

# **Title 24 Revised Code of Washington**

## **Corporations and associations**

### **(nonprofit)**

#### **RCW 24.03.005 - Definitions.**

As used in this chapter, unless the context otherwise requires, the term:

- (1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.
- (2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.
- (3) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.
- (4) "Articles of incorporation" and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles. (5) "Bylaws" means 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.
- (6) "Member" means an individual or entity having membership rights in a corporation in accordance with the provisions of its articles or [of] incorporation or bylaws.
- (7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.
- (8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.
- (9) "Deliver" means: (a) Mailing; (b) transmission by facsimile equipment, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members; (c) electronic transmission, in accordance with the officer's, director's, or member's consent, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members under RCW [24.03.009](#); and (d) as prescribed by the secretary of state for purposes of submitting a record for filing with the secretary of state.
- (10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing records for filing under this chapter, means the secretary of state has determined that the record complies as to form with the applicable requirements of this chapter.
- (11) "Effective date" means, in connection with a record filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the records. When a record is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the record to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the record in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.
- (12) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by a sender and recipient.

- (13) "Electronically transmitted" means the initiation of an electronic transmission. (14) "Execute," "executes," or "executed" means (a) signed, with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity, with respect to an electronic transmission, or (c) filed in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state, with respect to a record to be filed with the secretary of state.
- (15) "Executed by an officer of the corporation," or words of similar import, means that any record executed by such person shall be and is executed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the record submission with the secretary of state and, for the purpose of records filed electronically with the secretary of state, in compliance with the rules adopted by the secretary of state for electronic filing.
- (16) "An officer of the corporation" means, in connection with the execution of records submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.
- (17) "Public benefit not for profit corporation" or "public benefit nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers and that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is specifically exempted from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).
- (18) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.
- (19) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.
- (20) "Writing" does not include an electronic transmission.
- (21) "Written" means embodied in a tangible medium.

#### **RCW 24.03.020 - Incorporators.**

One or more persons of the age of eighteen years or more, or a domestic or foreign, profit or nonprofit, corporation, may act as incorporator or incorporators of a corporation by executing and delivering to the secretary of state articles of incorporation for such corporation.

#### **RCW 24.03.025 - Articles of incorporation.**

The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including provisions regarding:
  - (a) Distribution of assets on dissolution or final liquidation;
  - (b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the members, if any;
  - (c) Eliminating or limiting the personal liability of a director to the corporation or its members, if any, for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that

involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(d) Any provision which under this title is required or permitted to be set forth in the bylaws.

(5) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(6) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(7) The name and address of each incorporator.

(8) The name of any person or corporations to whom net assets are to be distributed in the event the corporation is dissolved.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

#### **RCW 24.03.490 - Public benefit nonprofit corporation designation established.**

There is hereby established the special designation "public benefit not for profit corporation" or "public benefit nonprofit corporation." A corporation may be designated as a public benefit nonprofit corporation if it meets the following requirements:

(1) The corporation complies with the provisions of this chapter; and

(2) The corporation holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is not required to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

#### **RCW 24.03.500 - Public benefit nonprofit corporations — Temporary designation.**

A temporary designation as a public benefit nonprofit corporation may be provided to a corporation that has applied for tax exempt status under 26 U.S.C. Sec. 501(c)(3). The temporary designation is valid for up to one year and may be renewed at the discretion of the secretary.

#### **RCW 24.03.510 - Public benefit nonprofit corporations — Application.**

The secretary shall develop an application process for new and existing corporations to apply for public benefit nonprofit corporation status.

#### **RCW 24.03.520 - Public benefit nonprofit corporations — Renewal.**

The designation "public benefit nonprofit corporation" shall be renewed annually. The secretary may schedule renewals in conjunction with existing corporate renewals.

#### **RCW 24.03.540 - Public benefit nonprofit corporations — Removal of status.**

The secretary may remove a corporation's public benefit nonprofit corporation designation if it does not comply with the provisions of this chapter or does not maintain its exempt status under

26 U.S.C. Sec. 501(c)(3). The secretary in removing a corporation's public benefit nonprofit corporation status shall comply with administrative procedures provided by this chapter.

## **Chapter 24.40 RCW**

### **Tax reform act of 1969, state implementation — not for profit corporations**

#### **RCW 24.40.010 - Application.**

This chapter shall apply to every not for profit corporation to which Title 24 RCW applies, and which is a "private foundation" as defined in section 509 of the Internal Revenue Code of 1954, and which has been or shall be incorporated under the laws of the state of Washington after December 31, 1969. As to any such corporation so incorporated before January 1, 1970, this chapter shall apply only for its federal taxable years beginning after December 31, 1971.

#### **RCW 24.40.020 - Articles of incorporation deemed to contain prohibiting provisions**

The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain provisions prohibiting the corporation from:

(1) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954;

(2) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1954;

(3) Making any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1954; and

(4) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 1954) which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1954.

#### **RCW 24.40.030 - Articles of incorporation deemed to contain provisions for distribution.**

The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain a provision requiring such corporation to distribute, for the purposes specified in its articles of incorporation, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954.