

# CALIFORNIA CORPORATIONS CODE

## **PART 2. NONPROFIT PUBLIC BENEFIT CORPORATIONS CHAPTER 1. ORGANIZATION AND BYLAWS**

### **Article 1. Title and Purposes**

**5110.** This part shall be known and may be cited as the Nonprofit Public Benefit Corporation Law.

**5111.** Subject to any other provisions of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any public or charitable purposes.

### **Article 2. Formation**

**5120.** (a) One or more persons may form a corporation under this part by executing and filing **articles of incorporation**.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

(d) At the time of filing pursuant to this section, a corporation shall furnish an additional copy of its articles to the Secretary of State who shall forward that copy to the Attorney General.

(e) If the corporation was created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or other entity, the corporation shall furnish an additional copy of its articles to the Secretary of State, who shall forward the additional copy to the Controller.

**5121.** (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 5130, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by a verified statement of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the verified statement is attached has been approved by the association in accordance with its rules and procedures.

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who had any voting rights of the type referred to in Section 5056 become members of the corporation.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(g) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the

unincorporated association.

**5122.** (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Commissioner of Financial Institutions is attached thereto.

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106 or a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110, or subdivision (c) of Section 5008, or a name which is under reservation pursuant to this title, except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(c) Any applicant may, upon payment of the fee prescribed therefore in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (b).

### **Article 3. Articles of Incorporation**

**5130.** The articles of incorporation of a corporation formed under this part shall set forth:

(a) The name of the corporation.

(b) The following statement:

"This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public or charitable purposes."

If the purposes include "public" purposes, the articles shall, and in all other cases the articles may, include a further description of the corporation's purposes.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 6210.

**5131.** The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

**5132.** (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(A) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(B) That in the event of its dissolution pursuant to an article provision allowed by subparagraph (A) or in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(3) A provision that would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(4) A provision that requires an amendment to the articles, as provided in subdivision (a) of Section 5812, or to the bylaws, and any amendment or repeal of that amendment, to be approved in writing by a specified person or persons other than the board or the members. However, this approval requirement, unless the articles specify otherwise, shall not apply if any of the following circumstances exist:

(A) The specified person or persons have died or ceased to exist.

(B) If the right of the specified person or persons to approve is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist.

(C) If the corporation has a specific proposal for amendment or repeal, and the corporation has provided written notice of that proposal, including a copy of the proposal, to the specified person or persons at the most recent address for each of them, based on the corporation's records, and the corporation has not received written approval or nonapproval within the period specified in the notice, which shall not be less than 10 nor more than 30 days commencing at least 20 days after the notice has been provided.

(5) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision that is required or permitted by this part to be stated in the bylaws.

**5133.** For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.

**5134.** If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers.

## **CHAPTER 19. FOREIGN CORPORATIONS**

**6910.** Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of Division 1, except as to matters specifically otherwise provided for in this part and except that Section 2115 shall not be applicable.

## **PART 3. NONPROFIT MUTUAL BENEFIT CORPORATIONS**

### **CHAPTER 1. ORGANIZATION AND BYLAWS**

#### **Article 1. Title and Purposes**

**7110.** This part shall be known and may be cited as the Nonprofit Mutual Benefit Corporation Law.

**7111.** Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any lawful purpose; provided that a corporation all of the assets of which are irrevocably dedicated to charitable, religious, or public purposes and which as a matter of law or according to its articles or bylaws must, upon dissolution, distribute its assets to a person or persons carrying on a charitable, religious, or public purpose or purposes may not be formed under this part.

#### **Article 2. Formation**

**7120.** (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

**7121.** (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 7130, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by a verified statement of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the verified statement is attached has been approved by the association in accordance with its rules and procedures.

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who had any voting rights of the type referred to in Section 5056 become members of the corporation.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located, of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State, shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(g) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant

to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

**7122.** (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Commissioner of Financial Institutions is attached thereto.

