

Chapter 24.03A RCW
WASHINGTON NONPROFIT CORPORATION ACT

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PART I
FORMATION AND GENERAL CONDITIONS
ARTICLE 1
GENERAL PROVISIONS

RCW 24.03A.005 Short title. This chapter may be known and cited as the Washington nonprofit corporation act. [2021 c 176 § 1101.]

Effective date—2021 c 176: "Except for section 5204 of this act, this act takes effect January 1, 2022." [2021 c 176 § 6103.]

RCW 24.03A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Address," unless otherwise specified, means either a physical mailing address or an electronic address.

(2) "Articles" or "articles of incorporation" means the original articles of incorporation as modified by all amendments thereof, as filed by the secretary of state. If any record filed under this chapter restates the articles in their entirety, thenceforth the articles shall not include any prior filings.

(3) "Board" or "board of directors" means the team or body of individuals ultimately responsible for the management of the activities and affairs of the nonprofit corporation, regardless of the name used to refer to the team or body.

(4) "Bylaws" means the code or codes of rules, other than the articles, adopted for the regulation and governance of the internal affairs of the nonprofit corporation, regardless of the name or names used to refer to those rules, excluding separate policies or procedures adopted by the board.

(5) "Charitable corporation" means a domestic nonprofit corporation that is operated primarily or exclusively for one or more charitable purposes.

(6) "Charitable purpose" means a purpose that:

(a) Would make a corporation organized and operated exclusively for that purpose eligible to be exempt from taxation under section 501(c)(3) of the internal revenue code; or

(b) Is considered charitable under applicable law other than this chapter or the internal revenue code.

(7) "Contribution" means the payment, donation, or promise, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation.

(8) "Corporation" means a domestic nonprofit corporation, unless otherwise specified.

(9) "Delegate" means a person elected or appointed to vote in a representative capacity for the election of directors or on other matters.

(10) "Deliver" or "delivery" of a record means delivery by hand, United States mail, private courier service, electronic transmission, or other methods of delivery used in conventional commercial practice, except that delivery to the secretary of state means actual receipt by the secretary of state.

(11) "Director" means an individual designated, elected, or appointed, by that or any other name or title, to act as a member of the board of directors, while the individual is holding that position.

(12) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.

(13) "Domestic corporation" or "domestic nonprofit corporation" means a domestic corporation incorporated under or subject to this chapter.

(14) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of this state.

(15) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(16) "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 such a sender and recipient.

(17) "Electronically transmitted" means that the sender of an electronic transmission initiated the electronic transmission.

(18) "Eligible entity" means a domestic or foreign unincorporated entity, a domestic nonprofit corporation incorporated under a corporations statute other than this chapter or its predecessor statutes, or a domestic or foreign for-profit corporation.

(19) "Employee" does not include an individual serving as an officer or director who is not otherwise employed by the corporation.

(20) "Entitled to vote" means entitled to vote on the matter under consideration pursuant to the articles or bylaws of the nonprofit corporation or any applicable controlling provision of law.

(21) "Entity" means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and includes, but is not limited to:

(a) A domestic or foreign for-profit corporation;

(b) A domestic or foreign nonprofit corporation;

(c) A domestic or foreign general or limited partnership;

(d) A domestic or foreign limited liability partnership;

(e) A domestic or foreign limited liability company;

(f) Any other domestic or foreign unincorporated entity;

(g) A domestic or foreign estate or trust;

(h) The federal government;

(i) A tribal government; and

(j) A state or local government, foreign government, or governmental subdivision.

(22) "Ex officio director" means an individual who becomes a member of the board of directors not through the regular elections process but by virtue of another position that he or she holds. Unless the articles or bylaws specifically state that an ex officio director

does not have the right to vote, such a director has the same right to vote as any other director.

(23) "Execute" or "executed" means:

(a) Signed, with respect to a written record;

(b) Electronically transmitted along with sufficient information to determine the sender's identity and intent to execute; or

(c) With respect to a record to be filed by the secretary of state, in compliance with the standards for filing as prescribed by this chapter; chapter 23.95 RCW; or the secretary of state.

(24) "Federal government" includes a district, authority, bureau, commission, department, and any other agency of the federal government of the United States.

(25) "Filing entity" means an unincorporated entity that is created by filing a public organic record.

(26) "For-profit corporation" or "domestic for-profit corporation" means a domestic business corporation incorporated under or subject to Title 23B RCW or any successor provisions.

(27) "Foreign," with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other than this state.

(28) "Foreign for-profit corporation" means a foreign corporation that would be a for-profit corporation if incorporated under the law of this state.

(29) "Foreign corporation" or "foreign nonprofit corporation" means a foreign corporation that would be a nonprofit corporation if incorporated under the law of this state.

(30) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this state.

(31) "Fundamental transaction" means an amendment of the articles or bylaws, merger, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a nonprofit corporation.

(32) "Gift instrument" means a record or records under which property is donated to, transferred to, granted to, or held by the corporation. A solicitation constitutes a gift instrument with respect to a donation, transfer, or grant of property made in response to the solicitation only if:

(a) The solicitation was in the form of a record, including[,] but not limited to, invitations made by electronic transmission or in electronic media, or was documented in the form of a record created no later than ninety days after the solicitation was made; and

(b) The donation, transfer, or grant of property was made within one year of the solicitation.

(33) "Governmental subdivision" includes an authority, county, district, and municipality formed or authorized by any federal, state, or local government.

(34) "Includes" denotes a partial definition.

(35) "Individual" means a natural person.

(36) "Interest" means either or both of the following rights under the organic law of an unincorporated entity:

(a) The right to receive distributions from the entity either in the ordinary course or upon liquidation; or

(b) The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business, activities, or affairs.

(37) "Interest holder" means a person who holds of record an interest.

(38) "Interest holder liability" means personal liability for a debt, obligation, or liability of a domestic or foreign for-profit or nonprofit corporation or unincorporated entity that is imposed on a person:

(a) Solely by reason of the person's status as a shareholder, interest holder, or member; or

(b) By the articles, bylaws, or an organic record pursuant to a provision of the organic law authorizing the articles, bylaws, or an organic record to make one or more specified shareholders, interest holders, or members liable in their capacity as shareholders, interest holders, or members for all or specified debts, obligations, or liabilities of the entity.

(39) "Internal revenue code" means Title 26 U.S.C., the federal internal revenue code of 1986, as amended, or any successor statute.

(40) "Jurisdiction," when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(41) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(42) "Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the nonprofit corporation or the members generally, that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(43) "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(44) "Means" denotes an exhaustive definition.

(45) "Member" means:

(a) Where the articles state that the corporation has members, a person who has a right set forth in the articles or bylaws, not as a delegate, to select or vote for the election of directors or delegates or to vote on at least one type of fundamental transaction.

(b) For a corporation formed before January 1, 2022, the articles of which do not state that the corporation has members, a person who:

(i) Is defined as a member in the bylaws; and

(ii) Has a right provided in the bylaws, not as a delegate, to select or vote for the election of directors or delegates or to vote on at least one type of fundamental transaction.

(c) A delegate or group of delegates, to the extent:

(i) The powers, functions, or authority of the members have been vested in, or are exercised by, such a delegate or group of delegates; and

(ii) The provision of this chapter in which the term appears is relevant to the discharge by the delegate or group of delegates of its powers, functions, or authority.

(46) "Membership" means the rights and any obligations of a member in a nonprofit corporation.

(47) "Membership corporation" means a nonprofit corporation whose articles provide that it has members, or that has members as defined in subsection (45) of this section.

(48) "Nonfiling entity" means an unincorporated entity that is not created by filing a public organic record.

(49) "Nonmembership corporation" means a nonprofit corporation whose articles do not provide that it has members and that does not have members as defined in subsection (45)(b) of this section.

(50) "Nonprofit corporation" means a domestic nonprofit corporation, unless otherwise specified.

(51) "Notice" has the same meaning as described in RCW 24.03A.015.

(52) "Notify" means to provide notice as defined in RCW 24.03A.015.

(53) "Officer" includes:

(a) A person who is an officer as defined in RCW 24.03A.585; and

(b) If a nonprofit corporation is in the hands of a custodian, receiver, trustee, or other court-appointed fiduciary, that fiduciary or any person appointed by that fiduciary to act as an officer for any purpose under this chapter.

(54) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(55) "Organic record" means a public organic record or the private organic rules.

(56) "Person" includes an individual or an entity.

(57) "Principal office" means the office designated in the annual report required under RCW 23.95.255 as the location of the principal executive office of a domestic or foreign nonprofit corporation, whether or not in this state.

(58) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an unincorporated entity, are binding on all of its interest holders, and are not part of its public organic record, if any.

(59) "Proceeding" means any civil suit or criminal, administrative, or investigatory action.

(60) "Property" means all property, whether real, personal, or mixed or tangible or intangible, including cash, securities, or real property, or any right or interest therein.

(61) "Property held for charitable purposes" is as defined in RCW 24.03A.165.

(62) "Public organic record" means the record, if any, that is filed as a public record to create an unincorporated entity and any amendment to or restatement of that record.

(63) "Record" means information inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. An electronic transmission not directly involving the physical transfer of a record in a tangible medium is a record only if:

(a) It may be retained, retrieved, and reviewed by the sender and the recipient thereof; and

(b) It may be directly reproduced in a tangible medium by the sender and the recipient thereof.

(64) "Record date" means the date established under RCW 24.03A.420 on which a nonprofit corporation determines the identity of its members and the membership rights they hold for purposes of this chapter. The determinations shall be made as of 12:01 a.m. on the record date unless another time for doing so is specified when the record date is fixed.

(65) "Registered foreign nonprofit corporation" means a foreign nonprofit corporation registered to do business in this state.

(66) "Religious corporation" means a charitable corporation including, but not limited to, a church, mosque, synagogue, temple, nondenominational ministry, interdenominational or ecumenical organization, or faith-based social service agency, that is:

(a) Organized primarily for religious purposes;

(b) Operated primarily, in good faith, to carry out religious purposes;

(c) Held out to the public as carrying out religious purposes; and

(d) Not engaged primarily or substantially in the exchange of goods or services for consideration, unless the consideration does not exceed nominal amounts.

(67) "Shareholder" means the person in whose name shares are registered in the records of a domestic or foreign for-profit corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with such a corporation.

(68) "Shares" means the units into which the proprietary interests in a domestic or foreign for-profit corporation, or a nonprofit corporation incorporated under organic law other than this chapter that permits proprietary interests in such a corporation, are divided.

(69) "Solicitation" means any oral or written request for a contribution, including an offer or attempt by the solicitor to sell any property, rights, services, or other thing, in connection with which:

(a) Any appeal is made for any charitable purpose;

(b) The name of any charitable corporation, or any foreign nonprofit corporation that would be a charitable corporation if it were incorporated under this chapter, is used as an inducement for making the contribution or consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the contribution or the proceeds from the sale will be applied toward any charitable purpose or donated to any entity organized or operated for charitable purposes.

(70) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States, and any agency or governmental subdivision of any of the foregoing.

(71) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(72) "Unincorporated entity" means an entity that is not any of the following: A domestic or foreign for-profit or nonprofit corporation, an estate, a trust, a governmental subdivision, the federal government, a tribal government, a state or local government, a municipal corporation, a foreign government, or a governmental subdivision. The term includes a general partnership, limited liability company, limited partnership, cooperative association, limited cooperative association, business or statutory trust, joint stock association, and unincorporated nonprofit association.

(73) "Vote," "voting," or "casting a vote" includes voting occurring at a meeting; voting of members by ballot or proxy; and the giving of consent in the form of a record without a meeting by a person entitled to vote. Whether or not the person entitled to vote characterizes such conduct as voting or casting a vote, the term does not include either recording the fact of abstention or failing to vote for:

(a) A candidate; or

(b) Approval or disapproval of a matter.

(74) "Voting group" means one or more classes of members that under the articles, bylaws, or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of members. All members entitled by the articles, bylaws, or this chapter to vote generally on that matter are for that purpose a single voting group.

(75) "Voting power" means the current power to vote in the election of directors or delegates, or to vote on approval of any type of fundamental transaction. [2021 c 176 § 1102.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.015 Notice. (1) Notice under this chapter must be in the form of a record unless this chapter or the articles or bylaws allow oral notice.

(2) Notice may be communicated in person or by delivery. If these forms of communication are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

(3) Notice, other than notice described in subsection (4) of this section, is effective at the earliest of the following:

(a) When received;

(b) When left at the recipient's residence or usual place of business;

(c) Five days after its deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed; or

(d) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, or by commercial delivery service.

(4) Notice in the form of a record by a membership corporation to a member is effective:

(a) Five days after its deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed to the member's address shown in the corporation's current record of members;

(b) When given, if the notice is delivered by electronic transmission to the member's address shown in the corporation's current record of members; or

(c) When given, if the notice is delivered in any other manner that the member has authorized.

(5) Notice to a domestic or registered foreign nonprofit corporation may be delivered to its registered agent or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its registration statement.

(6) Where oral notice is permitted, it is effective when communicated, if communicated in a comprehensible manner.

(7) If this chapter prescribes notice requirements for particular circumstances, those requirements govern. If the articles or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements govern.

(8) With respect to electronic transmissions:

(a) Unless otherwise provided in the articles or bylaws, or otherwise agreed between the sender and the recipient, an electronic transmission is received when:

(i) It enters an electronic system that the recipient has designated or currently uses for the purpose of receiving electronic transmissions of the type sent; and

(ii) It is in a form capable of being processed by that system.

(b) An electronic transmission is received under (a)(i) of this subsection even if no individual is aware of its receipt.

(c) Receipt of an electronic acknowledgment from an electronic system described in (a)(i) of this subsection establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received, and is not necessary for the record to be received.

(9) A member may revoke in the form of a record a corporation's express or implied authorization to deliver notices or communications by electronic transmission to the member. Such authorization is deemed revoked with respect to a member if:

(a) The corporation cannot deliver two consecutive notices or other communications to the member's address shown in the corporation's current record of members; and

(b) The inability becomes known to the secretary or other person responsible for giving the notice or other communication; but the failure to treat the inability as a revocation does not invalidate any meeting or other action. [2021 c 176 § 1103.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.020 Service on corporations. (1) Service upon a nonprofit corporation of any process, notice, or demand required or permitted by law may be made by serving the nonprofit corporation's registered agent.

(2) Service upon a nonprofit corporation made by serving the nonprofit corporation's registered agent, or service on the nonprofit corporation in the absence of a registered agent, is governed by chapter 23.95 RCW. [2021 c 176 § 1104.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.025 Venue for actions. Except as provided under federal or state law or in specific provisions of this chapter, every action arising under this chapter shall be tried in, and "the court" throughout this chapter refers to, the superior court:

(1) In the county where the corporation's principal office in this state is located;

(2) If the corporation has no principal office in this state, in the county where the corporation's registered agent in this state is located;

(3) Of King county; or

(4) Of Thurston county. [2021 c 176 § 1105.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.030 Application to existing nonprofit corporations.

(1) This chapter applies to every domestic nonprofit corporation in existence on January 1, 2022, that was incorporated under chapter

24.03 RCW or filed a statement of election through which it elected to have chapter 24.03 RCW apply to it.

(2) Any corporation or association organized under any other chapter of Title 24 RCW may be reorganized under this chapter by adopting and filing amendments to its articles in accordance with this chapter. The articles as amended shall conform to this chapter, and shall state that the corporation accepts the benefits of and will be bound by this chapter. [2021 c 176 § 1106.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.035 Application to registered foreign nonprofit corporations. A foreign nonprofit corporation registered as of December 31, 2021, is subject to this chapter but is not required to obtain a new statement of registration to transact business in this state. [2021 c 176 § 1107.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.040 Relationship to prior statutes. (1) Except as provided in subsection (2) of this section, the repeal of chapter 24.03 RCW by chapter 176, Laws of 2021 does not affect:

(a) The operation of the repealed chapter or any action taken under it before its repeal;

(b) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the repealed chapter before its repeal;

(c) Any violation of the repealed chapter, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal; or

(d) Any proceeding, reorganization, or dissolution commenced under the repealed chapter before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the repealed chapter as if it had not been repealed.

(2) If a penalty or punishment imposed for violation of chapter 24.03 RCW repealed by chapter 176, Laws of 2021 is reduced by this chapter, then the penalty or punishment if not already imposed shall be imposed in accordance with this chapter. [2021 c 176 § 1108.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.045 Relationship to other laws. (1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(2) This chapter does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

(3) This chapter modifies, limits, or supersedes the federal electronic signatures in global and national commerce act, Title 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit, or supersede section 101(c) of that act or authorize delivery by electronic transmission of any of the notices described in section 103(b) of that act. [2021 c 176 § 1109.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.050 Subordination to canon law. To the extent religious doctrine or canon law governing the internal affairs of a nonprofit corporation is inconsistent with this chapter, the religious doctrine or canon law controls to the extent required by the United States Constitution, the state Constitution, or both. [2021 c 176 § 1110.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 2
FILING DOCUMENTS—SECRETARY OF STATE

RCW 24.03A.055 Applicability of uniform business organizations code. Filing of documents under this chapter by the secretary of state is governed by this chapter and chapter 23.95 RCW. [2021 c 176 § 1201.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.060 Filing requirements. (1) To be entitled to filing by the secretary of state, a record delivered for filing under this chapter must:

- (a) Satisfy the requirements set forth in RCW 23.95.200;
- (b) Contain all information required under this chapter and chapter 23.95 RCW;
- (c) Be executed on behalf of the domestic or foreign entity as follows:
 - (i) If the entity is a domestic or foreign nonprofit corporation, by an officer;
 - (ii) If the entity is not a domestic or foreign nonprofit corporation, by a person with authority to sign for the entity; or
 - (iii) If the entity is in the hands of a custodian, receiver, trustee, or other court-appointed fiduciary, by that fiduciary; and
- (d) Satisfy the requirements of any other provision of this chapter or chapter 23.95 RCW that adds to or varies any of the requirements in this section.

(2) A filed record may include additional information not in conflict with the requirements of subsection (1) of this section.

(3) (a) Whenever a provision of this chapter permits any of the terms of a plan or a filed record to be dependent on facts objectively ascertainable outside the plan or filed record, the following provisions apply:

(i) The plan or filed record shall set forth the manner in which the facts will operate upon the terms of the plan or filed record.

(ii) The facts may include:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

(B) A determination or action by any person or body, including the nonprofit corporation or any other party to a plan or filed record; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or record.

(d) [(b)] As used in this subsection [section]:

(i) "Filed record" means a record filed by the secretary of state under any provision of the uniform business organizations code or any provision of this chapter except RCW 24.03A.260 through 24.03A.310, except an annual report filed pursuant to RCW 24.03A.070; and

(ii) "Plan" means a plan of domestication, business conversion, entity conversion, distribution, or merger. [2021 c 176 § 1202.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.065 Electronic filings. Any rules governing electronic filing adopted by the secretary of state under RCW 23.95.115(2) apply to all filings required or permitted under this chapter unless such rules, this chapter, or chapter 23.95 RCW specify otherwise. [2021 c 176 § 1203.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.070 Annual report. Each domestic nonprofit corporation, and each registered foreign nonprofit corporation, shall deliver to the secretary of state for filing an annual report as required under RCW 23.95.255(2). [2021 c 176 § 1204.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.075 Major changes by charitable corporations. (1) A charitable corporation shall report any action described in subsection (2) of this section on the next annual report that the charitable corporation delivers to the secretary of state for filing under RCW 24.03A.070, except as provided in subsection (3) of this section.

