

FINAL BILL REPORT

HB 1148

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Synopsis as Enacted

Brief Description: Addressing dissenters' rights under the Washington business corporation act.

Sponsors: Representatives Pedersen, Rodne, Goodman and Ryu; by request of Washington State Bar Association.

House Committee on Judiciary
Senate Committee on Law & Justice

Background:

Dissenters' Rights Under the Washington Business Corporation Act.

The Washington Business Corporation Act (WBCA) governs the creation, organization, and operation of corporations and the relationship between corporate directors, officers, and shareholders.

- The WBCA includes a chapter governing dissenters' rights. This chapter specifies the types of transactions and corporate actions that trigger dissenters' rights. The chapter also sets forth notice requirements to be followed by the corporation and dissenting shareholders.

Actions Which Trigger Dissenters' Rights.

A shareholder is entitled to dissent from, and obtain payment of the fair value of his or her shares in the event of the following corporate actions:

- A plan of merger, to which the corporation is a party, if:
 - shareholder approval of the merger was required *and* the shareholder was entitled to vote on the merger; *or*
 - b. the corporation was a subsidiary that has been merged with its parent and the parent owned at least 90 percent of the subsidiary's outstanding shares.
- A plan of share exchange in which the corporation's shares have been acquired, if the shareholder was entitled to vote on the plan.
- A sale or exchange of substantially all of the corporation's property (other than in the usual and regular course of business), if the shareholder was entitled to vote on the sale or exchange. This includes a sale in dissolution but not a sale pursuant to court order or a sale for cash pursuant to a plan in which the net proceeds of the sale are to be distributed within the next year.

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- An amendment of the corporation's articles of incorporation (whether or not the shareholder was entitled to vote), if the amendment effects a redemption or cancellation of all of the shareholder's shares in exchange for cash or other consideration (other than shares).
- Any action that triggers dissenters' rights pursuant to specific provisions of the corporation's articles of incorporation, bylaws, or corporate resolution.

In the event of certain, specified corporate actions triggering dissenters' rights, the corporation must deliver a notice to all shareholders that:

- states where the payment demand must be sent and where and when share certificates must be deposited;
- informs holders of uncertificated shares to what extent transfer of shares will be restricted after the payment demand is received;
- supplies a form for demanding payment;
- sets a date by which the corporation must receive the payment demand, which may not be fewer than 30 nor more than 60 days after the notice is delivered; and
- is accompanied by a copy of the WBCA chapter governing dissenters' rights.

Summary:

Three amendments are made to dissenters' rights:

1. A provision regarding dissenters' rights in the event of a subsidiary's merger with its parent is amended to make clear that the corporate action approving the merger, and not the occurrence of the merger, is what triggers the notice provisions. In the event of a subsidiary's merger with its parent, where the plan of merger provided for the merger of the subsidiary, notice must be delivered to all shareholders of the subsidiary (other than the parent) within 10 days of the effective date of the corporate action.
2. Specific reference is added to social purpose corporations.
3. Language is added specifically requiring notice in the case of an amendment to articles of incorporation that effects a reverse split of the corporation's sole class of outstanding shares and the number of authorized shares of that class in the same proportions, that is not required to be approved by shareholders, and that effects a redemption or cancellation of shares in exchange for cash or consideration other than shares. The corporation must deliver notice, within 10 days after the effective date of the corporate action, to all shareholders entitled to dissent.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 28, 2013