

MASSACHUSETTS

CHAPTER 180 - CORPORATIONS FOR CHARITABLE AND CERTAIN OTHER PURPOSES

Section 2. Definitions. In this chapter the following words shall, unless a contrary intention appears, have the following meanings:—

(a) “articles of organization”, the articles of organization of a corporation, including any special acts, as from time to time restated or amended, including articles of merger or consolidation;

(b) “by-laws”, the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(c) “corporation”, a domestic corporation (i) heretofore established either by general or special law for any one or more of the purposes mentioned in section four or (ii) organized under this chapter on or after October first, nineteen hundred and seventy-one;

(d) “directors” or “board of directors”, the directors of a corporation, including persons and officers having the powers of directors;

(e) “member”, one having membership rights, whether or not designated as a member, in a corporation in accordance with the provisions of its articles of organization or by-laws.

(f) “public charity”, a corporation holding funds subject to the provisions of section eight of chapter twelve.

Section 3. Incorporators; manner of incorporation; classes of members; personal liability of officers and directors to corporation.

One or more persons, of the age of eighteen years or more in the case of natural persons, may act as incorporators to form a corporation for any of the purposes mentioned in section four. The corporation shall be formed in the manner prescribed in and subject to section thirty of chapter sixty-nine, section two B of chapter one hundred and fifty-five and sections eleven, twelve and thirteen of chapter one hundred and fifty-six B, except that the corporation shall have no capital stock, the articles of organization shall omit references to stock and stockholders, the articles of organization shall

specify the purposes for which the corporation is formed and the corporation may not assume a name that is misleading as to its corporate purposes.

A corporation may have one or more classes of members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment, the duration of membership and the qualification and rights, including voting rights, of the members of each class shall be set forth in the articles of organization or the by-laws. If a corporation does not have members, any action or vote required or permitted by this chapter to be taken by members of the corporation shall be taken by action or vote of the same percentage of the directors of the corporation.

The articles of organization, in addition, may state a provision eliminating or limiting the personal liability of officers and directors to the corporation or its members for monetary damages for breach of fiduciary duty as an officer or director notwithstanding any provision of law imposing such liability; provided, however, that such provision shall not eliminate or limit the liability of an officer or director (i) for any breach of the officer's or director's duty of loyalty to the corporation or its members, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, or (iii) for any transaction from which the officer or director derived an improper personal benefit. No provision adopted pursuant to the provisions of this paragraph shall eliminate or limit the liability of an officer or director for any act or omission occurring prior to the date upon which such provision becomes effective.

Section 4. Purposes. A corporation may be formed for any one or more of the following purposes:

- (a) for any civic, educational, charitable, benevolent or religious purpose;
- (b) for the prosecution of any antiquarian, historical, literary, scientific, medical, chiropractic, artistic, monumental or musical purpose;
- (c) for establishing and maintaining libraries;
- (d) for supporting any missionary enterprise having for its object the dissemination of religious or educational instruction in foreign countries;
- (e) for promoting temperance or morality in the commonwealth;

(f) for fostering, encouraging or engaging in athletic exercises or yachting;

(g) for encouraging the raising of choice breeds of domestic animals and poultry;

(h) for the association and accommodation of societies of Free Masons, Odd Fellows, Knights of Pythias or other charitable or social bodies of a like character and purpose;

(i) for the establishment and maintenance of places for reading rooms, libraries or social meetings;

(j) for establishing boards of trade, chambers of commerce and bodies of like nature;

(k) for providing nonprofit credit counseling services, as defined in section four A;

(l) for encouraging agriculture or horticulture; for improving and ornamenting the streets and public squares of any city or town by planting and cultivating ornamental trees therein and also otherwise improving the physical aspects of such city or town and furthering the recreation and enjoyment of the inhabitants thereof;

(m) for the purpose of purchasing, holding, preserving and maintaining burial grounds in accordance with the provisions of chapter one hundred and fourteen;

(n) for establishing a not-for-profit association of employers as authorized by section twenty-five E of chapter one hundred and fifty-two, including such not-for-profit associations of employers organized as nonprofit corporations.