(2) The actions that create a reporting requirement under this section are:

(a) Amendment of the charitable corporation's articles to include one or more purposes of the corporation substantially different from any purpose stated in the charitable corporation's articles in effect before the amendment; or

(b) Operation of a significant program or activity that is substantially different from both:

(i) Programs or activities the charitable corporation has previously operated; and

(ii) Programs or activities described in the most recent application for recognition of exemption from federal income tax that the charitable corporation has filed with the internal revenue service and in response to which the internal revenue service has issued a determination letter of tax-exempt status to the charitable corporation.

(3) A charitable corporation is not required to report actions described in subsection (2) of this section:

(a) If the charitable corporation was a religious corporation both before and after it took the action;

(b) Within the charitable corporation's first three years of existence, if all programs or activities the charitable corporation operates are consistent with the purposes set forth in the charitable corporation's articles; or

(c) When the charitable corporation operates a program or activity described in subsection (2)(b) of this section, if all funds expended to conduct such a program or activity are derived only from one or more of the following sources:

(i) Contributions or sales in response to one or more solicitations in which:

(A) The program or activity was clearly described; and

(B) A statement was made that implies that the corporation will apply any contribution, or proceeds from any sale, in connection with those solicitations toward the program or activity;

(ii) Admissions, performance of services, or furnishing of facilities;

(iii) Sales of goods not in connection with any solicitation;

(iv) Income from investments of the charitable corporation that is not subject to any gift restriction; or

(v) Revenue from any source that is recognized after the program or activity has been in continuous operation and disclosed to the general public for a period of at least three years.

(4) The secretary of state shall deliver to the attorney general a copy of every annual report filed by the secretary of state that includes a report described in this section. [2021 c 176 § 1205.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.080 Powers of secretary of state. The secretary of state has the powers reasonably necessary to perform the duties required by this chapter, including adoption, amendment, or repeal of rules under chapter 34.05 RCW for the efficient administration of this chapter. [2021 c 176 § 1206.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.085 Fees. The secretary of state may adopt rules in accordance with chapter 34.05 RCW setting fees for any services provided by the secretary of state under this chapter. [2021 c 176 § 1207.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 3 INCORPORATION

RCW 24.03A.090 Incorporators. One or more individuals may act as the incorporators of a nonprofit corporation by delivering articles of incorporation to the secretary of state for filing. Individuals

acting as incorporators must be at least eighteen years old. [2021 c 176 § 1301.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.095 Corporate name. The name or any reserved name of a nonprofit corporation is governed by chapter 23.95 RCW. [2021 c 176 § 1302.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.100 Articles of incorporation. (1) The articles of incorporation shall set forth:

(a) A name for the nonprofit corporation that satisfies the requirements of RCW 24.03A.095;

(b) The name and address of the corporation's initial registered agent;

(c) That the corporation is incorporated under this chapter;

(d) The purpose or purposes for which the corporation is organized;

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

(f) If the corporation will have members as defined in RCW 24.03A.010, a statement that the corporation will have members;

(g) The distribution of assets upon dissolution;

(h) The name and mailing address of each incorporator; and

(i) The signature of each incorporator.

(2) The articles of incorporation may set forth:

(a) A statement that the corporation has no members as defined in this chapter (whether or not the corporation uses the term "member" to define one or more classes of persons who are not members as defined in this chapter);

(b) The names of the initial members, if any;

(c) Provisions not inconsistent with law regarding:

(i) Managing the business and regulating the affairs of the corporation;

(ii) Defining, limiting, and regulating the powers of the corporation, its board of directors, and the members, if any;

(iii) The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members;

(d) A provision permitting or making obligatory indemnification of any individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding, subject to the limitations set forth in RCW 24.03A.630;

(e) Provisions required if the corporation is to be exempt from taxation under federal, state, or local law; or

(f) Any other provision that this chapter specifically permits to be set forth in the articles or bylaws.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Provisions of the articles may be made dependent upon facts objectively ascertainable outside the articles in accordance with RCW 24.03A.060(3). [2021 c 176 § 1303.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.105 Effectiveness of incorporation. (1) Unless a delayed effective date is specified, the corporate existence begins on the date the articles are filed by the secretary of state.

(2) The filing of the articles by the secretary of state is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by this state to cancel or revoke the incorporation or involuntarily dissolve the nonprofit corporation. [2021 c 176 § 1304.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.110 Requirement of registered agent. (1) Each nonprofit corporation shall designate and maintain a registered agent in this state.

(2) The designation and maintenance of a nonprofit corporation's registered agent are governed by chapter 23.95 RCW. [2021 c 176 § 1305.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.115 Liability for preincorporation transactions. All persons purporting to act as or on behalf of a nonprofit corporation, knowing there was no incorporation under this chapter, are jointly and severally liable for all liabilities created while so acting. [2021 c 176 § 1306.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.120 Organization of corporations. (1) After incorporation:

(a) The initial directors shall hold an organizational meeting at the call of a majority of the initial directors to complete the organization of the nonprofit corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting; and

(b) If the initial directors resign or refuse to meet, then the incorporator or incorporators shall hold a meeting at the call of a majority of the incorporators to elect a board of directors who shall complete the organization of the corporation.

(2) An organizational meeting may be held in or out of this state.

(3) The directors or incorporators may take organizational action without a meeting if the action taken is evidenced by one or more consents in the form of a record describing the action taken and executed by each director or incorporator. [2021 c 176 § 1307.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.125 Bylaws. (1) The board shall adopt initial bylaws for the corporation.

(2) The bylaws may contain any provision for managing the activities and regulating the affairs of the corporation that is not inconsistent with law or the articles. Whenever a provision of the bylaws is inconsistent with a provision of the articles, the provision of the articles controls. [2021 c 176 § 1308.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 4
PURPOSES, POWERS, AND LIMITATIONS

RCW 24.03A.130 Purposes. (1) Nonprofit corporations may be organized under this chapter for the purpose of engaging in any lawful activity. A nonprofit corporation may set forth a more limited purpose or purposes in its articles.

(2) A charitable corporation formed on or after January 1, 2022, must be organized under this chapter, unless incorporating under this chapter is prohibited by another statute of this state.

(3) A corporation engaging in an activity that is subject to regulation under another statute of this state may incorporate under this chapter only if incorporating under this chapter is not prohibited by the other statute. The corporation is subject to all the limitations of the other statute. Organizations subject to any provision of the banking or insurance laws of this state may not be organized under this chapter, except that any nonprofit corporation heretofore organized under any act hereby repealed and existing for the purpose of providing health care services as defined in RCW 48.44.010 or 48.46.020, as now or hereafter amended, continues to be organized under this chapter. [2021 c 176 § 1401.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.135 Power to modify purposes. (1) Unless otherwise prohibited by its articles or bylaws, a nonprofit corporation, including a charitable corporation, may modify its purposes by:

(a) Amending its articles or bylaws in accordance with this chapter and with those documents; and

(b) Making provision for any gift restrictions as defined in RCW 24.03A.185, either by ensuring continued adherence to those restrictions or by obtaining modification as provided in RCW 24.03A.190.

(2) A decision to modify the corporation's purposes is subject to judicial review only with respect to violations of this chapter or other applicable law. [2021 c 176 § 1402.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.140 General powers. Unless its articles provide otherwise, every nonprofit corporation has perpetual duration and has the same powers as an individual to do all things necessary or

convenient to carry out its affairs including, without limitation, power to:

(1) Sue and be sued, complain[,] and defend in its corporate name;

(2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;

(3) Make and amend bylaws and policies, not inconsistent with its articles or with the laws of this state, for managing and regulating the affairs of the corporation;

(4) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;

(7) Make contracts; make guarantees that may reasonably be expected to benefit, directly or indirectly, the guarantor corporation; incur liabilities; borrow money; issue notes, bonds, and other obligations; and secure any of its obligations by mortgage or pledge of any of its property or income;

(8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by RCW 24.03A.605;

(9) Be a promoter, partner, shareholder, member, trustee, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) Conduct its activities, locate offices, and exercise the powers granted by this chapter within or without this state;

(11) Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit, except as limited by RCW 24.03A.605 and 24.03A.610;

(12) Pay pensions and establish pension plans, pension trusts, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents, except as limited by RCW 24.03A.610;

(13) Make donations for charitable purposes;

(14) Impose dues, assessments, admission, and transfer fees on its members;

(15) Establish conditions for admission or removal of members, admit or remove members, and issue memberships;

(16) Carry on a business, and, subject to the requirements of RCW 24.03A.155 and 24.03A.610, make net profits and accumulate reserves; and

(17) Make payments or donations, or do any other acts, not inconsistent with law, that further the purposes, activities, and affairs of the corporation. [2021 c 176 § 1403.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.145 Emergency powers. (1) For purposes of this section, an emergency exists if a quorum of the directors cannot readily be assembled because of some catastrophic event. A catastrophic event is a sudden, natural or man-made situation where rapid change or destruction has occurred that has limited normal functions in daily living including communications and travel.

(2) In anticipation of and for the duration of an emergency, the board of a nonprofit corporation may:

(a) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(b) Take those actions necessary to preserve the corporation and ensure that it acts in accordance with its purposes.

(3) During an emergency, unless the articles or bylaws provide otherwise:

(a) Notice of a meeting of the board need be given only to those directors it is practicable to reach and may be given in any practicable manner;

(b) The quorum required under RCW 24.03A.565 or the articles or bylaws need not be established at such a meeting; and

(c) One or more officers of the nonprofit corporation present at a meeting of the board may be deemed to be directors for purposes of the meeting.

(4) In anticipation of and for the duration of an emergency, any meeting of the membership or of the board of directors may be conducted through one or more means of remote communication through which members or directors not physically present may simultaneously participate with each other during the meeting, notwithstanding any provision of the articles or bylaws that provides otherwise. A member or director participating in a meeting through such means in anticipation of and for the duration of an emergency is considered present in person at the meeting.

(5) Corporate action taken in good faith during an emergency to further the purposes and the ordinary affairs of the nonprofit corporation:

(a) Binds the corporation; and

(b) May not be used to impose liability on a director, officer, employee, or agent. [2021 c 176 § 1404.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.150 Ultra vires action. (1) Except as provided in subsection (2) of this section, the validity of corporate action may not be challenged on the ground that the nonprofit corporation lacks or lacked power to act.

(2) The power of a nonprofit corporation to act may be challenged:

(a) In a proceeding by the corporation, directly or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(b) In a proceeding by the attorney general under RCW 24.03A.936. [2021 c 176 § 1405.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.155 Distributions prohibited. (1) A nonprofit corporation shall not distribute any property held for charitable purposes to its members, directors, officers, or other persons who are in a position to exercise substantial influence over the affairs of the corporation, except:

(a) As permitted under RCW 24.03A.160;

(b) To another entity that is a charitable corporation or is organized and operated exclusively for one or more charitable purposes; or

(c) To the federal government, a tribal government, or a state or local government for a public purpose.

(2) A nonprofit corporation shall not pay dividends or make distributions of any part of its assets, income, or profits to its members, directors, officers, or other persons who are in a position to exercise substantial influence over the affairs of the corporation, except as permitted under:

(a) Subsection (1)(b) or (c) of this section;

(b) Subsection (3) of this section;

(c) RCW 24.03A.160; or

(d) RCW 24.03A.906.

(3) A nonprofit corporation other than a charitable corporation may confer benefits upon or make transfers to members or nonmembers in conformity with its purposes, repurchase its memberships only to the extent provided in RCW 24.03A.380, or repay capital contributions, subject to the following conditions:

(a) Property held for charitable purposes may not be used to confer benefits upon or make transfers to members or nonmembers, repurchase memberships, or repay capital contributions;

(b) The nonprofit corporation may not be insolvent, and conferral of benefits, making of transfers, repurchase of memberships, or repayment of capital contributions shall not render the corporation insolvent or unable to carry out its purposes; and

(c) The fair value of the corporation's assets remaining after the conferring of benefits, making of transfers, repurchase, or repayment must be sufficient to meet the corporation's liabilities. [2021 c 176 § 1406.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.160 Reasonable compensation permitted. A nonprofit corporation, including a charitable corporation, may pay reasonable compensation to members, directors, or officers for services rendered, or reimburse reasonable expenses incurred by members, directors, or officers in connection with services rendered. [2021 c 176 § 1407.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.165 Property held for charitable purposes. (1) Property owned by a nonprofit corporation is held for charitable purposes if:

(a) The corporation is a charitable corporation;

(b) The property is subject to restrictions contained in a gift instrument that limit its use only to one or more charitable purposes; or

(c) The property is subject to restrictions contained in the corporation's articles, bylaws, or any record adopted by the corporation's board, or to other limitations in the form of a record, that limit its use only to one or more charitable purposes.

(2) In no event may property held for charitable purposes be distributed in a manner inconsistent with RCW 24.03A.155, 24.03A.900, or 24.03A.906. [2021 c 176 § 1408.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.170 Debt and security interests. (1) A nonprofit corporation shall not issue bonds or other evidences of indebtedness except for cash or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof.

(2) The board may authorize a mortgage or pledge of, or the creation of a security interest in, all or any part of the property of the nonprofit corporation, or any interest therein. Unless otherwise provided in the articles or bylaws, the vote or consent of the members is not required to make effective such an action by the board. [2021 c 176 § 1409.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.175 Private foundations. (1) Except as provided in subsection (2) of this section, a nonprofit corporation that is a private foundation as defined in section 509(a) of the internal revenue code shall:

(a) Distribute sufficient amounts for each taxable year at a time and in a manner so as not to subject the corporation to tax under section 4942 of the internal revenue code;

(b) Not engage in any act of self-dealing as defined in section 4941(d) of the internal revenue code;

(c) Not retain any excess business holdings as defined in section 4943(c) of the internal revenue code;

(d) Not make any investments in a manner that subjects the corporation to tax under section 4944 of the internal revenue code; and

(e) Not make any taxable expenditures as defined in section 4945(d) of the internal revenue code.

(2) Subsection (1) of this section does not apply to a nonprofit corporation incorporated before January 1, 1970, that has been properly relieved from the requirements of section 508(e)(1) of the internal revenue code by a timely judicial proceeding. [2021 c 176 § 1410.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 5
GIFT RESTRICTIONS

RCW 24.03A.180 Unrestricted gifts. Giving a gift to a nonprofit corporation, including a charitable corporation, without a gift instrument transfers complete ownership of the gift to the nonprofit corporation. A restricted gift to a nonprofit corporation is created only by a gift instrument. [2021 c 176 § 1501.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.185 Restricted gifts. (1) This section distinguishes between:

(a) Enforceable trusts held by a nonprofit corporation, including a charitable corporation, governed under chapter 11.110 RCW; and

(b) Gift restrictions whose terms may be enforced and are subject to modification under this chapter or other applicable law.

(2) A gift to a nonprofit corporation, including a charitable corporation, does not create a charitable trust unless:

(a) The donor expresses an intent to create a charitable trust; and

(b) The trustee, which may be a charitable corporation, agrees in the form of a record to act as trustee of that trust according to its terms.

(3) Giving a gift to a nonprofit corporation, including a charitable corporation, that is: (a) Accepted by the corporation; (b) not in trust; and (c) subject to material restrictions or requirements contained in a gift instrument transfers complete ownership to the nonprofit corporation. The nonprofit corporation is bound by the material restrictions or requirements contained in the gift instrument.

(4) A nonprofit corporation complies with a term contained in a gift instrument if the nonprofit corporation reasonably complies with all material restrictions or requirements contained in the term, or, when appropriate under the facts and circumstances, seeks modification in accordance with RCW 24.03A.190.

(5) If the nonprofit corporation fails to comply with any material restriction or requirement contained in a gift instrument and fails to seek a modification in accordance with RCW 24.03A.190, then the attorney general may bring a proceeding to enforce the terms of the gift instrument. [2021 c 176 § 1502.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.190 Modification or release of gift restrictions.

(1) A term of a gift instrument that binds a nonprofit corporation may be modified or released, in whole or in part:

(a) If the donor consents in a record;

(b) As set forth in subsection (2) of this section, if the term is unlawful, impracticable, impossible to achieve, or wasteful;

(c) For gift instruments limiting the use of property to one or more charitable purposes, through a binding agreement executed by the nonprofit corporation, the attorney general, and other interested parties, and filed with or approved by the court in accordance with RCW 24.03A.195;

(d) By approval of the court in accordance with RCW 24.03A.200;

or

(e) As provided by other applicable law including, but not limited to, chapter 24.55 RCW.

(2) If a nonprofit corporation, including a charitable corporation, determines that a restriction contained in a gift instrument on the management, investment, or purpose of a gift is unlawful, impracticable, impossible to achieve, or wasteful, then the nonprofit corporation, sixty days after notification to the attorney general, may modify the restriction, in whole or part, if:

(a) The gift subject to the restriction has a total value consistent with RCW 24.55.045(4) (a) or any successor provision;

(b) More than twenty years have elapsed since the gift was given; and

(c) The nonprofit corporation uses the gift in a manner consistent with any charitable purposes expressed in the gift instrument.

(3) Application of RCW 24.03A.180 through 24.03A.205 to existing gifts:

(a) Before January 1, 2023, RCW 24.03A.180 through 24.03A.205 apply to gifts existing on December 31, 2021, only if the nonprofit corporation's board elects to apply RCW 24.03A.180 through 24.03A.205 to existing gifts before January 1, 2023.

(b) On or after January 1, 2023, RCW 24.03A.180 through 24.03A.205 apply to all gifts.

(c) As applied to gifts existing on December 31, 2021, RCW 24.03A.180 through 24.03A.205 govern only decisions made or actions taken on or after January 1, 2023, except that in the case of a nonprofit corporation that makes the election under (a) of this subsection RCW 24.03A.180 through 24.03A.205 govern decisions made or actions taken on or after the date the nonprofit corporation elects to be covered by RCW 24.03A.180 through 24.03A.205. [2021 c 176 § 1503.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.195 Binding agreement to modify or release restrictions. (1) If a gift instrument limits the use of the gift to one or more charitable purposes, and the conditions set forth in subsection (3) or (4) of this section are satisfied, then the gift instrument may be modified by agreement of the nonprofit corporation, the attorney general, and all other interested parties.

(2) For purposes of this section, an "interested party" does not include:

(a) The donor; or

(b) Any member of any charitable class that the gift would benefit, either before or after the modifications to be made by the agreement.

(3) A restriction related to a gift's management or investment may be modified by an agreement described in subsection (1) of this section if:

(a) Because of circumstances not anticipated by the donor, modification will further the charitable purpose of the gift;

(b) Enforcement of the restriction has become impracticable or wasteful; or

(c) Enforcement of the restriction impairs the management or investment of the gift.

(4) A restriction on the use of a gift relating to the gift's charitable purpose, rather than its management or investment, may be modified by an agreement described in subsection (1) of this section if the purpose becomes unlawful, impracticable, impossible to achieve, or wasteful.

(5) An agreement described in subsection (1) of this section must:

- (a) Be in writing and executed by all of the parties;
 - (b) Be binding and conclusive on the nonprofit corporation and all other parties with a beneficial interest in the gift;
 - (c) Identify the gift instrument and the term or terms of the gift instrument that it modifies;
 - (d) Describe completely the modifications that it would make;
 - (e) Set forth the reasons why the modifications would comply with subsection (3) or (4) of this section; and
 - (f) State changes to the charitable purposes to which the use of the gift is limited, if any, resulting from the modifications.
- (6) The nonprofit corporation or its legal representative may file the executed agreement with the court within thirty days of the agreement's execution by all parties. Upon filing of the executed agreement with the court:

- (a) The agreement becomes effective and equivalent to a final court order binding on the nonprofit corporation and all other parties with a beneficial interest in the use of the gift; and
- (b) The modifications are deemed approved by the court, and have the same effect as if the court ordered them pursuant to RCW 24.03A.200.

