

CORPORATIONS SOLE AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ requires a corporation sole, when amending or restating its articles of incorporation,

to:

- provide a name, title, and street address of an incorporator; and
- maintain an official representative;
- ▶ modifies certain requirements related to filings by a corporation sole;
- ▶ allows a corporation sole to maintain a registered office and registered agent;
- ▶ prohibits the formation of a new corporation sole after May 3, 2004; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

16-7-5, Utah Code Annotated 1953

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

16-7-9, Utah Code Annotated 1953

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

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

ENACTS:

16-7-15, Utah Code Annotated 1953

16-7-16, Utah Code Annotated 1953

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

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

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

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

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

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

(b) be executed by:

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

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

(c) specify the name, title, and street address of the person described in Subsection (2)(b);

and

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

(3) A corporation sole altering or amending its articles of incorporation after May 3, 2004, shall comply with Subsection 16-7-15(1).

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

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

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

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

(b) signed by:

(i) the person representing the corporation in the official capacity designated in the articles of incorporation[;]; or [by]

(ii) a duly authorized agent or agents designated and named in a certificate filed by [such]

~~the corporation [in the office of] with the Division of Corporations and Commercial Code[, and sealed with the seal of the corporation; an impression of which seal shall be filed with the Division of Corporations and Commercial Code].~~

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

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

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

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

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

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

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

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

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

16-7-12. Dissolution of corporation sole.

(1) A corporation sole may be dissolved and its affairs wound up voluntarily by filing with the Division of Corporations and Commercial Code articles of dissolution, fully executed and

signed under penalty of perjury, by the chief officer of the corporation. If any corporation sole ceases to have assets, has failed to function, or desires to terminate its existence, the articles of dissolution may be filed by any officer of the corporation authorized to administer the affairs and property of the corporation.

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

(3) The articles of dissolution shall set forth:

- (a) the name of the corporation;
- (b) the reason for its dissolution or winding up;
- (c) that dissolution of the corporation has been duly authorized by the organization governed by the corporation sole;
- (d) the names and addresses of the persons who are to supervise the winding up of the affairs of the corporation;
- (e) that all debts, obligations, and liabilities of the corporation sole have been paid and discharged or that adequate provision has been made therefor;
- (f) that all the remaining property and assets of the corporation sole have been transferred, conveyed, or distributed in accordance with the purposes of Section 16-7-1; and
- (g) that there are no suits pending against the corporation sole in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

(4) The Division of Corporations and Commercial Code may administratively dissolve a corporation sole that does not comply with Subsection 16-7-15(1) in accordance with the relevant procedures for administrative dissolution of a nonprofit corporation under Sections 16-6a-1411, 16-6a-1412, and 16-6a-1413.

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

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

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

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

(b) If there is no such incorporator or successor, the articles shall be signed by the officer or official authorized to administer the affairs and property of the corporation according to the practices and procedures of the church, denomination, or religious society.

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

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

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

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

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

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

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

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

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

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

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

(i) filing a statement with the Division of Corporations and Commercial Code; and
(ii) meeting the requirements imposed on a nonprofit corporation under Subsection 16-6a-501(2).

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

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

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

(i) process;

(ii) notice;

(iii) demand; or

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

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

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

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