

## LEGISLATIVE BILL 285

Approved by the Governor March 13, 1997

Introduced by Kristensen, 37

AN ACT relating to the Nebraska Nonprofit Corporation Act; to amend section 21-1914, Revised Statutes Supplement, 1996; to redefine a term; to exempt from the act certain corporations created to carry out a federal mandate; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 21-1914, Revised Statutes Supplement, 1996, is amended to read:

21-1914. For purposes of the Nebraska Nonprofit Corporation Act, unless the context otherwise requires:

(1) Approved by (or approval by) the members means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or by a written ballot, or written consent in conformity with the act or by the affirmative vote, written ballot, or written consent of such greater proportion, including the votes of all the members of any class, unit, or grouping as may be provided in the articles, bylaws, or the act for any specified member action;

(2) Articles of incorporation or articles include amended and restated articles of incorporation and articles of merger;

(3) Board or board of directors means the board of directors except that no person or group of persons are the board of directors because of powers delegated to that person or group pursuant to section 21-1968;

(4) Bylaws means the code or codes of rules (other than the articles) adopted pursuant to the act for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(5) Class means a group of memberships which have the same rights with respect to voting, dissolution, redemption, and transfer. For purposes of this section, rights shall be considered the same if they are determined by a formula applied uniformly;

(6) Corporation means a public benefit, a mutual benefit, or a religious corporation;

(7) Delegate means a person elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters;

(8) Deliver includes mail;

(9) Director means an individual, designated in the articles or bylaws or elected by the incorporators, and his or her successor and an individual elected or appointed by any other name or title to act as a member of the board;

(10) Distribution means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers;

(11) Domestic corporation means a corporation;

(12) Effective date of notice has the same meaning as in section 21-1915;

(13) Employee does not include an officer or director who is not otherwise employed by the corporation;

(14) Entity includes corporation and foreign corporation; business corporation and foreign business corporation; profit and nonprofit unincorporated association; corporation sole; business trust, estate, partnership, limited liability company, registered limited liability partnership, trust, and two or more persons having a joint or common economic interest; state or the United States; and foreign government;

(15) File, filed, or filing means filed in the office of the Secretary of State;

(16) Foreign corporation means a corporation organized under a law other than the law of this state which would be a nonprofit corporation if formed under the laws of this state;

(17) Governmental subdivision includes authority, county, district, and municipality;

(18) Individual includes the estate of an incompetent individual;

(19) Member means (without regard to what a person is called in the articles or bylaws) any person or persons who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, have the right

to vote for the election of a director or directors. The definition of member does not apply to a corporation created for the collection of assessments under federally mandated programs if the articles of such corporation provide that the corporation shall not have members. → A person is not a member by virtue of any of the following:

- (i) Any rights such person has as a delegate;
  - (ii) Any rights such person has to designate a director or directors; or
  - (iii) Any rights such person has as a director;
- (20) Membership means the rights and obligations a member or members have pursuant to a corporation's articles, bylaws, and the act;
- (21) Mutual benefit corporation means a domestic corporation which is formed as a mutual benefit corporation pursuant to sections 21-1920 to 21-1926 or is required to be a mutual benefit corporation pursuant to section 21-19,177;
- (22) Notice has the same meaning as in section 21-1915;
- (23) Person includes any individual or entity;
- (24) Principal office means the office (in or out of this state) so designated in the biennial report filed pursuant to section 21-19,172 where the principal offices of a domestic or foreign corporation is located;
- (25) Proceeding includes civil, criminal, administrative, and investigatory actions;
- (26) Public benefit corporation means a domestic corporation which is formed as a public benefit corporation pursuant to sections 21-1920 to 21-1926 or is required to be a public benefit corporation pursuant to section 21-19,177;
- (27) Record date means the date established under sections 21-1938 to 21-1950 or 21-1951 to 21-1967 on which a corporation determines the identity of its members for the purposes of the act;
- (28) Religious corporation means a domestic corporation which is formed as a religious corporation pursuant to sections 21-1920 to 21-1926 or is required to be a religious corporation pursuant to section 21-19,177;
- (29) Secretary means the corporate officer to whom the board of directors has delegated responsibility under subsection (b) of section 21-1990 for custody of the minutes of the directors' and members' meetings and for authenticating the records of the corporation;
- (30) State, when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States;
- (31) United States includes district, authority, bureau, commission, department, and any other agency of the United States;
- (32) Vote includes authorization by written ballot and written consent; and
- (33) Voting power means the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote which is contingent upon the happening of a condition or event that has not occurred at the time. Where a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

Sec. 2. Original section 21-1914, Revised Statutes Supplement, 1996, is repealed.