(7) The nonprofit corporation or its legal representative may, as an alternative to the procedure described in subsection (6) of this section, petition the court for a hearing for presentation of an agreement entered under this section to the court within twenty-one days of the agreement's execution by all parties. The nonprofit corporation shall (a) provide notice of the time and date of the hearing to each party to the agreement unless that party has waived notice in the form of a record, and (b) file proof of mailing or delivery of the notice or waiver with the court. At the hearing, the court shall review the agreement on behalf of all the parties. The court shall determine whether the agreement adequately represents and protects the interests of the parties and the public interest, and enter an order declaring its determination. If the court determines that the agreement does not adequately represent and protect those interests, then the agreement is void. [2021 c 176 § 1504.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.200 Judicial modification or release of restrictions.

(1) Upon application by a corporation subject to a restriction related to a gift's management or investment, rather than to its charitable purpose, the court may modify the restriction if:

- (a) Because of circumstances not anticipated by the donor, modification will further the charitable purpose of the gift;
- (b) Enforcement of the restriction has become impracticable or wasteful; or
- (c) Enforcement of the restriction impairs the management or investment of the gift.

(2) Upon application by a corporation subject to a restriction on the use of a gift relating to the charitable purpose of the gift, rather than its management or investment, the court may modify the restriction if the purpose becomes unlawful, impracticable, impossible to achieve, or wasteful.

(3) If the gift instrument provides for a forfeiture or gift-over to an alternative beneficiary, then the court may modify one or more restrictions under the procedure set out in subsection (1) of this section if a management or investment provision fails. The court may not, however, modify any restriction under the procedure set out in subsection (2) of this section to defeat the interest of an alternate beneficiary unless the beneficiary would also be subject to, and unable to perform, the term requiring modification. The alternative beneficiary is entitled to notice and may participate in the determination of whether to grant modification.

(4) Any modification made by the court must, to the extent possible, be made in a manner consistent with the charitable purposes as expressed in the gift instrument.

(5) A nonprofit corporation shall notify the attorney general whenever it seeks to modify a charitable gift restriction under this section and the court shall offer the attorney general an opportunity to be heard. [2021 c 176 § 1505.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.205 Charitable purpose survives. Modification or release of a gift restriction shall not allow a gift to be used for a purpose other than a charitable purpose. [2021 c 176 § 1506.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 6 BOOKS AND RECORDS

RCW 24.03A.210 Corporate records. (1) A nonprofit corporation shall keep permanently a copy of the following records:

(a) Minutes of all meetings of its members and of its board of directors;

(b) A record of all actions taken by the members and board of directors by unanimous written consent; and

(c) A record of all actions taken on behalf of the corporation by a committee of the board.

(2) A nonprofit corporation shall keep a current copy of the following records:

(a) Its articles of incorporation or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) All communications in the form of a record to members generally within the past six years, including the financial statements furnished for the past six years under RCW 24.03A.225;

(d) A list of the names and business addresses of its current directors and officers; and

(e) Its most recent annual report delivered to the secretary of state under RCW 24.03A.070.

(3) A nonprofit corporation shall maintain appropriate accounting records.

(4) A membership corporation or its agent shall maintain a record of its members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(5) A nonprofit corporation shall maintain its records in written form or in any other form of a record.

(6) All records required to be maintained by a nonprofit corporation may be maintained at any location within or without this state. [2021 c 176 § 1601.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.215 Inspection by members. (1) A member of a nonprofit corporation may inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the records the corporation is required to maintain under RCW 24.03A.210(2), if the member delivers to the corporation an executed notice in the form of a record at least five business days before the date on which the member wishes to inspect and copy the records.

(2) Subject to the limitations set forth in subsections (3) and (4) of this section, a member of a nonprofit corporation may inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation, if the member delivers to the corporation an executed notice in the form of a record at least five business days before the date on which the member wishes to inspect and copy the records:

(a) Excerpts from those minutes and records required to be maintained under RCW 24.03A.210(1);

(b) Accounting records of the corporation described in RCW 24.03A.210(3); and

(c) Subject to RCW 24.03A.240, the membership list described in RCW 24.03A.210(4).

(3) A nonprofit corporation may withhold from inspection under this section:

(a) Those portions of records that contain information protected by the attorney-client privilege or related work product;

(b) The address of any member who is known to the corporation to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar program established by law;

(c) Those portions of records, which, if disclosed, would be reasonably likely to result in harm to the corporation or a third party, such as disciplinary actions involving nondirector members, identities of job applicants, discussions of strategic acquisitions, records that are required to be kept confidential under obligations to a third party, etc.; or

(d) Any information that a nonprofit corporation is required to keep confidential under any other law.

(4) A member may inspect and copy the records described in subsection (2) of this section only if the:

(a) Member's demand is made in good faith and for a proper purpose;

(b) Member describes with reasonable particularity the purpose and the records the member desires to inspect;

(c) Member agrees in the form of a record to reasonable restrictions required by the board on the use or distribution of the records; and

(d) Records are directly connected with this purpose.

(5) The right of inspection granted by this section may not be abolished or limited by a nonprofit corporation's articles or bylaws.

(6) This section does not affect the:

(a) Right of a member to inspect records as part of discovery in connection with litigation; or

(b) Power of any court of competent jurisdiction, independently of this chapter, to compel the production of corporate records for examination. [2021 c 176 § 1602.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.220 Scope of member's inspection right. (1) A member's agent or attorney has the same inspection and copying rights as the member represented.

(2) The right to copy records under RCW 24.03A.215 includes, if reasonable, the right to receive copies. Copies may be provided through electronic transmission unless the member requests otherwise in the form of a record.

(3) The nonprofit corporation may comply with a member's demand to inspect and copy the list of members under RCW 24.03A.215(2)(c) by providing the member for a reasonable charge as described in subsection (4) of this section with a list of members that was compiled no earlier than the date of the member's demand.

(4) The nonprofit corporation shall provide a copy of its articles and bylaws at no cost to a member on request. The nonprofit corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any other documents provided to the member. The charge may not exceed the estimated cost of production, reproduction, or transmission of the records. [2021 c 176 § 1603.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.225 Financial statements for members. (1) Except as provided in the articles or bylaws of a nonprofit corporation engaged in religious activity, upon a demand in the form of a record from a member, a corporation shall furnish that member with its latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year and a statement of operations for the year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, then the annual financial statements must also be prepared on that basis.

(2) If the annual financial statements are reported upon by a certified public accountant, then the accountant's report shall accompany them. If not, then the statements must be accompanied by a statement of the president or the person responsible for the nonprofit corporation's accounting records:

(a) Stating the reasonable belief of the president or other person as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year. [2021 c 176 § 1604.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.230 Court-ordered inspection. (1) If a nonprofit corporation does not allow a member who complies with RCW 24.03A.215(1) to inspect and copy any records required by that subsection to be available for inspection, then the court may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(2) If a nonprofit corporation does not within a reasonable time allow a member to inspect and copy any other record to which the member is entitled under RCW 24.03A.215(2), then the member who complies with RCW 24.03A.215 (3) and (4) may apply to the court for an order to permit inspection and copying of the records demanded. The court may inspect the records in question *in camera* and determine the extent of required disclosure, if any, in light of RCW 24.03A.215. In making that determination, the court shall consider the probability and extent of potential harm to the corporation or any third party that may result from inspection, and the probability and extent of benefit to the corporation or the member.

(3) If the court orders inspection and copying of the records demanded, then it shall also order the nonprofit corporation to pay the member's costs, including reasonable attorneys' fees, incurred to obtain the order, unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded. If the court denies the majority of the request for inspection and copying, it may order the member to pay part or all of the nonprofit corporation's costs, including reasonable attorneys' fees.

(4) If the court orders inspection and copying of the records demanded, then it may impose reasonable restrictions on the use or distribution of the records by the demanding member. [2021 c 176 § 1605.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.235 Inspection by directors. (1) A director of a nonprofit corporation may inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation or law other than this chapter.

(2) The court may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused the inspection rights set out in

subsection (1) of this section, unless the corporation establishes that the director is not entitled to those inspection rights.

(3) If an order is issued, then the court may include provisions protecting the nonprofit corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable attorneys' fees, incurred in connection with the application. [2021 c 176 § 1606.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.240 Use of membership list. (1) Without the consent of the board, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board, a membership list or any part thereof may not be:

(a) Used to solicit cash or other property unless the cash or other property will be used solely to solicit the votes of the members in an election to be held by the nonprofit corporation;

(b) Used for any commercial purpose; or

(c) Sold to or purchased by any person.

(2) Instead of making a membership list available for inspection and copying under RCW 24.03A.210 through 24.03A.240, a nonprofit corporation may elect to proceed under the procedures set forth in RCW 24.03A.405(6). [2021 c 176 § 1607.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 7 PUBLIC BENEFIT CORPORATIONS

RCW 24.03A.245 Public benefit designation. (1) There is hereby established the special designation of "public benefit nonprofit corporation." A corporation may be designated as a public benefit nonprofit corporation if it meets the following requirements:

(a) The corporation complies with this chapter; and

(b) The corporation is currently recognized by the internal revenue service as an organization described in section 501(c)(3) of the internal revenue code or is exempt from applying for that recognition under section 508(c) of the internal revenue code.

(2) A temporary designation as a public benefit nonprofit corporation may be provided to a corporation that has applied to the internal revenue service for recognition of its status as an organization described in section 501(c)(3) of the internal revenue code. The temporary designation is valid for up to one year and may be renewed at the discretion of the secretary of state.

(3) Designation of a corporation as a public benefit nonprofit corporation does not alter the applicability to the corporation of any other provision of this chapter. [2021 c 176 § 1701.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.250 Application and renewal. (1) The secretary of state shall develop an application process for new and existing corporations to apply for public benefit nonprofit corporation status. (2) Public benefit nonprofit corporation status must be renewed annually. The secretary of state may schedule renewals in conjunction with the corporation's annual report. [2021 c 176 § 1702.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.255 Removal of status. The secretary of state may remove a corporation's public benefit nonprofit corporation designation if the corporation does not comply with this chapter or the internal revenue service revokes recognition of the corporation's status as an organization described in section 501(c)(3) of the internal revenue code. [2021 c 176 § 1703.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 8 FOREIGN CORPORATIONS

RCW 24.03A.260 Registration to do business. A foreign nonprofit corporation may not do business in this state until it registers with the secretary of state pursuant to chapter 23.95 RCW. [2021 c 176 § 1801.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.265 Effect of registration. (1) A foreign nonprofit corporation with a valid foreign registration statement has the same but no greater rights and has the same but no greater privileges as, and except as provided by this chapter is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic nonprofit corporation of like character.

(2) This chapter does not authorize this state to regulate the organization or internal affairs of a registered foreign nonprofit corporation.

(3) For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate records are required to be delivered to the secretary of state for filing, the records must be delivered to the insurance commissioner rather than the secretary of state. [2021 c 176 § 1802.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.270 Name of foreign nonprofit corporation. (1) The name of a registered foreign nonprofit corporation, any name reserved by a registered foreign nonprofit corporation, or any alternate name adopted under RCW 23.95.525 is governed by chapter 23.95 RCW.

(2) A foreign nonprofit corporation not registered to do business in this state may register its name, or an alternate name adopted pursuant to RCW 23.95.525, under RCW 23.95.315. [2021 c 176 § 1803.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.275 Registered agent of foreign nonprofit corporation. (1) Each registered foreign nonprofit corporation in this state shall designate and maintain a registered agent in this state.

(2) The designation and maintenance of a foreign nonprofit corporation's registered agent are governed by chapter 23.95 RCW. [2021 c 176 § 1804.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.280 Service on foreign nonprofit corporation. (1) A registered foreign nonprofit corporation may be served with any process, notice, or demand required or permitted by law by serving its registered agent.

(2) Service upon a registered foreign nonprofit corporation made by serving its registered agent, or service on the registered foreign nonprofit corporation in the absence of a registered agent, is governed by chapter 23.95 RCW. [2021 c 176 § 1805.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.285 Withdrawal of registration. A registered foreign nonprofit corporation may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing under RCW 23.95.530. [2021 c 176 § 1806.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.290 Withdrawal upon conversion or dissolution. (1) A registered foreign nonprofit corporation that converts to any type of domestic entity automatically is deemed to have withdrawn its registration on the effective date of the conversion.

(2) A registered foreign nonprofit corporation that has dissolved and completed winding up or has converted to a domestic or foreign entity not required to register under chapter 23.95 RCW or other law of this state shall deliver a statement of withdrawal to the secretary of state for filing under RCW 23.95.540.

(3) After the withdrawal of a foreign nonprofit corporation under this section is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign nonprofit corporation was registered to do business in this state may be made pursuant to RCW 23.95.450. [2021 c 176 § 1807.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.295 Amendment to registration upon conversion. A registered foreign nonprofit corporation that converts to a foreign for-profit corporation or to any form of foreign unincorporated entity that is required to register with the secretary of state to do business in this state shall deliver to the secretary of state for filing an amendment to its foreign registration statement under RCW 23.95.515. [2021 c 176 § 1808.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.300 Transfer of registration. (1) If a registered foreign nonprofit corporation merges into a nonregistered foreign entity or converts to a different type of foreign entity required to register to do business in this state, the foreign entity shall deliver to the secretary of state for filing an application for transfer of registration under RCW 23.95.545.

(2) If a registered foreign nonprofit corporation is a party to a statutory merger permitted by the laws of the jurisdiction where it is incorporated, and the corporation is the surviving corporation, it is not necessary for the corporation to register to do business or to amend its registration unless the corporation's name is changed. [2021 c 176 § 1809.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.305 Termination of registration. The secretary of state may terminate the registration of a registered foreign nonprofit corporation under RCW 23.95.550:

(1) For any reason set forth in RCW 23.95.550(1);

(2) If the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign [nonprofit] corporation is incorporated stating that it has been dissolved or did not survive a merger; or

(3) If the corporation has continued to exceed or abuse the authority conferred upon it by this chapter. [2021 c 176 § 1810.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.310 Judicial review of termination. (1) A foreign nonprofit corporation may appeal the secretary of state's termination of its registration to the superior court of Thurston county within ninety days after service of the statement of termination is perfected. The foreign nonprofit corporation shall appeal by petitioning the court to set aside the termination and attaching to the petition copies of its statement of registration and the secretary of state's statement of termination.

(2) The court may summarily order the secretary of state to reinstate the registration or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings. [2021 c 176 § 1811.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

PART II
GOVERNANCE
ARTICLE 1
MEMBERS AND MEMBERSHIPS

RCW 24.03A.315 Members. (1) A nonprofit corporation may have one or more classes of members or may have no members.

(2) For corporations formed on or after January 1, 2022, notwithstanding anything to the contrary in the bylaws, where the articles of a nonprofit corporation do not provide that it has members, the nonprofit corporation does not have members.

(3) For organizations formed before January 1, 2022, where the articles of a nonprofit corporation do not provide that it has members, the corporation has members only if the bylaws:

(a) Provide that the corporation has members; and

(b) Provide that members of at least one class have the right to select or vote for the election of directors or delegates or to vote on at least one type of fundamental transaction.

(4) Where a nonprofit corporation does not have members under this section, or where a corporation has no members entitled to vote on a given matter, any provision of this chapter or any other provision of law requiring notice to, the presence of, or the vote, consent, or other action by members in connection with that matter is satisfied by notice to, the presence of, or the vote, consent, or other action by the board. [2021 c 176 § 2101.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.320 Scope of membership. A person is not a member of a nonprofit corporation for purposes of any provision of this chapter unless the person meets the definition of "member" in RCW 24.03A.010, regardless of whether the corporation refers to or designates the person as a member. [2021 c 176 § 2102.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.325 Admission of members. (1) The articles or bylaws of a membership corporation may establish criteria or procedures for admission of members.

(2) A person may not be admitted as a member without the person's consent. Consent may be express or implied and need not be in the form of a record.

(3) If a membership corporation provides certificates of membership to the members, then the certificates shall not be registered or transferable except as provided in the articles or bylaws or by resolution of the board. [2021 c 176 § 2103.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.330 Consideration for admission. Except as provided in its articles or bylaws, a membership corporation may admit members for no consideration or for consideration determined by the board, which may take any form, including promissory notes, intangible property, or past or future services. Payment of the consideration may be made at those times and upon those terms as are set forth in or authorized by the articles, bylaws, or a resolution of the board. [2021 c 176 § 2104.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.335 Capital contributions. (1) A membership corporation that is not a charitable corporation may provide in its articles or bylaws that members, upon or after admission, shall make capital contributions. Except as provided in the articles or bylaws, the board shall fix the amount. The requirement of a capital contribution may apply to all members, or to the members of a single class, or to members of different classes in different amounts or proportions.

(2) The adoption or amendment of a capital contribution requirement, whether or not approved by the members, shall not apply to, or be an obligation of, a member who did not vote in favor of the adoption or amendment until thirty days after the member has been given notice of the adoption or amendment. [2021 c 176 § 2105.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.340 Rights and obligations. (1) The members of a membership corporation have only those rights, privileges, powers, or obligations specifically given or assigned to members in the articles, the bylaws, or RCW 24.03A.450.

(2) A member shall not have the right to vote on any matter unless the articles, the bylaws, or RCW 24.03A.450(1) provides expressly that the class of members to which that member belongs has the right to vote on that particular matter. [2021 c 176 § 2106.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.345 Differences in rights and obligations. (1) Except as provided in the articles or bylaws, each member of a membership corporation has the same rights and obligations as every other member with respect to voting, dissolution, membership transfer, and other matters.

(2) If the corporation has one or more classes of members, then the designation of the class or classes, the articles, or the bylaws shall set forth the manner of election or appointment and the qualifications and rights of the members of each class. [2021 c 176 § 2107.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.350 Transfers of membership. (1) Except as provided in the articles or bylaws or by resolution of the board, a member of a membership corporation may not transfer a membership or any right arising therefrom.

(2) Where the right to transfer a membership has been provided, a restriction on that right shall not be binding with respect to a member holding a membership issued before the adoption of the restriction unless the affected member consents to the restriction in the form of a record. [2021 c 176 § 2108.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.355 Member's liability for corporate obligations. A member of a membership corporation is not personally liable for the acts, debts, liabilities, or obligations of the corporation. [2021 c 176 § 2109.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.360 Member's liability for dues, fees, and assessments. (1) A membership corporation may levy dues, assessments, and fees on its members to the extent authorized in the articles or bylaws. Particular dues, assessments, and fees may be imposed in the articles or bylaws or by resolution of the board, subject to any membership approval required under RCW 24.03A.695(1), on members of the same class either alike or in different amounts or proportions, and may be imposed on a different basis on different classes of members. Members of a class may be made exempt from dues, assessments, and fees to the extent provided in the articles or bylaws or by resolution of the board.

(2) The amount and method of collection of dues, assessments, and fees may be fixed in the articles or bylaws, or the articles or bylaws may authorize the board or members to fix the amount and method of collection, with or without approval of the class or classes of members affected.

(3) The articles or bylaws may provide reasonable means, such as termination and reinstatement of membership, to enforce the collection of dues, assessments, and fees. [2021 c 176 § 2110.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.365 Creditor's action against member. (1) A proceeding may not be brought by a creditor of a membership corporation to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part.

(2) All creditors of a membership corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (1) of this section to reach and apply unpaid amounts due the corporation. Any or all members who owe amounts to the corporation may be joined in the proceeding. [2021 c 176 § 2111.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.370 Resignation of member. (1) A member of a membership corporation may resign at any time.

(2) The resignation of a member does not relieve the member from any obligations incurred or commitments made before resignation. [2021 c 176 § 2112.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.375 Termination and suspension of membership. (1) A membership in a membership corporation may be terminated or suspended for the reasons and in the manner provided in the articles or bylaws.

