

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 3046**

Chapter 212, Laws of 2010

61st Legislature  
2010 Regular Session

NONPROFIT CORPORATIONS--DISSOLUTION

EFFECTIVE DATE: 03/25/10

Passed by the House March 9, 2010  
Yeas 97 Nays 0

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate March 2, 2010  
Yeas 44 Nays 1

BRAD OWEN

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**President of the Senate**

Approved March 25, 2010, 3:50 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 3046** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

March 26, 2010

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 3046**

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AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

**State of Washington                      61st Legislature                      2010 Regular Session**

**By**        House Judiciary (originally sponsored by Representatives  
Driscoll, Rodne, Kretz, Ormsby, Wood, Johnson, and Parker)

READ FIRST TIME 02/03/10.

1            AN ACT Relating to dissolving the assets and affairs of a nonprofit  
2 corporation; amending RCW 7.60.025; adding new sections to chapter  
3 24.03 RCW; creating a new section; repealing RCW 24.03.265, 24.03.270,  
4 and 24.03.290; and 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 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 of this act lies in the county where  
23 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 general or custodial  
30 receiver 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 general receivers to wind  
36 up and liquidate, or one or more custodial receivers to manage, the  
37 affairs of the corporation. The court shall hold a hearing, after

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

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

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

11 (a) The general receiver:

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

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

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

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

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

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

35 (a) All costs and expenses of the court proceedings and all  
36 liabilities and obligations of the corporation shall be paid,  
37 satisfied, and discharged, or adequate provision shall be made  
38 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 (10) Subsections (4) through (8) of this section do not apply to a  
24 church or its integrated auxiliaries.

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

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

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

1       **Sec. 4.** RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as  
2 follows:

3       (1) A receiver may be appointed by the superior court of this state  
4 in the following instances, but except in any case in which a  
5 receiver's appointment is expressly required by statute, or any case in  
6 which a receiver's appointment is sought by a state agent whose  
7 authority to seek the appointment of a receiver is expressly conferred  
8 by statute, or any case in which a receiver's appointment with respect  
9 to real property is sought under (b)(ii) of this subsection, a receiver  
10 shall be appointed only if the court additionally determines that the  
11 appointment of a receiver is reasonably necessary and that other  
12 available remedies either are not available or are inadequate:

13       (a) On application of any party, when the party is determined to  
14 have a probable right to or interest in property that is a subject of  
15 the action and in the possession of an adverse party, or when the  
16 property or its revenue-producing potential is in danger of being lost  
17 or materially injured or impaired. A receiver may be appointed under  
18 this subsection (1)(a) whether or not the application for appointment  
19 of a receiver is combined with, or is ancillary to, an action seeking  
20 a money judgment or other relief;

21       (b) Provisionally, during the pendency of any action to foreclose  
22 upon any lien against or for forfeiture of any interest in real or  
23 personal property, or after notice of a trustee's sale has been given  
24 under RCW 61.24.040, or after notice of forfeiture has been given under  
25 RCW 61.30.040, on application of any person, when the interest in the  
26 property that is the subject of foreclosure or forfeiture of the person  
27 seeking the receiver's appointment is determined to be probable and  
28 either:

29       (i) The property or its revenue-producing potential is in danger of  
30 being lost or materially injured or impaired; or

31       (ii) The appointment of a receiver with respect to the real or  
32 personal property that is the subject of the action, the notice of  
33 trustee's sale or notice of forfeiture is provided for by agreement or  
34 is reasonably necessary to effectuate or enforce an assignment of rents  
35 or other revenues from the property;

36       (c) After judgment, in order to give effect to the judgment;

37       (d) To dispose of property according to provisions of a judgment  
38 dealing with its disposition;

1 (e) To the extent that property is not exempt from execution, at  
2 the instance of a judgment creditor either before or after the issuance  
3 of any execution, to preserve or protect it, or prevent its transfer;

4 (f) If and to the extent that property is subject to execution to  
5 satisfy a judgment, to preserve the property during the pendency of an  
6 appeal, or when an execution has been returned unsatisfied, or when an  
7 order requiring a judgment debtor to appear for proceedings  
8 supplemental to judgment has been issued and the judgment debtor fails  
9 to submit to examination as ordered;

10 (g) Upon an attachment of real or personal property when the  
11 property attached is of a perishable nature or is otherwise in danger  
12 of waste, impairment, or destruction, or where the abandoned property's  
13 owner has absconded with, secreted, or abandoned the property, and it  
14 is necessary to collect, conserve, manage, control, or protect it, or  
15 to dispose of it promptly, or when the court determines that the nature  
16 of the property or the exigency of the case otherwise provides cause  
17 for the appointment of a receiver;

