
SUBSTITUTE SENATE BILL 6788

State of Washington

61st Legislature

2010 Regular Session

By Senate Judiciary (originally sponsored by Senators Brown, Morton, Delvin, and Marr)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to dissolving the assets and affairs of a nonprofit
2 corporation; adding new sections to chapter 24.03 RCW; creating a new
3 section; repealing RCW 24.03.265, 24.03.270, and 24.03.290; and
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 24.03 RCW
7 to read as follows:

8 Superior courts may dissolve a nonprofit corporation:

9 (1) Except as provided in the articles of incorporation or bylaws,
10 in a proceeding by fifty members or members holding at least five
11 percent of the voting power, whichever is less, by one or more
12 directors, or by the attorney general if it is established that:

13 (a) The directors are deadlocked in the management of the corporate
14 affairs, the members, if any, are unable to break the deadlock, and
15 irreparable injury to the corporation or its mission is threatened or
16 being suffered because of the deadlock;

17 (b) The directors or those in control of the corporation have
18 acted, are acting, or will act in a manner that is illegal, oppressive,
19 or fraudulent;

1 (c) The members are deadlocked in voting power and have failed, for
2 a period that includes at least two consecutive annual meeting dates,
3 to elect successors to directors whose terms have, or otherwise would
4 have, expired;

5 (d) The corporate assets are being misapplied or wasted; or

6 (e) The corporation has insufficient assets to continue its
7 activities and it is no longer able to assemble a quorum of directors
8 or members;

9 (2) In a proceeding by a creditor, if it is established that:

10 (a) The creditor's claim has been reduced to judgment, the
11 execution on the judgment returned unsatisfied, and the corporation is
12 insolvent; or

13 (b) The corporation has admitted in a record that the creditor's
14 claim is due and owing and the corporation is insolvent; or

15 (3) In a proceeding by the corporation to have its voluntary
16 dissolution continued under court supervision.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 24.03 RCW
18 to read as follows:

19 (1) Venue for a proceeding brought by the attorney general to
20 dissolve a corporation pursuant to section 1(1) of this act lies in the
21 court specified in RCW 24.03.260. Venue for a proceeding brought by
22 any other party named in section 1(1) of this act lies in the county
23 where a corporation's principal office (or, if none in this state, its
24 registered office) is or was last located.

25 (2) It is not necessary to make directors or members parties to a
26 proceeding to dissolve a nonprofit corporation unless relief is sought
27 against them individually.

28 (3) A court in a proceeding brought to dissolve a nonprofit
29 corporation may issue injunctions, appoint a receiver or custodian
30 pendente lite with all powers and duties the court directs, take other
31 action required to preserve the corporate assets wherever located, and
32 carry on the activities of the corporation until a full hearing can be
33 held.

34 (4) A court in a judicial proceeding brought to dissolve a
35 nonprofit corporation may appoint one or more receivers to wind up and
36 liquidate, or one or more custodians to manage, the affairs of the
37 corporation. The court shall hold a hearing, after giving notice to

1 all parties to the proceeding and any interested persons designated by
2 the court, before appointing a receiver or custodian. The court
3 appointing a receiver or custodian has exclusive jurisdiction over the
4 corporation and all of its property wherever located.

5 (5) The court may require the receiver or custodian to post bond,
6 with or without sureties, in an amount the court directs.

7 (6) The court shall describe the powers and duties of the receiver
8 or custodian in its appointing order, which may be amended from time to
9 time. Among other powers:

10 (a) The receiver:

11 (i) May dispose of all or any part of the assets of the nonprofit
12 corporation wherever located, at a public or private sale, if
13 authorized by the court; and

14 (ii) May sue and defend in his or her own name as receiver of the
15 corporation in all courts of this state;

16 (b) The custodian may exercise all of the powers of the
17 corporation, through or in place of its board of directors, to the
18 extent necessary to manage the affairs of the corporation consistent
19 with its mission and in the best interests of its members, if any, and
20 creditors.

21 (7) During a receivership, the court may redesignate the receiver
22 a custodian, and during a custodianship may redesignate the custodian
23 a receiver, if doing so is consistent with the mission of the nonprofit
24 corporation and in the best interests of the corporation, its members,
25 if any, and creditors.

26 (8) The court from time to time during the receivership or
27 custodianship may order compensation paid and expense disbursements or
28 reimbursements made to the receiver or custodian and counsel from the
29 assets of the nonprofit corporation or proceeds from the sale of the
30 assets.

31 (9) The assets of the corporation or the proceeds resulting from
32 the sale, conveyance, or other disposition thereof shall be applied and
33 distributed as follows:

34 (a) All costs and expenses of the court proceedings and all
35 liabilities and obligations of the corporation shall be paid,
36 satisfied, and discharged, or adequate provision shall be made
37 therefor;

1 (b) Assets held by the corporation upon condition requiring return,
2 transfer, or conveyance, which condition occurs by reason of the
3 dissolution or liquidation, shall be returned, transferred, or conveyed
4 in accordance with such requirements;

5 (c) Assets received and held by the corporation subject to
6 limitations permitting their use only for charitable, religious,
7 eleemosynary, benevolent, educational, or similar purposes, but not
8 held upon a condition requiring return, transfer, or conveyance by
9 reason of the dissolution or liquidation, shall be transferred or
10 conveyed to one or more domestic or foreign corporations, societies, or
11 organizations engaged in activities substantially similar to those of
12 the dissolving or liquidating corporation as the court may direct;

13 (d) Other assets, if any, shall be distributed in accordance with
14 the provisions of the articles of incorporation or the bylaws to the
15 extent that the articles of incorporation or bylaws determine the
16 distributive rights of members, or any class or classes of members, or
17 provide for distribution to others;

18 (e) Any remaining assets may be distributed to such persons,
19 societies, organizations, or domestic or foreign corporations, whether
20 for profit or not for profit, specified in the plan of distribution
21 adopted as provided in this chapter, or where no plan of distribution
22 has been adopted, as the court may direct.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 24.03 RCW
24 to read as follows:

25 (1) If after a hearing the court determines that one or more
26 grounds for judicial dissolution described in section 1 of this act
27 exist, it may enter a decree dissolving the nonprofit corporation and
28 specifying the effective date of the dissolution, and the clerk of the
29 court shall deliver a certified copy of the decree to the secretary of
30 state, who shall file it.

31 (2) After entering the decree of dissolution, the court shall
32 direct the winding up and liquidation of the nonprofit corporation's
33 affairs in accordance with this chapter.

34 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
35 repealed:

1 (1) RCW 24.03.265 (Jurisdiction of court to liquidate assets and
2 affairs of corporation) and 1986 c 240 s 39 & 1967 c 235 s 54;

3 (2) RCW 24.03.270 (Procedure in liquidation of corporation by
4 court) and 1967 c 235 s 55; and

5 (3) RCW 24.03.290 (Decree of involuntary dissolution) and 1967 c
6 235 s 59.

7 NEW SECTION. **Sec. 5.** This act is prospective and applies only to
8 actions or proceedings commenced on or after the effective date of this
9 act.

10 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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