

NONPROFIT CORPORATION ACT
Act 162 of 1982

AN ACT to revise, consolidate, and classify the laws relating to the organization and regulation of certain nonprofit corporations; to prescribe their duties, rights, powers, immunities, and liabilities; to provide for the authorization of foreign nonprofit corporations within this state; to impose certain duties on certain state departments; to prescribe fees; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1

450.2101 Short title.

Sec. 101. This act shall be known and may be cited as the "nonprofit corporation act".

450.2103 Construction and application of act.

Sec. 103. This act shall be liberally construed and applied to promote its underlying purposes and policies which include:

- (a) To simplify, clarify, and modernize the law governing nonprofit corporations.
- (b) To provide a general corporate form for the conduct of lawful nonprofit activities with such variations and modifications from the form as interested parties in any corporation may agree upon, subject only to overriding interests of this state and of third parties.

450.2106 Definitions; C to E.

Sec. 106. (1) "Charitable purpose corporation" means a nonprofit corporation that meets any of the following:

- (a) Is exempt or qualifies for exemption under section 501(c)(3) of the internal revenue code, 26 USC 501.
- (b) Is a corporation whose purposes, structure, or activities are exclusively those that are described in section 501(c)(3) of the internal revenue code, 26 USC 501.
- (c) Is a corporation organized or held out to be organized exclusively for 1 or more charitable purposes.

(2) "Corporation" or "domestic corporation" means a nonprofit corporation.

(3) "Director" means an individual who is a member of the board of a corporation. The term is synonymous with "trustee" of a corporation or other similar designation.

(4) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

- (a) It does not directly involve the physical transmission of paper.
- (b) It creates a record that may be retained and retrieved by the recipient.
- (c) It may be directly reproduced in paper form by the recipient through an automated process.

CHAPTER 2

450.2201 Incorporators; signing and filing articles of incorporation.

Sec. 201. (1) One or more persons may be the incorporators of a corporation by signing in ink and filing articles of incorporation for the corporation.

(2) If there are 3 or more incorporators of a corporation, the incorporators may, by suitable resolution adopted by the incorporators at the organization meeting or by written instrument, designate any 1 among themselves to sign the articles of incorporation for that person and the remainder of the incorporators, in which case a copy of the resolution duly certified by the person who acted as secretary at the organization meeting shall be made a part of and filed with the articles of incorporation.

450.2202 Articles of incorporation; contents.

Sec. 202. The articles of incorporation shall contain:

- (a) The name of the corporation.
- (b) The purposes for which the corporation is organized. It shall not be sufficient to state substantially that the corporation may engage in any activity within the purposes for which a corporation may be organized under this act. A corporation which proposes to conduct educational purposes shall state such purposes and shall comply with all requirements of sections 170 to 177 of Act No. 327 of the Public Acts of 1931, as amended, being sections 450.170 to 450.177 of the Michigan Compiled Laws.
- (c) In the case of a corporation organized on a stock basis, the aggregate number of shares which the corporation has authority to issue.
- (d) In the case of a corporation organized on a stock basis, if the shares are, or are to be, divided into classes, to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined: the designation of each class; the number of shares in each class; and a statement of the relative rights, preferences, and limitations of the shares of each class.
- (e) In the case of a corporation organized on a nonstock basis, a description and statement of the value of any assets of the corporation classified as to real and personal property and the terms of the general scheme of financing the corporation.
- (f) In the case of a corporation organized on a nonstock basis, a statement that the corporation is organized on a membership basis or a statement that the corporation is organized on a directorship basis.
- (g) The street address, and the mailing address if different from the street address, of the corporation's initial registered office and the name of the corporation's initial resident agent at that address.
- (h) The names and addresses of all the incorporators, whether or not fewer than all the incorporators sign the articles pursuant to section 201(2).
- (i) The duration of the corporation if other than perpetual.

450.2209 Articles of incorporation; additional provisions.

Sec. 209. The articles of incorporation may contain any provision consistent with any of the following:

- (a) A provision regarding the management of the corporation or creating, defining, limiting, or regulating the powers of the corporation, its directors, officers, members, or

shareholders, or a class of shareholders or members.

(b) A provision that is required or permitted under this act to be included in the bylaws of the corporation.

(c) A provision that eliminates the personal liability of a volunteer director or volunteer officer to the corporation, its shareholders, or its members for monetary damages for a breach of the director's or officer's fiduciary duty. The provision does not eliminate or limit the liability of a director or officer for any of the following:

(i) A breach of the director's or officer's duty of loyalty to the corporation, its shareholders, or its members.

(ii) Acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law.

(iii) A violation of section 551(1).

(iv) A transaction from which the director or officer derived an improper personal benefit.

(v) An act or omission occurring before the effective date of the provision granting limited liability.

(vi) An act or omission that is grossly negligent.

(d) For a tax exempt corporation under section 501(c)(3) of the internal revenue code, a provision that the corporation assumes all liability to any person other than the corporation, its shareholders, or its members for all acts or omissions of a volunteer director occurring on or after January 1, 1988 incurred in the good faith performance of the volunteer director's duties.