(2) A membership in a membership corporation may also be terminated, regardless of the procedure set forth in the articles or bylaws, if:

(a) The corporation has had no contact from the member for at least three years; and

(b) Either:

(i) The member fails to respond within ninety days to a request from the corporation to update the member's contact information that includes a statement that failure to respond could result in termination of membership, delivered to that member by means reasonably likely to reach that member; or

(ii) A request from the corporation to update the member's contact information that includes a statement that failure to respond could result in termination of membership, sent to that member by first-class forwardable mail, with postage prepaid, is returned as undeliverable; or

(iii) If members, or a class of members, are not identified individually on the records of the corporation, a request from the corporation for members to provide contact information that includes a statement that failure to respond could result in termination of membership is published once a week for six consecutive weeks in a newspaper of general circulation in the county in which the corporation's principal office is located.

(3) Unless otherwise provided in the articles or bylaws, if the articles or bylaws allow the board or any other body to admit members, the affirmative vote of two-thirds of that body may terminate a member [membership].

(4) Irrespective of anything to the contrary in the articles or bylaws, in any proceeding involving a corporation or upon application from the corporation, the court may order termination of a member [membership] of the corporation in the best interests of the corporation.

(5) A proceeding challenging a termination or suspension for any reason must be commenced within one year after the effective date of the termination or suspension.

(6) The termination or suspension of a member [membership] does not relieve the member from any obligations incurred or commitments made before the termination or suspension. [2021 c 176 § 2113.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.380 Repurchase of memberships. A membership corporation that is not a charitable corporation may repurchase any of its memberships or any right arising therefrom only if it is so provided in the articles or bylaws. A membership corporation that is a charitable corporation may not repurchase any of its memberships or any right arising therefrom. [2021 c 176 § 2114.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 2
DELEGATES

RCW 24.03A.385 Delegates. (1) A membership corporation may provide in its articles or bylaws for delegates.

(2) The articles or bylaws may set forth provisions relating to:

(a) The characteristics, qualifications, rights, limitations, and obligations of delegates including their selection and removal;

(b) Calling, noticing, holding, and conducting meetings of delegates; and

(c) Carrying on activities during and between meetings of delegates.

(3) If the articles or bylaws provide for delegates, then, unless otherwise provided in the articles or bylaws:

(a) The power to appoint, remove, or modify any provision of the articles or bylaws governing the appointment or removal of delegates is reserved to the members.

(b) All other powers of members including, but not limited to, the right to vote on other amendments to articles or bylaws, may be exercised by delegates. [2021 c 176 § 2201.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 3
MEMBERSHIP MEETINGS AND VOTING

RCW 24.03A.390 Annual and regular meetings. (1) A membership corporation shall hold an annual meeting of members once during each fiscal year at a time stated in or fixed in accordance with the articles or bylaws.

(2) A membership corporation may hold regular meetings on a regional or other basis at times stated in or fixed in accordance with the articles or bylaws.

(3) Except as provided in subsection (5) of this section, annual and regular meetings of the members may be held in or out of this state at the place stated in or fixed in accordance with the articles or bylaws. If no place is stated in or fixed in accordance with the articles or bylaws, then annual and regular meetings shall be held at the membership corporation's principal office.

(4) The failure to hold an annual or regular meeting at the time stated in or fixed in accordance with the articles or bylaws does not affect the validity of any corporate action.

(5) The articles or bylaws may provide that an annual or regular meeting of members may be held in a specified location and, if so provided under the articles or bylaws, through one or more means of remote communication through which members not physically present may participate in the meeting substantially concurrently, vote on matters submitted to the members, pose questions, and make comments. For any meeting at which one or more members may participate by means of remote communication, the corporation shall deliver notice of the meeting to each member by a means which the member has authorized and provide complete instructions for participating in the meeting by remote communication. [2021 c 176 § 2301.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.395 Special meetings. (1) A membership corporation shall hold a special meeting of members:

(a) At the call of its board of directors, the president, or the persons authorized to do so by the articles or bylaws; or

(b) Upon the execution and delivery to the corporation of one or more demands for a special meeting, in the form of a record, describing the purpose for which the meeting is to be held, by either:

(i) The number or proportion of members entitled under the articles or bylaws to call a meeting on the subject matter proposed to be considered at the proposed special meeting, which shall not represent more than twenty-five percent of all the votes entitled to be cast on that subject matter; or

(ii) In the absence of a provision fixing the number or proportion of members entitled to call a meeting, the number or proportion of members representing five percent of all the votes entitled to be cast on the subject matter proposed to be considered at the proposed special meeting.

(2) Unless otherwise provided in the articles or bylaws, a demand for a special meeting may be revoked by notice to that effect received by the membership corporation from the members calling the meeting before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(3) If not otherwise fixed under RCW 24.03A.400 or 24.03A.420, the record date for determining members entitled to demand a special meeting is the date the first member executes a demand.

(4) Only business within the purpose or purposes described in the meeting notice required by RCW 24.03A.410(3) may be conducted at a special meeting of the members.

(5) Except as provided in subsection (6) of this section, special meetings of the members may be held in or out of this state at the place stated in or fixed in accordance with the articles or bylaws. If no place is stated or fixed in accordance with the articles or bylaws, then special meetings shall be held at the corporation's principal office.

(6) The articles or bylaws may provide that a special meeting of members be held at a specified location and, unless otherwise provided under the articles or bylaws, through means of remote communication through which members not physically present may participate in the meeting substantially concurrently, vote on matters submitted to the members, pose questions, and make comments. Notice of meetings at which one or more members may participate by means of remote

communication must be delivered by a means which the member has authorized and provide complete instructions for participating in the meeting from a remote location. [2021 c 176 § 2302.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.400 Court-ordered meeting. (1) The court may summarily order a meeting to be held:

(a) On application of any member entitled to participate in an annual or regular meeting if an annual meeting was not held within eighteen months after the last annual meeting; or

(b) On application of a member who executed a demand for a special meeting under RCW 24.03A.395 that was executed by a sufficient number of members to call a meeting, if:

(i) Notice of the special meeting was not given within thirty days after the date the demand was delivered to the corporation's secretary; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may fix the time and place of a court-ordered meeting, determine the members entitled to participate in the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the court-ordered meeting. [2021 c 176 § 2303.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.405 List of members for meeting. (1) After fixing a record date for a meeting, a membership corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of that meeting of the members. The list of members shall show the address of and number of votes each member is entitled to cast at the meeting, except that the address of any member who is known to the corporation to be a participant in the address confidentiality program described in chapter 40.24 RCW or any similar law may be omitted.

(2) The list of members must be available for inspection by any member, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the membership corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member or the member's agent, on demand in the form of a record, may inspect and, subject to the requirements of RCW 24.03A.215(4), copy the list, during regular business hours and at the member's expense, during the period it is available for inspection.

(3) The membership corporation shall make the list of members available at the meeting, and a member or the member's agent may inspect the list at any time during the meeting or any adjournment.

(4) If a membership corporation refuses to allow a member or the member's agent to inspect the list of members before or at the meeting

or copy the list as permitted by subsection (2) of this section, then the court, on application of the member, may:

(a) Summarily order the inspection or copying at the corporation's expense;

(b) Postpone the meeting for which the list was prepared until the inspection or copying is complete;

(c) Order the corporation to pay the member's costs including reasonable attorneys' fees incurred to obtain the order; and

(d) Order other appropriate relief.

(5) Refusal or failure to prepare or make available the list of members does not affect the validity of action taken at the meeting.

(6) Instead of making the list of members available as provided in subsection (2) of this section, a membership corporation may state in a notice of meeting that the corporation has elected to proceed under this subsection. A member of a corporation that has elected to proceed under this subsection shall state in the member's demand for inspection a proper purpose for inspection. Within ten business days after receiving a demand under this subsection, the corporation shall deliver to the member making the demand an offer of a reasonable alternative method of achieving the purpose identified in the demand without providing access to or a copy of the list of members. An alternative method that reasonably and in a timely manner accomplishes the proper purpose set forth in the demand relieves the corporation from making the list of members available under subsection (4)(b) of this section, unless within a reasonable time after acceptance of the offer the corporation fails to do the things it offered to do. Any rejection of the corporation's offer must be in the form of a record and indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand. [2021 c 176 § 2304.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.410 Notice of membership meeting. (1) A membership corporation shall give notice to the members of the date, time, and place of each annual, regular, or special meeting of the members. Except as provided under subsection (6) of this section, the notice must be given in the form of a record no fewer than ten nor more than sixty days before the meeting date. Except as provided in this chapter, the articles, or the bylaws, the corporation is only required to give notice to members entitled to vote at the meeting.

(2) Unless this chapter, the articles, or the bylaws require otherwise, notice of an annual or regular meeting need not include a description of the purpose for which the meeting is called.

(3) Notice of a special meeting shall include a description of the purpose for which the meeting is called.

(4) If not otherwise fixed under RCW 24.03A.400 or 24.03A.420, the record date for determining members entitled to notice of and to vote at an annual or special meeting of the members is the day before the first notice is given to members.

(5) Unless the articles or bylaws require otherwise, if an annual, regular, or special meeting of the members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or is required to be fixed under RCW 24.03A.420, then the

corporation shall give notice of the adjourned meeting to the members entitled to vote on the new record date.

(6) Notice of regular meetings other than the annual meeting may be made by providing each member with the adopted schedule of regular meetings for the ensuing year in the form of a record at any time after the annual meeting and ten days before the next succeeding regular meeting and at any time requested by a member or by any other notice prescribed by the bylaws.

(7) Whenever notice would otherwise be required to be given under any provision of this chapter to a member, the notice need not be given if notice of two consecutive annual meetings, and all notices of meetings during the period between those two consecutive annual meetings, have been returned undeliverable or could not be delivered. If a member delivers to the nonprofit corporation a notice setting forth the member's then current address, then the requirement that notice be given to that member is reinstated. [2021 c 176 § 2305.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.415 Waiver of notice. (1) A member may waive any notice required by this chapter, the articles, or the bylaws no more than sixty days before or sixty days after the date and time stated in the notice or of the meeting or action. The waiver must be in the form of a record, be executed by the member entitled to the notice, and be delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(2) The attendance of a member at a meeting:

(a) Waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting or immediately upon arrival at the meeting objects to holding the meeting or transacting business at the meeting; and

(b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the member objects at the meeting to considering the matter. [2021 c 176 § 2306.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.420 Record date. (1) The articles or bylaws may fix or provide the manner of fixing the record date to determine the members entitled to notice of a meeting of the members, to demand a special meeting, to vote, or to take any other action. If the articles or bylaws do not fix or provide for fixing a record date, then the board of the membership corporation may fix a future date as the record date.

(2) A record date fixed under this section may not be more than seventy days before the meeting or action requiring a determination of members.

(3) A determination of members entitled to notice of or to vote at a meeting of the members is effective for any adjournment of the meeting unless the board fixes a new record date, which it shall do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

(4) If the court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, then it may provide that the original record date continues in effect or it may fix a new record date. [2021 c 176 § 2307.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.425 Conduct of meeting. (1) At each meeting of members, an individual shall preside as chair. The chair is appointed and may be removed:

(a) As provided in the articles or bylaws;

(b) In the absence of a provision in the articles or bylaws, by the board; or

(c) In the absence of both a provision in the articles or bylaws and an appointment by the board, by the members at the meeting.

(2) Except as provided in the articles or bylaws or by resolution of the board, the chair determines the order of business and has the authority to establish rules for the order and conduct of the meeting.

(3) Any rules established for the order and conduct of the meeting pursuant to subsection (2) of this section must be fair to the members.

(4) Except as provided in the articles or bylaws or by resolution of the board:

(a) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon.

(b) If no announcement is made, then the polls are deemed to have closed upon the final adjournment of the meeting.

(c) After the polls close, no ballots, proxies, or votes, nor any otherwise permissible revocations or changes thereto may be accepted. [2021 c 176 § 2308.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.430 Proxies. (1) Except as provided in the articles or bylaws, a member may not vote by proxy.

(2) If the articles or bylaws allow members to vote by proxy, then the following procedure applies unless the articles or bylaws provide otherwise:

(a) A member or the member's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the member by executing an appointment form in the form of a record. An appointment form must contain or be accompanied by information from which it can be determined that the member or the member's agent or attorney-in-fact authorized the appointment of the proxy.

(b) An appointment of a proxy is effective when an executed appointment in the form of a record is received by the inspectors of election, the officer or agent of the membership corporation authorized to tabulate votes, or the secretary. An appointment is valid for eleven months unless a shorter or longer period is expressly provided in the appointment form.

(c) The death or incapacity of the member appointing a proxy does not affect the right of the membership corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspectors of election, the officer or agent authorized to

tabulate votes, or the secretary before the proxy exercises his or her authority under the appointment.

(d) A membership corporation may accept the proxy's vote or other action as that of the member making the appointment, subject to RCW 24.03A.455 and to any express limitation on the proxy's authority stated in the appointment form.

(e) A proxy may be revoked by a member by delivering notice in the form of a record to the corporation before the corporation has relied upon the proxy. [2021 c 176 § 2309.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.435 Voting entitlement of members. Except as provided in the articles or bylaws, each member is entitled to one vote on each matter on which the articles or bylaws entitle the members of the class of members to which the member belongs to vote. [2021 c 176 § 2310.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.440 Membership quorum and voting requirements. (1) Members may take action at a meeting on matters with respect to which all of the members are entitled to vote only if a quorum of the members is present. Except as provided in the articles or the bylaws, ten percent of the votes entitled to be cast at a meeting of the members constitutes a quorum with respect to those matters.

(2) Members entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those members is present with respect to that matter. Except as provided in the articles or bylaws, ten percent of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(3) Once a member is represented for any purpose at a meeting, the member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or is required to be set for that adjourned meeting.

(4) If a quorum is present, then action on a matter other than the election of directors by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles, bylaws, or applicable law require a greater number of affirmative votes.

(5) An amendment of the articles or bylaws adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (2) or (4) of this section is governed by RCW 24.03A.445.

(6) If a meeting cannot be organized because a quorum of members entitled to vote is not present, then those members present may adjourn the meeting to such a time and place as they may determine. When a meeting that has been adjourned for lack of a quorum is reconvened, those members present, although less than a quorum as fixed in this section, the articles, or the bylaws, nonetheless constitute a quorum, if notice of the time and place of the reconvened meeting is provided by electronic transmission or in person to the members entitled to vote at least twenty-four hours before the

reconvened meeting, or by other methods pursuant to the requirements and procedures set forth in RCW 24.03A.410. The articles or the bylaws may, however, permit the reconvening of a meeting without notice, by means of a provision that makes explicit reference to elimination of the notice requirement that would otherwise apply under this section.

(7) The election of directors is governed by RCW 24.03A.450. [2021 c 176 § 2311.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.445 Differing quorum and voting requirements. (1)

The articles or bylaws may provide for a higher or lower quorum or higher voting requirement for members or voting groups of members than is provided for by this chapter, either generally or with respect to specific matters.

(2) An amendment to the articles or bylaws that adds, changes, or deletes a greater quorum or voting requirement must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect. [2021 c 176 § 2312.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.450 Voting for directors. (1)

Except as provided in the articles or bylaws, directors of a membership corporation are elected by a plurality of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present.

(2) Except as provided in the articles or bylaws, or under subsection (3) of this section, members do not have a right to cumulate their votes for directors.

(3) Members of a nonprofit corporation who were entitled to cumulate their votes for the election of directors on January 1, 2022, continue to be entitled to cumulate their votes for the election of directors until otherwise provided in the articles or bylaws of the corporation. [2021 c 176 § 2313.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.455 Acceptance of ballots, consents, waivers, or proxies. (1)

If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, then the membership corporation if acting in good faith may accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member.

(2) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the name of its member, then the membership corporation if acting in good faith is nevertheless entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(a) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the

corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a beneficial owner or attorney-in-fact of the member and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment; and

(e) Two or more persons are the member as cotenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The membership corporation may reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(4) The membership corporation and its officer or agent who accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or RCW 24.03A.430(2) are not liable in damages to the member for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless the court determines otherwise. [2021 c 176 § 2314.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.460 Inspectors of election. (1) A membership corporation may appoint one or more inspectors to act at a meeting of members and make a report in the form of a record of the inspectors' determinations. Each inspector shall execute the duties of inspector impartially and according to the best of the inspector's ability.

(2) The inspectors must:

(a) Ascertain the number of members and delegates, and their voting power;

(b) Determine the members and delegates present at a meeting;

(c) Determine the validity of proxies and ballots;

(d) Count all votes; and

(e) Determine the result.

(3) An inspector may, but need not, be a director, member, officer, or employee of the membership corporation. A person who is a candidate for office to be filled at the meeting may not be an inspector. [2021 c 176 § 2315.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.465 Action by voting groups. (1) If this chapter, the articles, or the bylaws provide for voting by a single voting

group on a matter, then action on that matter is taken when voted upon by that voting group as provided in RCW 24.03A.440 or 24.03A.475.

(2) If this chapter, the articles, or the bylaws provide for voting by two or more voting groups on a matter, then action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in RCW 24.03A.440 or 24.03A.475. [2021 c 176 § 2316.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.470 Voting agreements. (1) If the articles or bylaws allow voting agreements, then two or more members may provide for the manner in which they will vote by executing an agreement in the form of a record for that purpose, to the extent allowed under the articles or bylaws.

(2) A voting agreement is specifically enforceable if:

(a) The voting agreement is allowed under the articles or bylaws;
or

(b) The effective date of the voting agreement is before January 1, 2022.

(3) Notwithstanding subsection (2) of this section, no voting agreement is enforceable to the extent that enforcement of the agreement would violate the purposes of the membership corporation. [2021 c 176 § 2317.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.475 Action without meeting by unanimous written consent. (1) Except as provided in the articles or bylaws, action required or permitted by this chapter to be taken at a meeting of the members may be taken without a meeting if the action is taken by all the members entitled to vote on the action. The action must be evidenced by one or more consents in the form of a record bearing the date of execution and describing the action taken, executed by all the members entitled to vote on the action, and delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(2) If not otherwise fixed under RCW 24.03A.400 or 24.03A.420, the record date for determining members entitled to take action without a meeting is the date the first member executes the consent under subsection (1) of this section. A consent shall not be effective to take the corporate action referred to therein unless, within sixty days after the earliest date appearing on a consent delivered to the membership corporation in the manner required by this section, consents executed by all members entitled to vote on the action are received by the corporation. A consent may be revoked by an executed notice in the form of a record to that effect received by the corporation before receipt by the corporation of unrevoked consents sufficient in number to take corporate action.

(3) A consent executed under this section has the same force and effect as a unanimous vote at a meeting duly called and held, and may be described as such.

(4) If this chapter, the articles, or the bylaws require that prior notice of any proposed action be given to members not entitled

to vote on the action and the action is to be taken by consent of the members entitled to vote, then the membership corporation shall deliver to the members not entitled to vote notice of the proposed action at least ten days before taking the action by consent. The notice must contain or be accompanied by the same material that would have been required to be delivered to members not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the members for action. [2021 c 176 § 2318.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.480 Action without meeting by ballot. (1) Except as otherwise restricted by the articles or bylaws, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the membership corporation delivers a ballot to every member entitled to vote on the matter.

(2) A ballot must:

(a) Be in the form of a record;

(b) Set forth each proposed action;

(c) Provide an opportunity to vote, or withhold a vote, separately for each candidate for a director position; and

(d) Provide an opportunity to vote for or against each other proposed action.

