 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0144**

**Corporations Sole Amendments**

*02-Feb-04*

*9:42 AM*

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**State Impact**

Can be handled within existing budgets

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**Individual and Business Impact**

Impact will vary according to individual circumstances.

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**Office of the Legislative Fiscal Analyst**