18 (h) In an action by a transferor of real or personal property to  
19 avoid or rescind the transfer on the basis of fraud, or in an action to  
20 subject property or a fund to the payment of a debt;

21 (i) In an action against any person who is not an individual if the  
22 object of the action is the dissolution of that person, or if that  
23 person has been dissolved, or if that person is insolvent or is not  
24 generally paying the person's debts as those debts become due unless  
25 they are the subject of bona fide dispute, or if that person is in  
26 imminent danger of insolvency;

27 (j) In accordance with RCW 7.08.030 (4) and (6), in cases in which  
28 a general assignment for the benefit of creditors has been made;

29 (k) In quo warranto proceedings under chapter 7.56 RCW;

30 (l) As provided under RCW 11.64.022;

31 (m) In an action by the department of licensing under RCW  
32 18.35.220(3) with respect to persons engaged in the business of  
33 dispensing of hearing aids, RCW (~~18.85.350~~) 18.85.430 in the case of  
34 persons engaged in the business of a real estate broker, associate real  
35 estate broker, or real estate salesperson, or RCW 19.105.470 with  
36 respect to persons engaged in the business of camping resorts;

37 (n) In an action under RCW 18.44.470 or 18.44.490 in the case of  
38 persons engaged in the business of escrow agents;

1 (o) Upon a petition with respect to a nursing home in accordance  
2 with and subject to receivership provisions under chapter 18.51 RCW;

3 (p) Under RCW 19.40.071(3), in connection with a proceeding for  
4 relief with respect to a transfer fraudulent as to a creditor or  
5 creditors;

6 (q) Under RCW 19.100.210(1), in an action by the attorney general  
7 or director of financial institutions to restrain any actual or  
8 threatened violation of the franchise investment protection act;

9 (r) In an action by the attorney general or by a prosecuting  
10 attorney under RCW 19.110.160 with respect to a seller of business  
11 opportunities;

12 (s) In an action by the director of financial institutions under  
13 RCW 21.20.390 in cases involving actual or threatened violations of the  
14 securities act of Washington or under RCW 21.30.120 in cases involving  
15 actual or threatened violations of chapter 21.30 RCW with respect to  
16 certain businesses and transactions involving commodities;

17 (t) In an action for or relating to dissolution of a business  
18 corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or  
19 23B.14.320, for dissolution of a nonprofit corporation under (~~RCW~~  
20 ~~24.03.270~~) section 2 of this act, for dissolution of a mutual  
21 corporation under RCW 24.06.305, or in any other action for the  
22 dissolution or winding up of any other entity provided for by Title 23,  
23 23B, 24, or 25 RCW;

24 (u) In any action in which the dissolution of any public or private  
25 entity is sought, in any action involving any dispute with respect to  
26 the ownership or governance of such an entity, or upon the application  
27 of a person having an interest in such an entity when the appointment  
28 is reasonably necessary to protect the property of the entity or its  
29 business or other interests;

30 (v) Under RCW 25.05.215, in aid of a charging order with respect to  
31 a partner's interest in a partnership;

32 (w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030,  
33 in the case of a bank or trust company or, under and subject to RCW  
34 32.24.070 through 32.24.090, in the case of a mutual savings bank;

35 (x) Under and subject to RCW 31.12.637 and 31.12.671 through  
36 31.12.724, in the case of credit unions;

37 (y) Upon the application of the director of financial institutions  
38 under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable

1 to agricultural lenders, under RCW 31.40.120 in actions to enforce  
2 chapter 31.40 RCW applicable to entities engaged in federally  
3 guaranteed small business loans, under RCW 31.45.160 in actions to  
4 enforce chapter 31.45 RCW applicable to persons licensed as check  
5 cashers or check sellers, or under RCW 19.230.230 in actions to enforce  
6 chapter 19.230 RCW applicable to persons licensed under the uniform  
7 money services act;

8 (z) Under RCW 35.82.090 or 35.82.180, with respect to a housing  
9 project;

10 (aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce  
11 rights under any revenue bonds issued for the purpose of financing  
12 industrial development facilities or bonds of the Washington state  
13 housing finance commission, or any financing document securing any such  
14 bonds;

15 (bb) Under and subject to RCW 43.70.195, in an action by the  
16 secretary of health or by a local health officer with respect to a  
17 public water system;