(3) Approval by ballot pursuant to this section of action other than election of directors is valid only when the number of ballots returned equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(4) All requests for votes by ballot must:

(a) Indicate the number of responses needed to meet the quorum requirements;

(b) State the percentage of approvals necessary to approve each matter other than election of directors; and

(c) Specify the time by which a ballot must be received by the membership corporation to be counted, which shall not be less than ten days after the ballot is delivered to the member.

(5) Except as provided in the articles or bylaws, a ballot may not be revoked. [2021 c 176 § 2319.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.485 Procedure for remote meetings. When provided for in the articles or bylaws, meetings of the members held by remote communication must follow the provisions of RCW 24.03A.390 through 24.03A.480 to the greatest practicable extent. [2021 c 176 § 2320.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 4

BOARD OF DIRECTORS

RCW 24.03A.490 Board of directors—Authority. (1) A nonprofit corporation shall have a board of directors.

(2) All corporate powers shall be exercised by or under the authority of the board of directors, and the activities and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of the board of directors, subject only to any powers expressly reserved to the corporation's membership or other persons in the articles or bylaws. [2021 c 176 § 2401.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.495 Standards of conduct for directors. (1) Each director, when discharging the duties of a director, shall act:

- (a) In good faith;
- (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (c) In a manner the director reasonably believes to be in the best interests of the nonprofit corporation.

(2) In discharging board or committee duties a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed by law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(3) In discharging the duties of a director, a director may rely on information, opinions, reports, or statements, including financial statements or other financial data, if prepared or presented by:

(a) One or more officers, employees, or volunteers of the nonprofit corporation whom the director reasonably believes to be reliable and competent in the functions performed or the matters presented;

(b) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(i) Within the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence; or

(c) A committee of the board of which the director is not a member, designated in accordance with provisions of the articles or bylaws, as to matters within its designated authority, if the director reasonably believes the committee merits confidence.

(4) A director is not a trustee with respect to the nonprofit corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property. [2021 c 176 § 2402.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.500 Qualification of directors. A director of a nonprofit corporation must be an individual. The articles or bylaws may prescribe other qualifications for directors. A director need not be a resident of this state or a member of the corporation unless the articles or bylaws so prescribe. [2021 c 176 § 2403.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.505 Number of directors. (1) A board of directors shall consist of one or more directors, with the number specified in or fixed in accordance with the articles or bylaws.

(2) The board of directors of any corporation shall consist of three or more directors if:

(a) The internal revenue service has determined the corporation to be a public charity described in section 509(a)(1) through (4) of the internal revenue code;

(b) The corporation has applied to the internal revenue service for a determination of exempt status through an application representing that the corporation is described in section 509(a)(1) through (4) of the internal revenue code; or

(c) The corporation has applied to the internal revenue service for classification as an organization described in section 509(a)(1) through (4) of the internal revenue code.

(3) The number of directors on a board of directors who are under 18 years of age may not exceed three or one-third of the total number of directors then in office, whichever is fewer.

(4) A corporation described in subsection (2) of this section may have fewer than three directors if the death, incapacity, resignation, or removal of a director causes the corporation to have fewer than three directors, provided that the entity, body, or person with the power to elect or appoint directors makes reasonable and prompt efforts to elect or appoint additional directors.

(5) The number of directors may be increased or decreased but to no fewer than one from time to time by amendment to, or in the manner provided in, the articles or bylaws.

(6) A decrease in the number of directors may not shorten an incumbent director's term. [2021 c 176 § 2404.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.510 Selection of directors. (1) The members of a membership corporation shall elect the directors, other than the initial directors named in the articles, at the annual meetings of members, unless the articles or bylaws provide some other time or method of election, or provide that some other person or persons shall appoint some or all of the directors, or designate some other manner of appointment, for example, ex officio directors.

(2) The directors of a nonmembership corporation shall elect the directors, other than the initial directors named in the articles, at the annual meeting of directors, unless the articles or bylaws provide some other time or method of election, or provide that some other person or persons shall appoint some or all of the directors, or designate some other manner of appointment, for example, ex officio directors. [2021 c 176 § 2405.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.515 Terms of directors, generally. (1) The articles or bylaws may specify the terms of directors. If a term is not specified in the articles or bylaws, then the term of a director is one year. Each term of a director elected by the members or directors, or by some other method provided in the articles or bylaws, may not exceed five years except as provided in subsection (2) of this section. Terms of directors appointed by some other person or persons, or designated in some other manner, may be of any length.

(2) For a corporation formed before January 1, 2022, if the articles or bylaws current as of January 1, 2022, provided for terms of elected directors longer than five years, then the terms for elected directors provided in those articles or bylaws may continue in effect until and unless the articles or bylaws are amended to shorten those terms.

(3) The initial directors named in the articles hold office until the first annual election of directors or for any other period specified in the articles.

(4) A reduction in directors' terms of office does not shorten an incumbent director's term.

(5) Except as provided in the articles or bylaws, the term of a director elected to fill a vacancy expires at the end of the unexpired term that the director is filling.

(6) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, appointed, or designated and until the director's successor takes office, unless otherwise provided in the articles or bylaws. [2021 c 176 § 2406.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.520 Staggered terms for directors. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office and number of directors in each group do not need to be uniform. [2021 c 176 § 2407.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.525 Resignation of director. (1) A director may resign at any time by delivering an executed notice in the form of a record to the president, the secretary of the corporation, or another officer designated for that purpose in the articles or bylaws. A director may also resign by giving oral notice to the board at a meeting of the board.

(2) A resignation is effective when the notice is delivered unless the notice specifies a later effective time.

(3) If the resignation of a director of a charitable corporation results in the charitable corporation having no directors in office, then the resigning director shall notify the attorney general that the charitable corporation has no directors in office. Such notice must be in the form of a record delivered to the attorney general within ten

calendar days after the effective date of the director's resignation.
[2021 c 176 § 2408.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.530 Removal of directors. (1) Removal of directors of a membership corporation is subject to the following provisions:

(a) The members may remove, with or without cause, one or more directors who have been elected by the members, unless the articles or bylaws provide that directors may be removed only for cause. The articles or bylaws may specify what constitutes cause for removal.

(b) The board of a membership corporation may not remove a director who has been elected by the members except as provided in subsection (5) of this section or in the articles or bylaws.

(c) The directors may remove, with or without cause, one or more directors who have been elected by the directors, unless the articles or bylaws provide that directors may be removed only for cause. The articles or bylaws may specify what constitutes cause for removal.

(d) Except as provided in the articles or bylaws, if a director is elected by a voting group of members, or by a chapter or other organizational unit, or by a region or other geographic grouping, then only the members of that voting group or chapter, unit, region, or grouping may participate in the vote to remove the director.

(e) The notice of a meeting of members at which removal of a director is to be considered shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(2) The board may remove a director of a nonmembership corporation who was elected by the directors:

(a) With or without cause, unless the articles or bylaws provide that directors may be removed only for cause. The articles or bylaws may specify what constitutes cause for removal;

(b) A nonprofit corporation shall give notice of any meeting of directors at which removal of a director is to be considered in accordance with the articles or bylaws governing notice for special meetings, but in no event less than forty-eight hours before the meeting. Such notice shall state that the purpose, or one of the purposes, of the meeting is removal of a director;

(c) As provided in subsection (5) of this section.

(3) A director who is designated by name in the articles or bylaws may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(4) Except as provided in the articles or bylaws, a director who is appointed by persons other than the members or the directors may be removed with or without cause only by those persons.

(5) Notwithstanding anything else to the contrary in this section or the articles or bylaws, the board of a membership corporation or nonmembership corporation may remove a director:

(a) Who has been appointed a guardian under RCW 11.130.185 or 11.130.265;

(b) Who has been appointed a conservator under RCW 11.130.360;

(c) Who is subject to a written certification by his or her attending physician that in the physician's opinion the director is substantially unable to manage his or her financial resources or resist fraud or undue influence;

(d) Who has been convicted of a felony;

(e) Who has been found by a final order of any court of competent jurisdiction to have breached a duty as a director under RCW 24.03A.495;

(f) Who has missed the number of board meetings specified in the articles or bylaws, if the articles or bylaws at the beginning of the director's current term provided that a director may be removed for missing the specified number of board meetings; or

(g) Who does not satisfy any of the qualifications for directors set forth in the articles or bylaws at the beginning of the director's current term, if the decision that the director fails to satisfy a qualification is made by the vote of a majority of the directors who meet all of the required qualifications.

(6) Notwithstanding anything else to the contrary in this section or the articles or bylaws, the board of a charitable corporation that is a membership corporation or a nonmembership corporation may remove a director if the director's continued service would cause the charitable corporation to be prohibited from soliciting charitable funds under RCW 19.09.100(13). [2021 c 176 § 2409.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.535 Vacancy on board of directors. (1) Except as provided in subsection (2) of this section, the articles, or the bylaws, if a vacancy occurs on the board, including a vacancy resulting from an increase in the number of directors, then the vacancy may be filled by a majority of the directors remaining in office even if they constitute less than a quorum. For purposes of RCW 24.03A.530, any director so elected is deemed to have been elected by the members, voting group, or persons who would elect that director at a regular election.

(2) Except as provided in the articles or bylaws, a vacancy in the position of a director who is:

(a) Appointed by persons other than the members, may be filled only by those persons; or

(b) Designated by name in the articles or bylaws, may not be filled by action of the board.

(3) A vacancy that will occur at a specific later time, by reason of a resignation effective at a later time under RCW 24.03A.525(2), or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

(4) If no directors remain in office, and there are no members with the right to elect directors, then the attorney general has the power to appoint one or more directors selected for their interest and ability to carry out the purposes of the corporation, unless the articles or bylaws provide a different method for electing, appointing, or designating at least one director. [2021 c 176 § 2410.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.540 Liability of directors. (1) A director of a nonprofit corporation is not liable to the nonprofit corporation for any action taken, or any failure to take any action, as a director,

except as provided in subsection (2) or (3) of this section or in the articles or bylaws.

(2) Notwithstanding any provision to the contrary in the articles or bylaws, a director is liable to the corporation for:

(a) The value of any benefit in cash, other property, or services received by the director to which the director is not legally entitled; or

(b) Intentional misconduct or a knowing violation of law, including but not limited to criminal law or this chapter, by the director.

(3) A director is liable to the corporation for a violation of any additional standard of conduct specified in the nonprofit corporation's articles as an exception to the limitation on [the] director's liability.

(4) A director of a nonprofit corporation is not liable to any member of the nonprofit corporation for any action taken, or any failure to take action, as a director, except as provided in subsection (5) of this section.

(5) A director is liable to a member of the corporation only for:

(a) A knowing infliction of harm upon the member; or

(b) An intentional violation of criminal law or this chapter that results in harm or loss to the member.

(6) The party seeking to establish the director's liability to the corporation or any member of the corporation:

(a) For money damages, also has the burden of establishing that:

(i) Harm to the nonprofit corporation or its members has been suffered; and

(ii) The harm suffered was proximately caused by the director's challenged conduct; or

(b) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, also has whatever burden of persuasion may be called for to establish that the payment sought is appropriate in the circumstances; or

(c) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, also has whatever burden of persuasion may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(7) Nothing contained in this section:

(a) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the nonprofit corporation under RCW 24.03A.615(1)(c), alters the burden of proving the fact or lack of fairness otherwise applicable;

(b) Alters the fact or lack of liability of a director to the nonprofit corporation under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under RCW 24.03A.610, a conflicting interest transaction under RCW 24.03A.615, or taking advantage of a business opportunity under RCW 24.03A.620;

(c) Affects any rights to which the corporation or a director or member may be entitled under another statute of this state or the United States; or

(d) Affects the authority of the attorney general to take any action against a director under this chapter or other applicable Washington state law. [2021 c 176 § 2411.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.545 Compensation of directors. Unless the articles or bylaws provide otherwise, the board may fix the compensation of directors. [2021 c 176 § 2412.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 5
MEETINGS AND ACTION OF THE BOARD

RCW 24.03A.550 Meetings of the board. (1) The board may hold regular or special meetings in or out of this state.

(2) Unless the articles or bylaws provide otherwise, the board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, one or more means of remote communication through which all of the directors may simultaneously participate with each other during the meeting. A director participating in a meeting by this means is considered present in person at the meeting. For any meeting at which one or more directors may participate by means of remote communication, notice of the meeting must be delivered to each director by a means which the director has authorized and provide complete instructions for participating in the meeting by remote communication. [2021 c 176 § 2501.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.555 Notice of board meetings. (1) Regular meetings of the board may be held with or without notice as prescribed in the articles or bylaws, unless notice is required by RCW 24.03A.530(2) or other provisions of this chapter.

(2) Unless the articles or bylaws provide for a longer or shorter period, special meetings of the board must be preceded by at least forty-eight hours' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting, except as required by RCW 24.03A.530(2), other provisions of this chapter, or the articles or bylaws.

(3) Unless the articles or bylaws provide otherwise, the president, the secretary, or twenty percent of the directors then in office may call and give, or cause to be given, notice of a meeting of the board.

(4) Oral notice of meetings of the board may be given, unless oral notice is not permitted by a corporation's articles or bylaws. [2021 c 176 § 2502.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.560 Waiver of notice. (1) A director may waive any notice required by this chapter, the articles, or the bylaws before or after the date and time stated in the notice. Except as provided by subsection (2) of this section, the waiver must be in the form of a record, executed by the director entitled to the notice, and filed with the minutes or corporate records.

(2) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting, unless the director at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting. [2021 c 176 § 2503.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.565 Board quorum and voting requirements. (1) Except as provided in subsection (2) or (3) of this section, the articles, or the bylaws, a quorum of the board consists of a majority of the directors in office before a meeting begins.

(2) The articles or bylaws may authorize a quorum of the board to consist of no fewer than one-third of the number of directors in office.

(3) A quorum shall not be present at any time during a meeting unless a majority of the directors present are at least 18 years of age.

(4) If a quorum is present when a vote is taken, then the affirmative vote of a majority of directors present is the act of the board unless a greater vote is required by the articles or bylaws or this chapter.

(5) No proxy for a director, however appointed, may:

(a) Participate in any vote of the board or of any board committee;

(b) Be counted for the purpose of determining whether a quorum is present at a meeting; or

(c) Execute any written consent on behalf of the director.

(6) A director who is present at a meeting of the board when corporate action is taken is considered to have assented to the action taken unless:

(a) The director objects at the beginning of the meeting or promptly upon arrival to holding it or transacting business at the meeting;

(b) The director dissents or abstains from the action; or

(c) The director delivers notice in the form of a record of the director's dissent or abstention to the president or secretary of the corporation or another officer of the corporation designated in the bylaws before or during the meeting or before the approval of the minutes of the meeting.

(7) The right of dissent or abstention is not available to a director who votes in favor of the action taken. [2021 c 176 § 2504.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.570 Action without meeting by unanimous written consent. (1) Unless the articles or bylaws prohibit action without a meeting, action required or permitted by this chapter to be taken by the board may be taken without a meeting if each director entitled to vote with respect to the subject matter thereof executes a consent in the form of a record describing the action to be taken and delivers it to the nonprofit corporation.

(2) For purposes of this section only, "each director entitled to vote" does not include an "interested director" who abstains in writing from providing consent, where:

(a) The board has determined that:

(i) The corporation is entering into the transaction for its own benefit; and

(ii) The transaction is fair and reasonable to the corporation when it enters into the transaction or the noninterested directors determine in good faith after reasonable investigation that the corporation cannot obtain a more advantageous arrangement with reasonable effort under the circumstances, at or before execution of the written consent;

(b) That determination of the board is included in the written consent executed by the noninterested directors or in other records of the corporation; and

(c) All of the noninterested directors approve the action.

(3) Action taken under this section is the act of the board when one or more consents executed by all the directors entitled to vote are delivered to the nonprofit corporation. In no event may the period between the date of the first signature by a director on such a consent and the date on which all directors have executed the consent be more than sixty days. The consent may specify the time at which the action taken in the consent is to be effective. A director's consent may be withdrawn by a revocation in the form of a record executed by the director and delivered to the president, secretary, or other officer of the corporation specified by the board for that purpose before delivery to the corporation of unrevoked consents executed by all the directors.

(4) A written consent executed under this section has the effect of action taken at a meeting of the board and may be described as such in any document. [2021 c 176 § 2505.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.575 Board and advisory committees. (1) Unless this chapter, the articles, or the bylaws provide otherwise, a board may create one or more committees of the board that consist of two or more directors. A committee of the board shall not include as voting members persons who are not directors, except:

(a) As provided in Title 48 RCW or the regulations promulgated thereunder;

(b) If the only powers delegated to the committee are those necessary for the committee to serve in any fiduciary capacity with respect to one or more employee benefit plans established under the federal employee retirement income security act of 1974, or any successor statute; or

(c) Unless without the inclusion of persons who are not directors it is impossible or impracticable for the corporation to comply with applicable law other than this chapter.

(2) Unless this chapter otherwise provides, the creation of a committee of the board and appointment of directors to it shall be approved by the greater of:

(a) A majority of all the directors in office when the action is taken; or

(b) The number of directors required by the articles or bylaws to take action under RCW 24.03A.565.

(3) RCW 24.03A.550 through 24.03A.570 apply to both committees of the board and their members to the greatest practicable extent.

(4) To the extent specified by the board or in the articles or bylaws, each committee of the board may exercise the powers of the board granted through RCW 24.03A.490(2), except as limited by subsection (5) of this section.

(5) A committee of the board may not:

(a) Authorize distributions;

(b) Adopt, amend, alter, or repeal bylaws;

(c) In the case of a membership corporation, approve or propose to members action that must be approved by members under the articles or bylaws;

(d) Elect, appoint[,] or remove any member of any committee of the board or any director or officer of the corporation;

(e) Amend the articles;

(f) Adopt a plan of merger with another corporation;

(g) Adopt a plan of domestication, for-profit conversion, or entity conversion;

(h) Authorize the sale, lease, or exchange of all or substantially all of the property and assets of the corporation not in the ordinary course of business;

(i) Authorize the voluntary dissolution of the corporation or revoke proceedings therefor;

(j) Adopt a plan for the distribution of the assets of the corporation; or

(k) Amend, alter, or repeal any resolution of the board, unless the resolution provides by its terms that it may be amended, altered, or repealed by a committee.

(6) The creation of, delegation of authority to, or action by a committee of the board does not alone constitute compliance by a director with the standards of conduct described in RCW 24.03A.495.

(7) A nonprofit corporation may create or authorize the creation of one or more advisory committees whose members need not be directors or meet the qualification requirements for directors. The board shall not delegate any of its authority to an advisory committee. An advisory committee:

(a) Is not a committee of the board; and

(b) May not exercise any of the powers of the board. [2021 c 176 § 2506.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.580 Procedure for remote meetings. Unless otherwise provided in the articles or bylaws, meetings of the board or any committee held by remote communication must follow the provisions of RCW 24.03A.550 through 24.03A.575 to the greatest practicable extent. [2021 c 176 § 2507.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 6

OFFICERS

RCW 24.03A.585 Officers—Duties. (1) The officers of a nonprofit corporation consist of a president, secretary, and treasurer, and other officers as may be authorized by the articles, the bylaws, or the board.

(2) Unless the articles or bylaws provide otherwise, the board shall elect or appoint all officers annually, and officers shall serve until their respective successors have been elected or appointed or until their earlier removal or resignation.

(3) The same individual may simultaneously hold more than one office in a nonprofit corporation, except that the same individual may not hold the offices of president and secretary.

(4) Each officer has the authority and shall perform the duties set forth in the articles or bylaws or, to the extent consistent with the articles and bylaws, the duties prescribed by the board or by direction of an officer authorized by the board to prescribe the duties of other officers. [2021 c 176 § 2601.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.590 Standards of conduct for officers. (1) An officer with discretionary authority shall discharge his or her duties under that authority:

(a) In good faith;

(b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(c) In a manner the officer reasonably believes to be in the best interests of the corporation.