If a corporation is formed under this chapter for the purpose of rendering one or more professional services as defined in chapter one hundred and fifty-six A, the relationship between the corporation or an employee thereof rendering professional service and the person receiving such service shall be the same as if such corporation or employee rendered such service to said person as an individual practitioner, including any liability arising out of the rendering of such service.

Section 9. Evidence of Corporate Existence. Any civic, educational, charitable, benevolent, church or cemetery organization created or organized under the laws of the commonwealth, the evidence of the corporate existence of which is not on file in the records of the state secretary by reason of the destruction of records or by reason of the fact that it was organized before such recording was required, may file such evidence with the state secretary. The evidence of corporate existence shall include, so far as originals are available, copies of agreements of association and articles of organization or similar documents, and a certificate executed by the president, treasurer, clerk and a majority of the directors, setting forth, so far as known, the history and present status of the corporation and its structure such as would have been disclosed by the filing of the original corporation documents and amendments thereto. The state secretary, if satisfied of its corporate existence, shall endorse his approval upon such copies of the agreement of association and articles of organization or similar documents and upon such certificate, and, upon receipt of a filing fee of five dollars, shall file the same in his office, and shall issue a certificate of incorporation, in such form as he shall determine, dated as of the earliest date upon which such documents shall indicate the corporation to have been in existence. Any civic, educational, charitable, benevolent, church or cemetery organization to which a certificate of incorporation is so issued shall thereafter comply with the provisions of the general laws relating to similar corporations.

Section 11A. Dissolution; voluntary; charitable corporation. (a) A charitable corporation constituting a public charity organized under any general or special law, which desires to voluntarily windup and close its affairs, may authorize its dissolution in accordance with this section. This section shall constitute the sole method for the voluntary dissolution of a charitable corporation.

(b) A petition for dissolution shall be authorized by vote of a majority of the corporation's board of directors entitled to vote thereon; provided, however, that if the corporation has 1 or more classes of members, the corporation may, in its articles of incorporation, in a by-law adopted by the incorporators under section 3 or in a by-law adopted by the members, assign the power of authorization to the members acting by majority vote of the members entitled to vote thereon or provide that the exercise of the power shall be subject to approval by the members.

(c) If the corporation has no remaining assets, the petition for dissolution shall be submitted to the division of public charities of the office of the attorney general setting forth in substance the grounds of the application for

dissolution together with the forms, affidavits and information as the division from time to time may prescribe. If the division is satisfied that the corporation has or will become inactive and that its dissolution would be in the public interest, the division may approve the dissolution of the corporation.

(d) If the corporation has remaining assets, the petition for its dissolution shall be filed in the supreme judicial court setting forth in substance the grounds for the application for dissolution and requesting the court to authorize the administration of its funds for similar public charitable purposes as the court may determine. The supreme judicial court may, by rule or order, provide that the petition and court authorization are not required for dissolutions approved by the division upon receipt of the forms, affidavits and information as the division may require if the corporation has net assets no greater than such amount as the court may provide in the rule or order or in such other situations as the court may provide.

Section 11B. Dissolution; involuntary; failure of charitable corporation to file annual financial reports. If any charitable corporation described in section eleven A fails to comply for two consecutive years with the provisions of section eight F of chapter twelve requiring the filing of annual financial reports with the office of the attorney general, or if the attorney general is satisfied that such corporation has become inactive and that its dissolution would be in the public interest, the attorney general may petition the supreme judicial court for the dissolution of such corporation, requesting the court to authorize the administration of its funds for such similar public charitable purposes as the court may determine, and the court, after notice by mail or otherwise as it may order, may dissolve such corporation. The attorney general may include as many corporations in a single application as he deems fit, and the court may include in its decree any or all of said corporations. The clerk of the supreme judicial court shall submit to the commissioner of revenue a list of corporations so dissolved.