

S.B. 84

NONPROFIT ENTITY AMENDMENTS

Senator **Lyle W. Hillyard** proposes the following amendments:

1. *Page 7, Lines 204 through 206:*

204 (32) "Mutual benefit corporation" means a nonprofit corporation all of whose assets are
205 contributed or earned by or for the members of the nonprofit corporation to serve the
 ~~{collective}~~ mutual
206 purposes of the members.

2. *Page 10, Line 282:*

(44) "Shareholder" means the person in whose name a share is registered in the records of a nonprofit corporation.

(45) "Share" means a unit of interest in a nonprofit corporation.

282 ~~{(43)}~~ ~~{(44)}~~ (46) "State," when referring to a part of the United States, includes:

3. *Page 10, Line 291:*

291 ~~{(44)}~~ ~~{(45)}~~ (47) "Street address" means:

4. *Page 10, Line 301:*

301 ~~{(45)}~~ ~~{(46)}~~ (48) "United States" includes any district, authority, office, bureau, commission,

5. *Page 10, Line 303:*

303 ~~{(46)}~~ ~~{(47)}~~ (49) "Vote" includes authorization by:

6. *Page 10, Line 306:*

306 ~~{(47)}~~ ~~{(48)}~~ (50) (a) "Voting group" means all the members of one or more classes of

7. *Page 12, Lines 358 through 363:*

358 (2) A complainant may not commence or maintain a derivative proceeding unless the
359 complainant:

360 (a) is ~~{was once}~~ a voting member , or a director in a nonprofit corporation that ~~{no~~
longer

361 ~~{has}~~ does not have voting members , at the time the proceeding is brought; and

362 (b) fairly and adequately represents the nonprofit corporation's interests in enforcing
363 the nonprofit corporation's right.

8. Page 16, Lines 476 through 480:

476 (1) (a) A nonprofit corporation shall give to each director entitled to vote at an annual
477 meeting notice of the annual meeting consistent with the nonprofit corporation's bylaws in a fair and
reasonable manner.

478 (b) ~~{ Except as otherwise provided in the bylaws, "fair and reasonable," as used in~~
479 ~~Subsection (1)(a), has the same meaning as set forth in Subsection 16-6a-704(3)(a), as the~~
480 ~~context permits. }~~ Notice under Subsection (1)(a) is fair and reasonable if:

(a) the nonprofit corporation notifies each director of the place, date, and time of the annual meeting:

(i) no fewer than ten days before the meeting;

(ii) if notice is mailed by other than first-class or registered mail, no fewer than 30 days, nor more than 60 days before the meeting date; and

(iii) if notice is given by newspaper as provided in Subsection 16-6a-103(2), by publication three separate times with:

(A) the first of the publications no more than 60 days before the meeting date; and

(B) the last of the publications no fewer than ten days before the meeting date.

9. Page 18, Line 552 through Page 19, Line 557:

552 ~~{+}~~ (b) the breach or failure to perform constitutes:

553 [(i) willful misconduct; ~~{-or-}~~]

554 [(ii) intentional infliction of harm on:]

555 [(A) the nonprofit corporation; or]

556 [(B) the members of the nonprofit corporation ~~{-}~~ ; or ~~{+}~~]

557 ~~{(b)}~~ (iii) the breach or failure to perform constitutes gross negligence.

10. Page 23, Lines 679 through 680:

679 domestic nonprofit corporations, or foreign nonprofit corporations may merge into ~~{-another-}~~ a
680 nonprofit corporation:

11. Page 23, Lines 703 through 705:

703 (d) the manner and basis of converting in whole or part the shares or memberships [of
704 each nonprofit corporation, if any;] if any, of each party to the merger into shares, memberships,
705 obligations, or other interests of:

12. Page 24, Lines 711 through 712:

711 (3) In addition to the provisions required by Subsection (2), the plan of merger may set
712 forth other provisions relating to the merger.

= (4) One or more domestic corporations may merge into a domestic nonprofit corporation if:
(a) the board of directors of each participating domestic corporation adopts the plan of merger;
(b) the shareholders of each participating domestic corporation adopt the plan of merger in
accordance with Section 16-10a-1103; and
(c) the merger is effected in compliance with Chapter 6a, Part 11, Merger.

13. Page 27, Line 807:

807 the merger that are to be converted into shares, memberships, obligations, or other interests of the

14. Page 27, Line 833 through Page 28, Line 836:

833 (2) A nonprofit corporation may make distributions upon dissolution:

834 ~~{(a) in conformity with this chapter;}~~

835 ~~{(b)}~~ (a) to a member that is a domestic or foreign nonprofit corporation; ~~{and}~~

836 ~~{(c)}~~ (b) to its members if it is a mutual benefit corporation ~~{.}~~ ; and

(c) otherwise in conformity to this chapter.

= (3) A mutual benefit corporation may purchase a member's membership in conformity with Section
16-6a-610 if, after the purchase is completed:

(a) the mutual benefit corporation would be able to pay its debts as they become due in the usual
course of its activities; and

(b) the mutual benefit corporation's total assets would at least equal the sum of its total liabilities.