(2) The duty of an officer includes the obligation to convey to his or her superior officer, the board, a board committee, or another appropriate person within the nonprofit corporation:

(a) Information about the affairs of the nonprofit corporation within the scope of the officer's functions, and known to the officer to be material to the superior officer, board, or committee thereof; and

(b) Information regarding any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, director, employee, agent, or vendor of the corporation, that the officer believes has occurred or is likely to occur.

(3) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the nonprofit corporation whom the officer reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(b) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

(i) Within the particular person's professional or expert competence; or

(ii) As to which the particular person merits confidence.

(4) An officer is not a trustee with respect to the nonprofit corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property. [2021 c 176 § 2602.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.595 Resignation and removal of officers. (1) An officer may resign at any time by delivering notice to the nonprofit corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective time. If a resignation is made effective at a later time and the board or the appointing officer accepts the future effective time, then the board or the appointing officer may designate a successor before the effective time if the board or the appointing officer provides that the successor does not take office until the effective time.

(2) Except as provided in the articles or bylaws, an officer may be removed at any time with or without cause by:

(a) The board;

(b) The officer who appointed the officer being removed, unless the board provides otherwise; or

(c) Any other officer authorized by the articles, the bylaws, or the board to remove the officer being removed.

(3) In this section, "appointing officer" means the officer, including any successor to that officer who appointed the officer resigning or being removed. [2021 c 176 § 2603.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.600 Contract rights of officers. (1) The appointment or election of an officer does not itself create contract rights.

(2) An officer's removal does not affect the officer's contract rights, if any, with the nonprofit corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer. [2021 c 176 § 2604.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 7

PROVISIONS COMMON TO DIRECTORS AND OFFICERS

RCW 24.03A.605 Loans or guarantees. (1) A nonprofit corporation may not lend money to, advance credit to, or guarantee the obligation of a director or officer of the corporation.

(2) Subsection (1) of this section does not apply to:

(a) An advance to pay reimbursable expenses reasonably expected to be incurred within a time period that is reasonable under the circumstances by a director or officer;

(b) Advances pursuant to RCW 24.03A.630;

(c) Loans or advances pursuant to employee benefit plans; or

(d) A loan to pay reasonable relocation expenses of an officer.

(3) The fact that a loan or guarantee is made in violation of this section does not affect the borrower's liability on the loan.

(4) The directors who vote for or assent to any loan, advance, or guarantee in violation of subsection (1) of this section, and any officer materially participating in the making of such a loan, advance, or guarantee, are personally liable on a joint and several basis to the nonprofit corporation on the loan, advance, or guarantee. Liability under this subsection terminates upon the repayment of any funds advanced by the nonprofit corporation in violation of subsection (1) of this section or, if no funds have been advanced under a guarantee, upon the termination of the guarantee.

(5) A director or officer held liable under subsection (4) of this section for any unlawful loan or guarantee is entitled to contribution from every other director or officer who could be held liable under subsection (4) of this section for the unlawful loan or guarantee.

(6) A proceeding to enforce contribution or recoupment under subsection (5) of this section is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection (4) of this section. [2021 c 176 § 2701.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.610 Liability for unlawful distributions. (1) A director or officer is personally liable to the nonprofit corporation for the amount of any distribution that exceeds the amount the corporation could have distributed without violating RCW 24.03A.155 if:

(a) The nature or amount of the distribution was material to the interests of the corporation for any reason under all of the facts and circumstances including, but not limited to, federal excise tax liability or federal tax penalties imposed on the corporation as a result of the distribution;

(b) The director or officer voted for or assented to that distribution as a director, or participated beyond the level of a ministerial function in making that distribution as an officer; and

(c) The party asserting liability establishes that, when taking the action, the director or officer violated the standard of conduct set forth in subsection (2) of this section.

(2) A director or officer may be held liable under this section:

(a) For a distribution by a charitable corporation, or a distribution of assets held for charitable purposes, if the director did not comply with RCW 24.03A.495 or the officer did not comply with RCW 24.03A.590; or

(b) If the conduct of the director or officer with respect to the distribution constitutes gross negligence.

(3) A director or officer held liable under this section for an unlawful distribution is entitled to:

(a) Contribution from every other director or officer who could be held liable under this section for the unlawful distribution; and

(b) Recoupment from each person of the pro rata portion of the amount of the unlawful distribution the person received:

(i) Whether or not the person knew the distribution was made in violation of this chapter, for a distribution by a charitable corporation or of property held for charitable purposes; or

(ii) Knowing the distribution was made in violation of this chapter, for a distribution of property not held for charitable purposes.

(4) A proceeding to enforce:

(a) The liability of a director or officer under this section is barred, unless it is commenced within three years after the date on which the distribution was made; or

(b) Contribution or recoupment under subsection (3) of this section is barred, unless it is commenced within one year after the liability of the claimant under this section has been finally adjudicated. [2021 c 176 § 2702.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.615 Conflicting interest transactions—Voidability.

(1) A contract or transaction between a nonprofit corporation and one or more of its members, directors, or officers; or between a nonprofit corporation and any other entity in which one or more of its directors or officers are directors or officers, hold a similar position, or have a financial interest is not void or voidable solely for that reason, or solely because the member, director, or officer is present at or participates in the meeting of the board that authorizes the contract or transaction or solely because his or her or their votes are counted for that purpose, if:

(a) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board and the board in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(b) The material facts as to the relationship or interest of the member, director, or officer and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or

(c) The contract or transaction is fair as to the corporation as of the time the board or the members authorize, approve, or ratify the transaction.

(2) Interested directors or directors holding a similar position in the other entity involved in a contract or transaction specified in subsection (1) of this section may be counted in determining the presence of a quorum at a meeting of the board that authorizes the contract or transaction.

(3) This section is applicable except as provided in the articles or bylaws. [2021 c 176 § 2703.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.620 Business opportunities. (1) The taking advantage, directly or indirectly, by a director or officer of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the

director or officer, in a proceeding by or in the right of the nonprofit corporation on the ground that the opportunity should have first been offered to the corporation, if before becoming legally obligated or entitled respecting the opportunity the director or officer brings it to the attention of the corporation and action by the members or the directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in RCW 24.03A.615, as if the decision being made concerned a conflicting interest transaction.

(2) In any proceeding seeking equitable relief or other remedies, based upon an alleged improper taking advantage of a business opportunity by a director or officer, the fact that the director or officer did not employ the procedure described in subsection (1) of this section before taking advantage of the opportunity does not support an inference that the opportunity should have been first presented to the nonprofit corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances. [2021 c 176 § 2704.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.625 Removal by judicial proceeding. (1) The court may remove a director or officer from office in a proceeding commenced by or in the right of the corporation if the court finds that:

(a) The director or officer engaged in fraudulent conduct with respect to the corporation or its members, knowingly inflicted harm on the corporation, or engaged in acts or omissions constituting gross negligence with respect to the director's or officer's duties; and

(b) Considering the course of conduct of the director or officer and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

(2) An action under this section may be commenced by a member, individual director, or delegate. The attorney general may also commence an action under this section if the corporation holds property for charitable purposes.

(3) The court, in addition to removing the director or officer, may bar the director or officer from being reelected, redesignated, or reappointed as a director, an officer, or both for a period prescribed by the court.

(4) Nothing in this section limits the equitable powers of the court to order other relief.

(5) If a proceeding is commenced under this section to remove a director or officer of a charitable corporation, then the plaintiff shall give the attorney general notice in the form of a record of the commencement of the proceeding. [2021 c 176 § 2705.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.630 Indemnification and advance for expenses. The provisions of RCW 23B.08.500 through 23B.08.603, or their successors, apply to any corporation to which this chapter applies. For purposes of this chapter:

(1) All references in those provisions to shares of a corporation are deemed to refer to membership interests in the nonprofit corporation.

(2) All references in those provisions to shareholders are deemed to refer to members of the nonprofit corporation.

(3) All references in those provisions to a shareholders meeting are deemed to refer to a meeting of the members of the nonprofit corporation.

(4) All references in those provisions to transactions from which directors or officers will personally receive a benefit to which they are not entitled are deemed to include transactions approved or implemented by a director or officer knowing them to be in violation of RCW 24.03A.155.

(5) This section does not limit a nonprofit corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee, agent, or volunteer. [2021 c 176 § 2706.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.635 Directors and officers under 18 years of age. No director or officer of a corporation who is under 18 years of age shall have authority to execute any document on behalf of the corporation, or otherwise to bind the corporation with respect to any other party, without the written concurrence of one or more other directors or officers of the corporation who are at least 18 years of age and would, between them, have independent authority to execute the same document or to bind the corporation in the same way. [2021 c 176 § 2707.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

PART III
FUNDAMENTAL TRANSACTIONS
ARTICLE 1
AMENDMENT OF ARTICLES OR BYLAWS

RCW 24.03A.640 Authority to amend. (1) A nonprofit corporation may amend its articles of incorporation, from time to time, so long as its articles as amended contain only provisions that are lawful under this chapter.

(2) Amendments to the articles of a charitable corporation to include one or more purposes of the corporation substantially different from the corporation's purposes before the amendment are subject to the reporting requirement set out in RCW 24.03A.075. [2021 c 176 § 3101.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.645 Amendment of articles by nonmembership corporation. (1) Except as provided in the articles, the board of a nonmembership corporation may adopt amendments to the corporation's articles by the vote of a majority of the directors in office.

(2) Except as provided in subsection (3) of this section, an amendment adopted by the board under this subsection must also be approved, if the amendment changes or deletes a provision regarding the appointment of a director by persons other than the board, by those persons as if they constituted a voting group.

(3) Unless the articles provide otherwise, the board of a nonmembership corporation may adopt amendments to the corporation's articles without approval of any of the other persons identified in subsection (2) of this section to:

(a) Extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(b) Delete the names and addresses of the initial directors;

(c) Notwithstanding RCW 24.03A.100(1), delete the name of each incorporator and the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state; and

(d) Restate without change all of the then operative provisions of the articles. [2021 c 176 § 3102.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.650 Amendment before admission of members. If a membership corporation has not yet admitted members, then its board may adopt one or more amendments to the articles. [2021 c 176 § 3103.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.655 Amendment after admission of members. (1) An amendment to the articles of a membership corporation must be adopted in the following manner:

(a) Except as provided in (e) of this subsection, a proposed amendment must be adopted by the board.

(b) Except as provided in RCW 24.03A.670 and 24.03A.675, a proposed amendment must be submitted to the members entitled to vote on the amendment, if any, for their approval.

(c) The board shall deliver to all members a recommendation that the members approve an amendment, unless the board makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board shall deliver to the members the basis for that determination.

(d) The board may condition its submission of an amendment to the members on any basis. Such a condition is in addition to any approval requirements set forth in the corporation's articles or bylaws or in this chapter.

(e) If the articles or bylaws so permit, an amendment may be proposed by ten percent or more of the members entitled to vote on the amendment, or by a greater number of members if the articles or bylaws so specify. The provisions of (a), (c), and (d) of this subsection do not apply to an amendment proposed by the members under this subsection.

(f) If an amendment is required to be approved by the members, including under (e) of this subsection, and the approval is to be

given at a meeting, then the corporation shall give notice to each member, whether or not entitled to vote on the amendment, of the meeting of members at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and must contain or be accompanied by a copy or summary of the amendment. If a summary is provided in lieu of a copy of the amendment, then a copy must be available to members upon request and the notice shall state that fact.

(g) At a meeting described in (f) of this subsection, those members entitled to vote on the amendment may:

(i) Approve or reject the amendment exactly as provided or summarized in the notice of the meeting; or

(ii) Approve revisions to the amendment at the meeting, if the subject matter of the revisions is within the scope of the subject matter of the amendment as provided or summarized in the notice of the meeting.

(h) The board shall determine whether the subject matter of any revisions approved by members remains within the scope of the subject matter of the amendment as provided or summarized in the notice of the meeting. If the board determines that the revisions approved by the members are not within that scope, then the amendment is deemed rejected by the membership. If the board determines that the revisions by members are within scope, then the board may:

(i) Accept the amendment incorporating the revisions approved by the members; or

(ii) Propose a further revised amendment to the members for approval.

This process may continue until an amendment acceptable to the board has been approved by the members. If successive votes take place at the same meeting of members, then no further notices or meetings are required.

(i) Unless the articles or bylaws, or the board acting pursuant to (d) of this subsection, requires a greater vote or a greater number of votes to be present, the approval of an amendment by the members entitled to vote thereon requires the approval of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the amendment, the approval of each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(j) Except as provided in subsection (2) of this section, an amendment adopted by the board under this subsection must also be approved, if the amendment changes or deletes a provision regarding the appointment of a director by persons other than the board, by those persons as if they constituted a voting group.

(k) If a membership corporation has no members entitled to vote on the amendment, then the corporation shall deliver notice of the approval of the amendment by the board to all members of the corporation at least five days before filing articles of amendment or restated articles of incorporation with the secretary of state.

(2) Unless the articles provide otherwise, the board of a membership corporation may adopt amendments to the corporation's articles without approval of the members to:

(a) Delete the names and addresses of the initial directors;

(b) Notwithstanding RCW 24.03A.100(2), delete the name of each incorporator and the name and address of the initial registered agent

or registered office, if a statement of change is on file with the secretary of state; or

(c) Restate without change all of the then operative provisions of the articles. [2021 c 176 § 3104.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.660 Voting on amendments by voting groups. (1) If a nonprofit corporation has more than one class of members entitled to vote on an amendment to the articles, then the articles or bylaws may provide that the members of each class entitled to vote on the amendment are entitled to vote as a separate voting group if the amendment would change the rights, powers, preferences, or limitations of the class.

(2) If a class of members will be divided into two or more classes by an amendment to the articles, then the amendment must be approved by a majority of the members of each class that will be created. [2021 c 176 § 3105.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.665 Articles of amendment. After an amendment to the articles has been adopted and approved in the manner required by RCW 24.03A.640 through 24.03A.705 and by the articles, the nonprofit corporation shall deliver to the secretary of state for filing articles of amendment, which must be executed by an officer or other authorized representative and set forth:

- (1) The name of the corporation;
- (2) The text of the amendment adopted;
- (3) The date of the amendment's adoption; and
- (4) If the amendment:

(a) Was adopted by the board without member approval, a statement that the amendment was adopted by the board of directors, and that member approval was not required; or

(b) Required approval by the members, a statement that the amendment was approved by the members in the manner required by this chapter and by the articles and bylaws. [2021 c 176 § 3106.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.670 Restated articles of incorporation. (1) The board of a nonprofit corporation may restate its articles of incorporation at any time, without approval by the members or any other person, to consolidate all amendments into a single document without substantive change.

(2) A restatement of the articles may include one or more amendments to the articles. If restated articles of incorporation of a nonmembership corporation include one or more new amendments, then these amendments must have been adopted and approved as provided in RCW 24.03A.645. If restated articles of incorporation of a membership corporation include one or more new amendments that require member approval, then the amendments must have been adopted and approved as provided in RCW 24.03A.650 or 24.03A.655, as appropriate.

(3) A nonprofit corporation that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the nonprofit corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(a) If the restatement does not include any amendments to the articles, a statement of that fact;

(b) If the restatement contains one or more amendments to the articles, the information required by RCW 24.03A.665 (1) through (4).

(4) The articles of restatement and the certificate must be executed by an officer or other authorized representative.

(5) Duly adopted restated articles of incorporation supersede the original articles and all amendments thereto.

(6) The secretary of state shall certify restated articles of incorporation as the articles currently in effect. [2021 c 176 § 3107.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.675 Amendment of articles pursuant to reorganization.

(1) A nonprofit corporation's articles of incorporation may be amended without action by the board or the members to carry out a plan of reorganization ordered or decreed by any court of competent jurisdiction in a proceeding relating to the corporation.

(2) An individual designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth:

(a) The name of the corporation;

(b) The text of each amendment approved by the court;

(c) The date of the court's order or decree approving the articles of amendment;

(d) The title of the reorganization proceeding in which the order or decree was entered; and

(e) A statement that the court had jurisdiction of the proceeding.

(3) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan. [2021 c 176 § 3108.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.680 Effective date. Unless a delayed effective date is specified, articles of amendment or restated articles of incorporation become effective on the date the articles of amendment or restated articles of incorporation are filed by the secretary of state. [2021 c 176 § 3109.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.685 Effect of articles of amendment. (1) Except as provided in subsection (2) of this section, an amendment to the articles does not affect a cause of action existing against or in favor of the nonprofit corporation, a proceeding to which the

corporation is a party, or the existing rights of persons other than members of the corporation or persons referred to in the articles. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

(2) No amendment to the articles shall modify any restriction imposed through any means upon property held for charitable purposes unless, before the delivery of the amendment to the secretary of state for filing, the restriction is modified:

(a) In the case of a restriction imposed pursuant to a trust instrument governed by chapter 11.110 RCW in which the nonprofit corporation is a trustee or a beneficiary, through an appropriate order of the court or the agreement of all interested parties, including the attorney general, under chapter 11.96A RCW; or

(b) In the case of any other restriction, pursuant to RCW 24.03A.190.

(3) A person who is a member or otherwise affiliated with a charitable corporation may not receive a direct or indirect financial benefit in connection with an amendment of the articles unless the person is itself a charitable corporation, the federal government, a state, a governmental subdivision, or an unincorporated entity that has charitable purposes. This subsection does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3110.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.690 Power to amend bylaws. The power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the board unless otherwise provided in the articles, the bylaws, or this chapter. [2021 c 176 § 3111.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.695 Bylaw amendments requiring member approval. (1) Except as provided in the articles or bylaws, the board of a membership corporation that has one or more members may not, without approval of the class or classes of members affected, adopt or amend a provision of the bylaws:

(a) That would eliminate any existing right, power, or privilege of membership contained in the bylaws;

(b) Under RCW 24.03A.345, providing that some of the members have different rights or obligations than other members with respect to voting, dissolution, transfer of memberships[,] or other matters;

(c) Under RCW 24.03A.360, levying dues, assessments, or fees on some or all of the members;

(d) Under RCW 24.03A.375, relating to the termination or suspension of members; or

(e) Under RCW 24.03A.380, authorizing the purchase of memberships.

(2) The board of a membership corporation that has members may not amend the articles or bylaws without approval of every class or classes of members affected to vary the application of subsection (1) of this section to the corporation.

(3) If a nonprofit corporation has more than one class of members, then the members of a class are entitled to vote as a separate voting group on an amendment to the bylaws that:

(a) Is described in subsection (1) of this section, if the amendment would affect the members of that class differently than the members of another class; or

(b) Has any of the effects described in RCW 24.03A.655(1)(j).

(4) If a class of members will be divided into two or more classes by an amendment to the bylaws, then the amendment must be approved by a majority of the members of each class that will be created. [2021 c 176 § 3112.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.700 Effect of bylaw amendment. (1) No amendment to the bylaws shall modify any restriction imposed through any means upon property held for charitable purposes unless, before or simultaneously with the adoption of the bylaws amendment, the restriction is modified:

(a) In the case of a restriction imposed pursuant to a trust instrument governed by chapter 11.110 RCW in which the nonprofit corporation is a trustee or a beneficiary, through an appropriate order of the court or the agreement of all interested parties, including the attorney general, under chapter 11.96A RCW; or

(b) In the case of any other restriction, pursuant to RCW 24.03A.190.