(e) A provision that a nonprofit corporation assumes the liability for all acts or omissions of a volunteer director, volunteer officer, or other volunteer occurring on or after the effective date of the provision granting limited liability if all of the following are met:

(i) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.

(ii) The volunteer was acting in good faith.

(iii) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.

(iv) The volunteer's conduct was not an intentional tort.

(v) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in section 3135 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3135 of the Michigan Compiled Laws.

450.2221 Corporate existence to begin on effective date of articles; filing as conclusive evidence that conditions precedent fulfilled and corporation organized; exception.

Sec. 221. The corporate existence shall begin on the effective date of the articles of incorporation as provided in section 131. Filing is conclusive evidence that all conditions precedent required to be performed under this act have been fulfilled and that the corporation has been organized under this act, except in an action or special proceeding by the attorney general.

450.2231 Bylaws; adoption; amendment or repeal; contents.

Sec. 231. (1) Except if the power to adopt, amend, or repeal the bylaws is reserved

exclusively to the corporation's shareholders, its members, or its board in the articles of incorporation:

- (a) The initial bylaws of a corporation shall be adopted by its incorporators, its shareholders, its members, or its board.
 - (b) The shareholders, the members, or the board may amend or repeal the bylaws or adopt new bylaws.
 - (c) The shareholders or members may prescribe in the bylaws that any bylaw adopted by them shall not be amended or repealed by the board.
- (2) The bylaws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

450.2251 Corporate purposes; conduct of lawful activities during war or national emergency.

Sec. 251. (1) Except if required by law to incorporate under another statute of this state, a corporation may be formed under this act for any lawful purposes not involving pecuniary gain or profit for its officers, directors, shareholders, or members.

(2) In time of war or other national emergency, a corporation may conduct any lawful activity, including any business activity, in aid thereof, notwithstanding the purposes set forth in its articles of incorporation, at the request or direction of a competent governmental authority.

CHAPTER 5

450.2548 Loan, guaranty, or assistance by corporation for officer or employee; corporation as charitable purpose corporation.

Sec. 548. (1) Except as provided in subsection (4) and unless otherwise prohibited by law, a corporation may lend money to, or guarantee an obligation of, or otherwise assist an officer or employee of the corporation or a subsidiary, including an officer or employee who is a director of the corporation or subsidiary, if in the judgment of the board, the loan, guaranty, or assistance is reasonably expected to benefit the corporation.

(2) A loan, guaranty, or assistance described in subsection (1) may be with or without interest, and may be unsecured, or secured in a manner that the board approves.

(3) This section does not deny, limit, or restrict the powers of guaranty or warranty of a corporation at common law or under any statute.

(4) If a corporation is a charitable purpose corporation, the corporation shall not provide loans to or guarantee an obligation of an officer or director of the corporation or a subsidiary of a corporation, unless the officer or director is also a client of the corporation and the loan or guaranty is necessary to carry out the corporation's charitable purposes.

CHAPTER 9

450.2922 Failure of domestic or foreign corporation to file annual report or pay filing fee; automatic dissolution or revocation of certificate of authority; dissolution of charitable purpose corporation; notice; right to certificate of good

standing.

Sec. 922. (1) If a domestic corporation neglects or refuses for 2 consecutive years to file the annual reports or pay the annual filing fee required by law, the corporation shall be automatically dissolved. The administrator shall notify the corporation of the impending dissolution not later than 90 days before the 2 years has expired. Until a corporation has been dissolved, it is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly incorporated as a domestic corporation and that it is validly in existence under the laws of this state.

(2) A charitable purpose corporation that is dissolved under subsection (1) shall provide notice of the dissolution to the attorney general within 60 days after the date of the dissolution and shall not dispose of any of its assets without written approval of the attorney general.

(3) If a foreign corporation neglects or refuses for 1 year to file the annual report or pay the annual filing fee required by law, its certificate of authority is subject to revocation in accordance with section 1042. Until revocation of its certificate of authority or its withdrawal from this state or termination of its existence, the foreign corporation is entitled to issuance by the administrator, upon request, of a certificate of good standing setting forth that it has been validly authorized to transact business in this state and that it holds a valid certificate of authority to transact business in this state.

CHAPTER 10

450.3001 Foreign corporation authorized to conduct affairs in this state on effective date of act; rights and privileges; duties, restrictions, penalties, and liabilities.

Sec. 1001. A foreign corporation which is authorized to conduct affairs in this state on the effective date of this act, for a purpose for which a corporation might secure such authority under this act, has the rights and privileges applicable to a foreign corporation which receives a certificate of authority to transact business in this state under this act. From the effective date of this act the corporation is subject to the duties, restrictions, penalties, and liabilities prescribed herein for a foreign corporation which receives a certificate of authority to transact business in this state under this act.

450.3002 Foreign corporation receiving certificate of authority under act; rights and privileges; duties, restrictions, penalties, and liabilities.

Sec. 1002. A foreign corporation which receives a certificate of authority under this act, until a certificate of revocation or of withdrawal is issued as provided in this act, has the same rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which the certificate of authority is issued. Except as otherwise provided in this act, the corporation is subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed upon a domestic corporation of like character.