(b) The Secretary of State shall not file articles pursuant to this part setting forth a name which may create the impression that the purpose of the corporation is public, charitable or religious or that it is a charitable foundation.

(c) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110, or subdivision (c) of Section 5008, or a name which is under reservation pursuant to this title, except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(d) Any applicant may, upon payment of the fee prescribed therefore in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (c), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same



name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (c).

**7122.3.** The Secretary of State shall not file articles for a corporation the name of which would fall within the prohibitions of Section 18104 of the Financial Code. This section shall not apply to articles filed for a corporation organized in accordance with Section 18100 of the Financial Code.

### **Article 3. Articles of Incorporation**

**7130.** The articles of incorporation of a corporation formed under this part shall set forth the following:

(a) The name of the corporation.

(b) (1) Except as provided in paragraph (2), the following statement: "This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law."

(2) In the case of a corporation formed under this part that is subject to the California Credit Union Law, the articles shall set forth a statement of purpose that is prescribed in the applicable provisions of the California Credit Union Law.

(3) The articles may include a further definition of the corporation's purposes.

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision(b) of Section 8210.

**7131.** The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

**7132.** (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by a corporation the right to vote in the election of directors and on any other matters on which members may vote under this part even if the corporation does not have members.

(3) A provision conferring upon members the right to determine the consideration for which memberships shall be issued.

(4) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(A) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(B) That in the event of its dissolution pursuant to an article provision allowed by subparagraph (A) or in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) Provisions concerning the transfer of memberships, in accordance with Section 7320.

(3) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(4) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(5) A provision that requires an amendment to the articles, as provided in subdivision (a) of Section 7812, or to the bylaws, and any amendment or repeal of that amendment, to be approved in writing by a specified person or persons other than the board or the members. However, this approval requirement, unless the articles specify otherwise, shall not apply if any of the following circumstances exist:

(A) The specified person or persons have died or ceased to exist.

(B) If the right of the specified person or persons to approve is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist.

(C) If the corporation has a specific proposal for amendment or repeal, and the corporation has provided written notice of that proposal, including a copy of the proposal, to the specified person or persons at the most recent address for each of them, based on the corporation's records, and the corporation has not received written approval or nonapproval within the period specified in the notice, which shall not be less than 10 nor more than 30 days commencing at least 20 days after the notice has been provided.

(6) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

**7133.** For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.

**7134.** If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers.

**7135.** Nothing in Section 7130 or 7131 or in any provision of the articles of a mutual benefit corporation shall be construed to limit the equitable power of a court to impress a charitable trust upon any or all of the assets of a mutual benefit corporation or otherwise treat it as a public benefit corporation.

**PART 11. NONPROFIT MEDICAL, HOSPITAL, OR LEGAL SERVICES  
CORPORATIONS**

**Article 3. Nonprofit Corporation to Administer System of  
Defraying Cost of Professional Services of Attorneys**

**10830.** A nonprofit corporation may be formed under Part 3 (commencing with Section 7110) of this division for the purposes of administering a system or systems of defraying the cost of professional services of attorneys, but any such corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

(a) The attorneys furnishing professional services pursuant to such system or systems are acting in compliance with the Rules of Professional Conduct of the State Bar of California concerning such system or systems.

(b) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all active members of the State Bar.

(c) Voting by proxy and cumulative voting are prohibited.

(d) A certificate is issued to the corporation by the State Bar of California, finding compliance with the requirements of subdivisions (a), (b) and (c).

Any such corporation shall be subject to supervision by the State Bar of California and shall also be subject to Part 3 (commencing with Section 7110) of this division except as to matters specifically otherwise provided for in this article.

**10831.** The provisions of this article apply to corporations formed on or after January 1, 1980, under Part 3 of this division and pursuant to this article and to corporations existing on December 31, 1979, and formed under Section 9201.2 of the Corporations Code then in effect.