(2) A person who is a member or otherwise affiliated with a charitable corporation may not receive a direct or indirect financial benefit in connection with an amendment of the bylaws unless the person is itself a charitable corporation, the federal government, a state, a governmental subdivision, or an unincorporated entity that has charitable purposes. This subsection does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3113.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.705 Approval of amendments by third parties. (1) The articles of incorporation may require that an amendment to the articles be approved in the form of a record by a specified person or group of persons in addition to the board or members.

(2) The articles or bylaws may require that an amendment to the bylaws be approved in the form of a record by a specified person or group of persons in addition to the board or members.

(3) A requirement in the articles or bylaws described in subsection (1) or (2) of this section may only be amended with the approval in the form of a record of the specified person or group of persons. [2021 c 176 § 3114.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 2

MERGER

RCW 24.03A.710 Definitions. The definitions in this section apply throughout this section and RCW 24.03A.715 through 24.03A.750 unless the context clearly requires otherwise.

(1) "Eligible interests" means interests or shares.

(2) "Interests" means either or both of the following rights under the organic law of an unincorporated entity:

(a) The right to receive distributions from the entity either in the ordinary course or upon liquidation; or

(b) The right to receive notice or vote on issues involving its internal affairs, other than as an agent, assignee, proxy, or person responsible for managing its business, activities, or affairs.

(3) "Merger" means a transaction pursuant to RCW 24.03A.730.

(4) "Party to a merger" means any domestic or foreign nonprofit corporation or eligible entity that will merge under a plan of merger.

(5) "Shares" means the units into which the proprietary interests in a domestic or foreign for-profit corporation are divided.

(6) "Survivor" in a merger means the corporation or eligible entity into which one or more other corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger. [2021 c 176 § 3201.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.715 Property held for charitable purposes. (1) In a merger under RCW 24.03A.710 through 24.03A.750, property held for charitable purposes by a nonprofit corporation may not be diverted from charitable purposes.

(2) The survivor of any merger under RCW 24.03A.710 through 24.03A.750 remains bound by any restriction imposed through any means upon property held for charitable purposes by any party to the merger including, but not limited to, any restriction that affects existing rights of persons other than members, shareholders, or interest holders of the other party, unless the restriction is modified:

(a) In the case of a restriction imposed pursuant to a trust instrument governed by chapter 11.110 RCW in which the nonprofit corporation is a trustee or a beneficiary, through an appropriate order of the court or the agreement of all interested parties, including the attorney general, under chapter 11.96A RCW; or

(b) In the case of any other restriction, pursuant to RCW 24.03A.190.

(3) Property held by a nonprofit corporation for charitable purposes upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger, must be returned, transferred, or conveyed in accordance with that condition.

(4) A corporation that is not a charitable corporation but holds property for charitable purposes shall deliver to the attorney general notice of its intent to consummate a merger, unless the survivor of the merger is a charitable corporation. The notice must be delivered to the attorney general in the form of a record at least twenty days before the meeting at which the proposed transaction is to be approved. Such a merger may not be implemented without the approval of the attorney general, or the approval of the court in a proceeding to

which the attorney general is made a party. In the event that the attorney general does not deliver a notice of objection in the form of a record to the corporation within twenty days after the delivery to the attorney general of notice of the transaction, approval of the transaction is deemed to have been given.

(5) The notice described in subsection (4) of this section shall include:

(a) A statement specifying how the merger will comply with subsections (1) through (3) of this section; and

(b) A brief description of:

(i) Real property held by the corporation for charitable purposes, and its nature and location;

(ii) Cash, bank deposits, brokerage accounts, or other financial assets held by the corporation for charitable purposes, and their approximate total fair market value;

(iii) Other personal property held by the corporation for charitable purposes, and its nature and approximate total fair market value; and

(iv) All gift restrictions applicable to any property described in (b) (i) through (iii) of this subsection, and the nature of those restrictions. [2021 c 176 § 3202.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.720 Prohibition of financial benefit. A person who is a member, director, officer, interest holder, or otherwise affiliated with a charitable corporation or any other eligible entity with a charitable purpose may not receive a direct or indirect financial benefit in connection with a merger governed by RCW 24.03A.710 through 24.03A.750 to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation, the federal government, a tribal government, a state or local government, a governmental subdivision, or an eligible entity that is organized exclusively for charitable purposes. This section does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3203.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.725 Limitations on charitable corporations. (1) A charitable corporation may merge only with:

(a) Another charitable corporation;

(b) A foreign corporation that, if it were a domestic corporation, would qualify under this chapter as a charitable corporation; or

(c) A foreign or domestic for-profit or nonprofit corporation, or unincorporated entity, only if the charitable corporation is the surviving corporation and continues to qualify as a charitable corporation after the merger.

(2) No member of a charitable corporation may receive or keep anything as a result of a merger other than a membership in the surviving charitable corporation, unless:

(a) The attorney general, or the court in a proceeding in which the attorney general has been given notice, has provided prior written consent; or

(b) The member is a charitable corporation, another entity that is organized and operated exclusively for one or more charitable purposes, the federal government, or a tribal, state, or local government. [2021 c 176 § 3204.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.730 Merger. (1) Subject to the restrictions in RCW 24.03A.715 through 24.03A.725, one or more domestic nonprofit corporations may merge with one or more domestic or foreign nonprofit corporations or eligible entities pursuant to a plan of merger or two or more foreign nonprofit corporations or domestic or foreign eligible entities may merge into a new domestic nonprofit corporation to be created in the merger in the manner provided in RCW 24.03A.710 through 24.03A.750.

(2) A foreign nonprofit corporation, or a foreign eligible entity, may be a party to a merger with a domestic nonprofit corporation, or may be created by the terms of the plan of merger, only if the merger is permitted by the organic law of the corporation or eligible entity.

(3) If the law of this state, other than this chapter, permits the merger of a domestic eligible entity with a nonprofit corporation but does not provide procedures for the approval of such a merger, then a plan of merger may be adopted and approved, and the merger may be effectuated, in accordance with the procedures in RCW 24.03A.710 through 24.03A.750. For the purposes of applying RCW 24.03A.710 through 24.03A.750, as the context may require:

(a) The eligible entity is treated as a domestic nonprofit corporation, its interest holders are treated as members, eligible interests are treated as memberships, and organic records are treated as articles and bylaws; and

(b) If there is no board of directors and the business and affairs of the eligible entity are managed by a team or body of persons that is not identical to the interest holders, that team or body is deemed to be the board of directors.

(4) The plan of merger must be in the form of a record and include:

(a) The name of each domestic or foreign nonprofit corporation or eligible entity that will merge and the name of the domestic or foreign nonprofit corporation or eligible entity that will be the survivor of the merger;

(b) The terms and conditions of the merger;

(c) The manner and basis of converting the memberships of each merging domestic or foreign nonprofit membership corporation and the eligible interests of each merging domestic or foreign eligible entity into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(d) The articles and bylaws of any corporation, or the organic records of any eligible entity, to be created by the merger; or if a

new corporation or eligible entity is not to be created by the merger, any changes to the survivor's articles or bylaws or organic records;

(e) Whether the corporation is a charitable corporation or is holding assets for charitable purposes;

(f) If the corporation is a charitable corporation or is holding assets for charitable purposes, a plan setting forth how the merging entities will comply with RCW 24.03A.715 and 24.03A.725; and

(g) Any other provisions relating to the merger that the parties desire be included in the plan of merger.

(5) The plan of merger may also include a provision that the plan may be amended before filing articles of merger, but if the members of a domestic corporation that is a party to the merger are required or entitled to vote on the plan, then the plan shall provide that after approval of the plan by those members the plan may not be amended to change:

(a) The amount or kind of memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; or other property or other consideration to be received by the members of or owners of eligible interests in any party to the merger;

(b) The articles or bylaws of any corporation, or the organic records of any unincorporated entity, that will survive or be created as a result of the merger, except for changes permitted by RCW 24.03A.655(2) or by comparable provisions of the organic law of a foreign nonprofit or for-profit corporation or domestic or foreign unincorporated entity; or

(c) Any of the other terms or conditions of the plan, if the change would adversely affect those members in any material respect.

(6) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 24.03A.060(3). [2021 c 176 § 3205.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.735 Adoption of plan of merger. In the case of a nonprofit corporation that is a party to a merger:

(1) The plan of merger must be adopted by the board.

(2) Except as provided in subsection (9) of this section, RCW 24.03A.730, or the articles or bylaws, after adopting the plan of merger, the board shall submit the plan to those members entitled to vote on the plan for their approval. The board shall also deliver to the members a recommendation that the members approve the plan, unless the board makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board shall deliver to the members the basis for that determination.

(3) The board may condition its submission of the plan of merger to the members on any basis.

(4) If the plan of merger is required to be approved by the members, and if the approval is to be given at a meeting, then the nonprofit corporation shall give notice to each member, whether or not entitled to vote on the merger, of the meeting of members at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the

plan. If the corporation is to be merged into an existing corporation or eligible entity, then the notice shall also include a copy or summary of the articles and bylaws or organic records of that corporation or eligible entity. If the corporation is to be merged into a corporation or eligible entity that is to be created pursuant to the merger, then the notice shall include a copy or a summary of the articles and bylaws or organic records of the new corporation or eligible entity. If a summary is provided in lieu of a copy of the plan or of the articles and bylaws, then a copy of the plan and articles and bylaws, as applicable, must be available to members upon request and this fact must be stated in the notice. Such copy of the plan and articles and bylaws, as applicable, may be made available in electronic format.

(5) Unless the articles or bylaws, or the board acting pursuant to subsection (3) of this section, requires a greater vote or a greater number of votes to be present, the approval of the plan of merger by the members entitled to vote thereon requires the approval of a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the plan of merger, the approval of a majority of the members of each voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(6) Separate voting on a plan of merger is required:

(a) By each class of members:

(i) Whose memberships are to be converted into eligible interests, securities, or obligations; rights to acquire eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(ii) Which is to experience a change in the rights, powers, preferences, or limitations of the class as a result of the merger; or

(iii) That would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to [the] articles of incorporation, would require action by separate voting groups under the articles or bylaws.

(b) By a voting group, if the voting group is entitled under the articles or bylaws to vote as a voting group to approve a plan of merger.

(7) If a plan of merger would affect in the same or a substantially similar way two or more classes of members entitled to vote separately on the plan of merger under subsection (6)(a) of this section, then, instead of voting separately, all similarly affected classes of members shall vote together as a single voting group on the plan of merger, unless otherwise provided in the articles or as a condition imposed by the board under subsection (3) of this section.

(8) If as a result of a merger one or more members of a domestic nonprofit corporation would become subject to owner liability for the debts, obligations[,] or liabilities of any other person or entity, then approval of the plan of merger requires the execution, by each member who would become subject to owner liability, of a separate record consenting to become subject to owner liability.

(9) If a domestic nonprofit corporation that is a party to a merger does not have any members entitled to vote on the merger, then a plan of merger is deemed adopted by the corporation when it has been adopted by the board pursuant to subsection (1) of this section. If a membership corporation has no members entitled to vote on the merger, then the corporation shall deliver notice of the proposed merger to

all members of the corporation at least five days before the meeting at which the board is to adopt the plan of merger.

(10) In addition to the adoption and approval of the plan of merger by the board and members as required by this section, the plan of merger must also be approved in the form of a record by any person or group of persons whose approval is required under RCW 24.03A.705 to amend the articles or bylaws.

(11) Adoption and approval of a plan of merger by all required persons under the procedures set forth in this section constitutes adoption and approval of all changes to the approving party's articles, bylaws, or other organic documents contained within the plan of merger. [2021 c 176 § 3206.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.740 Articles of merger. (1) After a plan of merger has been adopted and approved as required by RCW 24.03A.710 through 24.03A.750, articles of merger must be executed on behalf of each party to the merger by an officer or other authorized representative of the party. The articles of merger shall set forth:

(a) The names of the parties to the merger;

(b) If the articles of the surviving domestic nonprofit corporation are being changed, or if a new domestic nonprofit corporation is created as a result of a merger, the changes to the articles of the surviving corporation or the articles of the new corporation;

(c) If the plan of merger required approval by the members of a domestic nonprofit corporation that was a party to the merger, a statement that the plan was approved by the members and, if voting by any separate voting group was required, by each separate voting group entitled to vote, in the manner required by this chapter and the articles or bylaws;

(d) If the plan of merger did not require approval by the members of a domestic nonprofit corporation that was a party to the merger, a statement to that effect;

(e) If a party to the merger is a noncharitable corporation holding property for charitable purposes, and the survivor is not a charitable corporation, a statement that the attorney general has approved, or is deemed to have approved, the merger pursuant to RCW 24.03A.715; and

(f) As to each foreign nonprofit corporation or eligible entity that was a party to the merger, a statement that the participation of the foreign corporation or eligible entity was authorized as required by the organic law of the corporation or eligible entity.

(2) Terms of articles of merger may be made dependent on facts objectively ascertainable outside the articles in accordance with RCW 24.03A.060(3).

(3) Articles of merger must be delivered to the secretary of state for filing by the surviving entity of the merger and shall take effect at the effective time provided in RCW 23.95.210. Articles of merger filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law. [2021 c 176 § 3207.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.745 Effect of merger. (1) Subject to RCW 24.03A.715 and 24.03A.720, if the surviving entity is a domestic nonprofit corporation when a merger becomes effective:

(a) The domestic nonprofit corporation that is designated in the plan of merger as the surviving corporation continues or comes into existence, as the case may be;

(b) The separate existence of every domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor ceases;

(c) All property owned by, and every contract and other right possessed by, each domestic or foreign nonprofit corporation or eligible entity that merges into the surviving corporation is vested in the surviving corporation without reversion or impairment;

(d) All liabilities of each domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor are vested in the surviving corporation;

(e) The name of the surviving corporation may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(f) The articles and bylaws or organic records of the surviving corporation are amended to the extent of the changes provided in the plan of merger;

(g) The articles and bylaws of a surviving corporation that is created by the merger become effective; and

(h) The memberships of each corporation that is a party to the merger, and the eligible interests in an eligible entity that is a party to a merger, that are to be converted under the plan of merger into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing; are converted.

(2) A person who becomes subject to owner liability for some or all of the debts, obligations, or liabilities of any entity as a result of a merger has owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations, and liabilities that arise after the effective time of the articles of merger, except to the extent that the person consented to become subject to liability under RCW 24.03A.735(8).

(3) The effect of a merger on the owner liability of a person who had owner liability for some or all of the debts, obligations, or liabilities of a party to the merger is as follows:

(a) The merger does not discharge any owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder to the extent that owner liability arose before the effective time of the articles of merger.

(b) The person does not have owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder before the merger for any debt, obligation, or liability that arises after the effective time of the articles of merger.

(c) The provisions of the organic law of any entity for which the person had owner liability before the merger continue to apply to the

collection or discharge of any owner liability preserved by subsection (1) of this section, as if the merger had not occurred.

(d) The person has whatever rights of contribution from other persons are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by (a) of this subsection, as if the merger had not occurred.

(4) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made before or after a merger, to or for any of the parties to the merger, inures to the survivor, subject to the express terms of the will or other instrument. [2021 c 176 § 3208.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.750 Abandonment of merger. (1) Unless otherwise provided in a plan of merger or in the organic law of a foreign nonprofit corporation or a domestic or foreign eligible entity that is a party to a merger, after the plan has been adopted and approved as required by RCW 24.03A.710 through 24.03A.750, and at any time before the merger has become effective, it may be abandoned by a domestic nonprofit corporation that is a party thereto without action by its members, in accordance with any procedures set forth in the plan of merger or, if no procedures are set forth in the plan, in the manner determined by the board, subject to any contractual rights of other parties to the merger.

(2) If a merger is abandoned under subsection (1) of this section after articles of merger have been filed by the secretary of state but before the merger has become effective, then a statement that the merger has been abandoned in accordance with this section, executed on behalf of a party to the merger by an officer or other authorized representative, must be delivered to the secretary of state for filing before the effective date of the merger. Upon filing by the secretary of state, the statement takes effect and the merger is deemed abandoned and shall not become effective. [2021 c 176 § 3209.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 3 DOMESTICATION AND CONVERSION

RCW 24.03A.755 Definitions. The definitions in this section apply throughout this section and RCW 24.03A.760 through 24.03A.880 unless the context clearly requires otherwise.

(1) "Conversion" means a transaction authorized by RCW 24.03A.810, 24.03A.835, or 24.03A.855.

(2) "Converting corporation" means the domestic or foreign nonprofit or for-profit corporation that approves a conversion pursuant to RCW 24.03A.755 through 24.03A.880 or its organic law.

(3) "Converting entity" means the domestic or foreign entity that approves a conversion pursuant to RCW 24.03A.855 or its organic law.

(4) "Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

(5) "Domesticating corporation" means the domestic nonprofit corporation that adopts a plan of domestication pursuant to RCW 24.03A.790 or the foreign nonprofit corporation that approves a domestication pursuant to its organic law.

(6) "Domestication" means a transaction authorized by RCW 24.03A.785.

(7) "Surviving corporation" means the corporation as it continues in existence immediately after consummation of a for-profit conversion pursuant to RCW 24.03A.810, a foreign for-profit conversion and domestication pursuant to RCW 24.03A.835, or an entity conversion pursuant to RCW 24.03A.855.

(8) "Surviving entity" means the unincorporated entity as it continues in existence immediately after consummation of an entity conversion pursuant to RCW 24.03A.855. [2021 c 176 § 3301.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.760 Excluded transactions. RCW 24.03A.755 through 24.03A.880 may not be used to effect a transaction that:

(1) Converts a nonprofit or mutual insurance company to a for-profit stock corporation; or

(2) Is governed by chapter 70.45 RCW. [2021 c 176 § 3302.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.765 Required approvals. If a domestic or foreign nonprofit corporation or eligible entity may not be a party to a merger or sale of its assets without the approval of a federal or state agency other than the secretary of state, then the corporation or eligible entity shall not be a party to a transaction under RCW 24.03A.755 through 24.03A.880 without the prior approval of that agency. [2021 c 176 § 3303.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.770 Property held for charitable purposes. (1) In any transaction under RCW 24.03A.755 through 24.03A.880, property held for charitable purposes by a nonprofit corporation may not be diverted from charitable purposes.

(2) No transaction under RCW 24.03A.755 through 24.03A.880 shall modify any restriction imposed through any means upon property held for charitable purposes by any entity involved in the transaction, including but not limited to a restriction that affects existing rights of persons other than members, shareholders, or interest holders of the entity, unless the restriction is modified:

(a) In the case of a restriction imposed pursuant to a trust instrument governed by chapter 11.110 RCW in which the nonprofit corporation is a trustee or a beneficiary, through an appropriate order of the court or the agreement of all interested parties, including the attorney general, under chapter 11.96A RCW; or

(b) In the case of any other restriction, pursuant to RCW 24.03A.190.

(3) Property held by a nonprofit corporation for charitable purposes upon condition requiring return, transfer[,] or conveyance, which condition occurs by reason of a transaction under RCW 24.03A.755 through 24.03A.880, must be returned, transferred, or conveyed in accordance with that condition.

(4) A corporation holding property for charitable purposes shall deliver to the attorney general notice of its intent to consummate any transaction under RCW 24.03A.755 through 24.03A.880. The notice must be delivered to the attorney general in the form of a record at least forty-five days before the meeting at which the proposed transaction is to be approved. Such a transaction may not be implemented without the approval of the attorney general, or the approval of the court in a proceeding to which the attorney general is made a party. In the event that the attorney general does not deliver a notice of objection in the form of a record to the corporation within twenty days after the delivery to the attorney general of notice of the transaction, approval of the transaction is deemed to have been given.