18 (cc) As contemplated by RCW 61.24.030, with respect to real  
19 property that is the subject of nonjudicial foreclosure proceedings  
20 under chapter 61.24 RCW;

21 (dd) As contemplated by RCW 61.30.030(3), with respect to real  
22 property that is the subject of judicial or nonjudicial forfeiture  
23 proceedings under chapter 61.30 RCW;

24 (ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien  
25 for common expenses against a dwelling unit subject to the horizontal  
26 property regimes act, chapter 64.32 RCW;

27 (ff) Under RCW 64.34.364(10), in an action by a unit owners'  
28 association to foreclose a lien for nonpayment of delinquent  
29 assessments against condominium units;

30 (gg) Upon application of the attorney general under RCW  
31 64.36.220(3), in aid of any writ or order restraining or enjoining  
32 violations of chapter 64.36 RCW applicable to timeshares;

33 (hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment  
34 or performance of municipal bonds issued with respect to facilities  
35 used to abate, control, or prevent pollution;

36 (ii) Upon the application of the department of social and health  
37 services under RCW 74.42.580, in cases involving nursing homes;

1 (jj) Upon the application of the utilities and transportation  
2 commission under RCW 80.28.040, with respect to a water company that  
3 has failed to comply with an order of such commission within the time  
4 deadline specified therein;

5 (kk) Under RCW 87.56.065, in connection with the dissolution of an  
6 irrigation district;

7 (ll) Upon application of the attorney general or the department of  
8 licensing, in any proceeding that either of them are authorized by  
9 statute to bring to enforce Title 18 or 19 RCW; the securities act of  
10 Washington, chapter 21.20 RCW; the Washington commodities act, chapter  
11 21.30 RCW; the land development act, chapter 58.19 RCW; or under  
12 chapter 64.36 RCW relating to the regulation of timeshares;

13 (mm) Upon application of the director of financial institutions in  
14 any proceeding that the director of financial institutions is  
15 authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

16 (nn) In such other cases as may be provided for by law, or when, in  
17 the discretion of the court, it may be necessary to secure ample  
18 justice to the parties.

19 (2) The superior courts of this state shall appoint as receiver of  
20 property located in this state a person who has been appointed by a  
21 federal or state court located elsewhere as receiver with respect to  
22 the property specifically or with respect to the owner's property  
23 generally, upon the application of the person or of any party to that  
24 foreign proceeding, and following the appointment shall give effect to  
25 orders, judgments, and decrees of the foreign court affecting the  
26 property in this state held by the receiver, unless the court  
27 determines that to do so would be manifestly unjust or inequitable.  
28 The venue of such a proceeding may be any county in which the person  
29 resides or maintains any office, or any county in which any property  
30 over which the receiver is to be appointed is located at the time the  
31 proceeding is commenced.

32 (3) At least seven days' notice of any application for the  
33 appointment of a receiver shall be given to the owner of property to be  
34 subject thereto and to all other parties in the action, and to other  
35 parties in interest as the court may require. If any execution by a  
36 judgment creditor under Title 6 RCW or any application by a judgment  
37 creditor for the appointment of a receiver, with respect to property  
38 over which the receiver's appointment is sought, is pending in any

1 other action at the time the application is made, then notice of the  
2 application for the receiver's appointment also shall be given to the  
3 judgment creditor in the other action. The court may shorten or expand  
4 the period for notice of an application for the appointment of a  
5 receiver upon good cause shown.

6 (4) The order appointing a receiver in all cases shall reasonably  
7 describe the property over which the receiver is to take charge, by  
8 category, individual items, or both if the receiver is to take charge  
9 of less than all of the owner's property. If the order appointing a  
10 receiver does not expressly limit the receiver's authority to  
11 designated property or categories of property of the owner, the  
12 receiver is a general receiver with the authority to take charge over  
13 all of the owner's property, wherever located.

14 (5) The court may condition the appointment of a receiver upon the  
15 giving of security by the person seeking the receiver's appointment, in  
16 such amount as the court may specify, for the payment of costs and  
17 damages incurred or suffered by any person should it later be  
18 determined that the appointment of the receiver was wrongfully  
19 obtained.

20 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
21 repealed:

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

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

26 (3) RCW 24.03.290 (Decree of involuntary dissolution) and 1967 c  
27 235 s 59.

28 NEW SECTION. **Sec. 6.** This act is prospective and applies only to  
29 actions or proceedings commenced on or after the effective date of this  
30 act.

31 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect

1 immediately.

Passed by the House March 9, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.