(5) The notice described in subsection (4) of this section shall include:

(a) A statement specifying how the transaction will comply with subsections (1) through (3) of this section, as applicable; and

(b) A brief description of:

(i) Real property held for charitable purposes by the corporation, and its nature and location;

(ii) Cash, bank deposits, brokerage accounts, or other financial assets held for charitable purposes by the corporation, and their approximate total fair market value;

(iii) Other personal property held for charitable purposes by the corporation, and its nature and approximate total fair market value; and

(iv) Any gift restrictions applicable to any property described in (b) (i) through (iii) of this subsection, and the nature of those restrictions.

(6) An event of domestication or conversion does not affect the applicability of chapter 11.110, 19.09, or 24.55 RCW to any entity. [2021 c 176 § 3304.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.775 Prohibition on financial benefit. A person who is a member, interest holder, or otherwise affiliated with a charitable corporation or an unincorporated entity with charitable purposes may not receive a direct or indirect financial benefit in connection with a transaction governed by RCW 24.03A.755 through 24.03A.880 to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation, the federal government, a tribal, state, or local government, a governmental subdivision, or an unincorporated entity that has charitable purposes. This section does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3305.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.780 Voting rights in existing corporations. For any corporation formed before January 1, 2022, any member or other person who is entitled under the articles or bylaws to vote on or approve a merger transaction involving the corporation is deemed entitled, to the same extent, to vote on or approve any transaction under RCW 24.03A.755 through 24.03A.880 involving the corporation. [2021 c 176 § 3306.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.785 Domestication. (1) A foreign nonprofit corporation may become a domestic nonprofit corporation only if the law of the foreign jurisdiction allows the domestication.

(2) A domestic nonprofit corporation may become a foreign nonprofit corporation if the law of the foreign jurisdiction allows the domestication.

(3) Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication must be approved by the corporation's adoption of a plan of domestication in the manner provided in RCW 24.03A.755 through 24.03A.880.

(4) The plan of domestication shall include:

(a) A statement of the jurisdiction in which the corporation is to be domesticated;

(b) The terms and conditions of the domestication;

(c) The manner and basis of canceling or reclassifying the memberships of the corporation following its domestication into memberships, obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing;

(d) If the corporation is a charitable corporation or is holding assets for charitable purposes, a plan setting forth how the corporation will comply with RCW 24.03A.770 (1) through (3); and

(e) Any desired changes to the articles or bylaws of the corporation in connection with its domestication.

(5) The plan of domestication may also include a provision that the plan may be amended before filing the document required by the laws of this state or the other jurisdiction to consummate the domestication; except that, after approval of the plan by the members, the plan may not be amended without the approval of the members entitled to vote thereon to change:

(a) The amount or kind of memberships, obligations, rights to acquire memberships, cash, or other property to be received by the members under the plan;

(b) The articles as they will be in effect immediately following the domestication, except for changes permitted by RCW 24.03A.655 or by comparable provisions of the laws of the other jurisdiction; or

(c) Any of the other terms or conditions of the plan if the change would adversely affect any of the members in any material respect.

(6) Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with RCW 24.03A.060(3).

(7) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred[,] or executed by a domestic

nonprofit corporation before January 1, 2022, contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, then the provision is deemed to apply to a domestication of the corporation until the provision is amended after that date. [2021 c 176 § 3307.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.790 Action on a plan of domestication. In the case of a domestication of a domestic nonprofit corporation in a foreign jurisdiction:

(1) The plan of domestication must be adopted by the board.

(2) If there are no members entitled to vote on the plan, then the plan must be adopted by a vote of the majority of directors then in office. If a membership corporation has no members entitled to vote on the plan, then the corporation shall deliver notice of the proposed domestication to all members of the corporation at least ten days before the meeting at which the board is to adopt the plan.

(3) After adopting the plan of domestication, the board shall submit the plan to the members for their approval, if there are members entitled to vote on the plan. The board shall also transmit to the members a recommendation that the members approve the plan, unless the board determines that, because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board shall transmit to the members the basis for that determination.

(4) The board may condition its submission of the plan of domestication to the members on any basis.

(5) If the approval of the members is to be given at a meeting, then the corporation shall notify each member, whether or not entitled to vote, of the meeting of members at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice shall include a copy of the articles and bylaws as they will be in effect immediately after the domestication. If a summary is provided in lieu of a copy of the plan, then a copy of the plan must be available to members upon request and this fact must be stated in the notice.

(6) Unless the articles or bylaws, or the board acting pursuant to subsection (4) of this section, requires a greater vote or a greater number of votes to be present, the approval of the plan of domestication by the members entitled to vote thereon requires the approval of a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the plan, the approval of a majority of the members of each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(7) A separate voting by voting groups is required by each class of members that:

(a) Is to be reclassified under the plan of domestication into a different class of members, or into obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing;

(b) Would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under RCW 24.03A.660; or

(c) Is entitled under the articles or bylaws to vote as a voting group to approve an amendment of the articles.

(8) If any provision of the articles, bylaws, or an agreement to which any of the directors or members are parties, adopted or entered into before January 1, 2022, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, then the provision is deemed to apply to a domestication of the corporation until the provision is later amended. [2021 c 176 § 3308.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.795 Articles of domestication. (1) Articles of domestication must be executed on behalf of the domesticating corporation by an officer or other authorized representative. The articles shall set forth:

(a) The name and jurisdiction of incorporation of the domesticating corporation;

(b) The name and jurisdiction of incorporation of the domesticated entity; and

(c) If the domesticating corporation is a domestic nonprofit corporation, a statement that the plan of domestication was approved in accordance with RCW 24.03A.755 through 24.03A.880 or, if the domesticating corporation is a foreign nonprofit corporation, a statement that the domestication was approved in accordance with the law of its jurisdiction of incorporation.

(2) The articles of domestication must be delivered to the secretary of state for filing, and take effect at the effective time provided in RCW 23.95.210.

(3) If the domesticating corporation is a foreign corporation, then the domesticating corporation must, simultaneously with the delivery of the articles of domestication, deliver articles of incorporation that comply with this title to the secretary of state for filing and the secretary of state shall file the articles. Provisions that would not be required to be included in restated articles of incorporation may be omitted, except that the name and address of the initial registered agent of the corporation must be included and the name of the corporation must satisfy the requirements of RCW 24.03A.095.

(4) If the domesticating corporation is a registered foreign corporation, then its registration is terminated automatically on the effective date of its domestication, and the secretary of state shall record the termination of the registration. [2021 c 176 § 3309.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.800 Effect of domestication. (1) Except as provided in RCW 24.03A.770, when a domestication becomes effective:

(a) The title to all real and personal property, both tangible and intangible, of the domesticating corporation remains in the domesticated corporation without reversion or impairment;

(b) The liabilities of the domesticating corporation remain the liabilities of the domesticated corporation;

(c) An action or proceeding pending against the domesticating corporation continues against the domesticated corporation as if the domestication had not occurred;

(d) The articles of incorporation filed pursuant to RCW 24.03A.795(3) constitute the articles of a foreign corporation domesticating in Washington state;

(e) The memberships in the domesticating corporation are reclassified into memberships, obligations, rights to acquire memberships, or cash or other property in accordance with the terms of the domestication, and the members are entitled only to the rights provided by those terms;

(f) Gift restrictions binding the domestic corporation remain in place as if the domestication had not occurred, unless modified in accordance with RCW 24.03A.190;

(g) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made to or for the domesticating corporation before or after the domestication, inures to the domesticated corporation, subject to the express terms of the will or other instrument; and

(h) The domesticating corporation is deemed to be:

(i) Incorporated under and subject to the organic law of the domesticated corporation for all purposes; and

(ii) The same corporation without interruption as the domesticating corporation.

(2) The interest holder liability of a member in a foreign nonprofit corporation that is domesticated in the state of Washington is as follows:

(a) The domestication does not discharge any interest holder liability under the laws of the foreign jurisdiction to the extent the interest holder liability arose before the effective time of the articles of domestication.

(b) The member does not have interest holder liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication.

(c) The provisions of the laws of the foreign jurisdiction continue to apply to the collection or discharge of any interest holder liability preserved by (a) of this subsection, as if the domestication had not occurred.

(d) The domestication has no effect on any member's rights of contribution from other members provided by the laws of the foreign jurisdiction with respect to any interest holder liability preserved by (a) of this subsection. [2021 c 176 § 3310.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.805 Abandonment of domestication. (1) Unless otherwise provided in a plan of domestication of a domestic nonprofit corporation, after the plan has been adopted and approved as required by RCW 24.03A.755 through 24.03A.880, and at any time before the

domestication has become effective, it may be abandoned by the members if there are members entitled to vote on the plan of domestication, or by the board without action by members.

(2) If a domestication is abandoned under subsection (1) of this section after articles of domestication have been filed by the secretary of state but before the domestication has become effective, then a statement that the domestication has been abandoned in accordance with this section, executed by an officer or other authorized representative, must be delivered to the secretary of state for filing before the effective date of the domestication. The statement takes effect upon filing and the domestication is abandoned and does not become effective.

(3) If the domestication of a foreign nonprofit corporation in Washington state is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed by the secretary of state, then a statement that the domestication has been abandoned, executed by an officer or other authorized representative, must be delivered to the secretary of state for filing. The statement takes effect upon filing and the domestication is abandoned and does not become effective. [2021 c 176 § 3311.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.810 For-profit conversion of noncharitable corporations. (1) A domestic nonprofit corporation, other than a charitable corporation, may become a domestic for-profit corporation pursuant to a plan of for-profit conversion if the for-profit conversion is permitted under Title 23B RCW.

(2) A domestic nonprofit corporation, other than a charitable corporation, may become a foreign for-profit corporation if the for-profit conversion is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of for-profit conversion, the foreign for-profit conversion must be approved by the adoption by the domestic nonprofit corporation of a plan of for-profit conversion in the manner provided in RCW 24.03A.755 through 24.03A.880.

(3) The plan of for-profit conversion shall include:

(a) The terms and conditions of the conversion;

(b) The manner and basis of:

(i) Issuing at least one share in the corporation following its conversion; and

(ii) Otherwise reclassifying the memberships in the corporation, if any, following its conversion into shares and other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing;

(c) If the corporation is holding assets for charitable purposes, a plan setting forth how the corporation will comply with RCW 24.03A.770 (1) through (3);

(d) Any desired changes to the articles or bylaws of the corporation following its conversion; and

(e) If the domestic nonprofit corporation is to be converted to a foreign for-profit corporation, a statement of the jurisdiction in which the corporation will be incorporated after the conversion.

(4) The plan of for-profit conversion may also include a provision that the plan may be amended before filing articles of for-

profit conversion, except that after approval of the plan by the members the plan may not be amended without the approval of the members to change:

(a) The amount or kind of shares and other securities, obligations, rights to acquire shares or other securities, cash, or other property to be received by the members under the plan;

(b) The articles of incorporation as they will be in effect immediately following the conversion, except for changes permitted by RCW 24.03A.655; or

(c) Any of the other terms or conditions of the plan if the change would adversely affect any of the members in any material respect.

(5) Terms of a plan of for-profit conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with RCW 24.03A.060(3).

(6) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred, or executed by a domestic nonprofit corporation before January 1, 2022, contains a provision applying to a merger of the corporation and the document does not refer to a for-profit conversion of the corporation, then the provision is deemed to apply to a for-profit conversion of the corporation until the provision is later amended. [2021 c 176 § 3312.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.815 Action on a plan of for-profit conversion. In the case of a conversion of a domestic nonprofit corporation to a domestic or foreign for-profit corporation:

(1) The plan of for-profit conversion must be adopted by the board.

(2) If there are no members entitled to vote on the plan, then the plan must be adopted by a vote of the majority of directors then in office. If a membership corporation has no members entitled to vote on the plan, then the corporation shall deliver notice of the proposed for-profit conversion to all members of the corporation at least ten days before the meeting at which the board is to adopt the plan.

(3) After adopting the plan of for-profit conversion, the board shall submit the plan to the members for their approval if there are members entitled to vote on the plan. The board shall also deliver to the members a recommendation that the members approve the plan, unless the board determines that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board shall deliver to the members the basis for that determination.

(4) The board may condition its submission of the plan of for-profit conversion to the members on any basis.

(5) If the approval of the members is to be given at a meeting, then the corporation shall notify each member of the meeting of members at which the plan of for-profit conversion is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice shall include a copy of the articles as they will be in effect immediately

after the for-profit conversion. If a summary is provided in lieu of a copy of the plan, then a copy of the plan must be available to members upon request and this fact must be stated in the notice.

(6) Unless the articles or bylaws, or the board acting pursuant to subsection (4) of this section, require a greater vote or a greater number of votes to be present, the approval of the plan of for-profit conversion by the members entitled to vote thereon requires approval of a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the plan of for-profit conversion, the approval of a majority of the members of each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(7) If any provision of the articles, bylaws, or an agreement to which any of the directors or members are parties, adopted or entered into before January 1, 2022, applies to a merger of the corporation and the document does not refer to a for-profit conversion of the corporation, then the provision is deemed to apply to a for-profit conversion of the corporation until the provision is later amended. [2021 c 176 § 3313.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.820 Articles of for-profit conversion. (1) Articles of for-profit conversion must be executed on behalf of the converting corporation by an officer of the corporation. The articles shall set forth:

(a) If the surviving corporation is a domestic business corporation, the name of the corporation immediately before the filing of the articles of for-profit conversion and if that name does not satisfy the requirements of RCW 23B.04.010, or the corporation desires to change its name in connection with the conversion, a name that satisfies the requirements of RCW 23B.04.010;

(b) Whether the corporation is holding assets for charitable purposes;

(c) If the corporation is holding assets for charitable purposes, that the attorney general has approved, or is deemed to have approved, the for-profit conversion pursuant to RCW 24.03A.770(4);

(d) If the surviving corporation is a foreign for-profit corporation, its name after the conversion and its jurisdiction of incorporation;

(e) If the nonprofit corporation has members with voting rights with respect to the for-profit conversion, a statement that the plan of for-profit conversion was approved by the members in the manner required by this chapter and the articles or bylaws; and

(f) Where there are no members or no members having voting rights with respect to the for-profit conversion, a statement to that effect, the date of the meeting of the board at which the amendment was adopted, and a statement that the amendment received the vote of a majority of directors in office.

(2) If the surviving corporation is a domestic for-profit corporation, then the articles of for-profit conversion shall either contain all of the provisions that RCW 23B.02.020 requires to be set forth in articles of incorporation of a domestic for-profit corporation and any other desired provisions permitted under Title 23B RCW, or have attached articles of incorporation that satisfy the

requirements of RCW 23B.02.020. In either case, provisions that would not be required to be included in restated articles of incorporation of a domestic for-profit corporation may be omitted, except that the name and address of the initial registered agent of the for-profit corporation must be included.

(3) The articles of for-profit conversion and articles of incorporation, if a separate document, must be delivered to the secretary of state for filing, and take effect at the effective time provided in RCW 23.95.210. [2021 c 176 § 3314.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.825 Effect of for-profit conversion. (1) Except as provided in RCW 24.03A.770, when a conversion of a domestic nonprofit corporation to a domestic or foreign for-profit corporation becomes effective:

(a) The title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;

(b) The liabilities of the corporation remain the liabilities of the corporation;

(c) An action or proceeding pending against the corporation continues against the corporation as if the conversion had not occurred;

(d) The articles of the domestic or foreign for-profit corporation become effective;

(e) The memberships of the corporation are reclassified into shares or other securities, obligations, rights to acquire shares or other securities, or into cash or other property in accordance with the plan of conversion, and the members are entitled only to the rights provided in the plan of for-profit conversion;

(f) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made to or for the corporation before or after the for-profit conversion, continues to inure to the corporation, subject to the express terms of the will or other instrument; and

(g) The corporation is deemed to:

(i) Be a domestic or foreign for-profit corporation for all purposes; and

(ii) Be the same corporation without interruption as the nonprofit corporation.

(2) The interest holder liability of a member in a domestic nonprofit corporation that converts to a domestic for-profit corporation is as follows:

(a) The conversion does not discharge any interest holder liability of the member as a member of the nonprofit corporation to the extent the interest holder liability arose before the effective time of the articles of for-profit conversion.

(b) The member does not have interest holder liability for any debt, obligation, or liability of the for-profit corporation that arises after the effective time of the articles of for-profit conversion.

(c) The laws of this state continue to apply to the collection or discharge of any interest holder liability preserved by (a) of this subsection, as if the conversion had not occurred.

(d) The member has whatever rights of contribution from other members are provided by the laws of this state with respect to any interest holder liability preserved by (a) of this subsection, as if the conversion had not occurred.

(3) A member who becomes subject to interest holder liability for some or all of the debts, obligations, or liabilities of the for-profit corporation has interest holder liability only for those debts, obligations, or liabilities of the for-profit corporation that arise after the effective time of the articles of for-profit conversion. [2021 c 176 § 3315.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.830 Abandonment of for-profit conversion. (1) Unless otherwise provided in a plan of for-profit conversion of a domestic nonprofit corporation, after the plan has been adopted and approved as required by RCW 24.03A.755 through 24.03A.880, and at any time before the for-profit conversion has become effective, it may be abandoned by the members if there are members entitled to vote on the for-profit conversion, or by the board without action by members.

(2) If a for-profit conversion is abandoned under subsection (1) of this section after articles of for-profit conversion have been filed by the secretary of state but before the for-profit conversion has become effective, then a statement that the for-profit conversion has been abandoned in accordance with this section, executed by an officer of the corporation, must be delivered to the secretary of state for filing before the effective date of the for-profit conversion. The statement takes effect upon filing and the for-profit conversion is abandoned and does not become effective. [2021 c 176 § 3316.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.835 For-profit domestication and conversion. A foreign for-profit corporation may become a domestic nonprofit corporation if the domestication and conversion is permitted by the law of the foreign jurisdiction. [2021 c 176 § 3317.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.840 Articles of domestication and conversion. (1) Articles of domestication and conversion must be executed on behalf of the domesticating and converting corporation by an officer or other authorized representative. The articles shall set forth:

(a) The name of the corporation immediately before the filing of the articles of domestication and conversion and, if that name is unavailable for use in Washington state or the corporation desires to change its name in connection with the domestication and conversion, a name that satisfies the requirements of RCW 24.03A.095;

(b) The jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and conversion and the date the corporation was incorporated in that jurisdiction; and

(c) A statement that the domestication and conversion of the corporation in this state was authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication and conversion in Washington state.

(2) The articles of domestication and conversion shall either contain all of the provisions that RCW 24.03A.100(1) requires to be set forth in articles of incorporation and any other desired provisions that RCW 24.03A.100 (2) and (3) permit to be included in articles of incorporation, or have attached articles of incorporation that comply with this chapter. In either case, provisions that would not be required to be included in restated articles of incorporation may be omitted, except that the name and address of the initial registered agent of the domestic nonprofit corporation must be included.

(3) If the domesticating corporation is a foreign corporation, then the domesticating corporation must, simultaneously with the delivery of the articles of domestication and conversion, deliver articles of incorporation that comply with this chapter to the secretary of state for filing and the secretary of state shall file the articles. Provisions that would not be required to be included in restated articles of incorporation may be omitted, except that the name and address of the initial registered agent of the corporation must be included and the name of the corporation must satisfy the requirements of RCW 24.03A.095.

(4) If the foreign for-profit corporation is authorized to transact business in Washington state under chapter 23B.01 RCW, then its registration shall be terminated automatically on the effective date of its domestication and conversion and the secretary of state shall record the termination of registration. [2021 c 176 § 3318.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.845 Effect of for-profit domestication and conversion. (1) When a domestication and conversion of a foreign for-profit corporation to a domestic nonprofit corporation becomes effective:

(a) The title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;

(b) The liabilities of the corporation remain the liabilities of the corporation;

(c) An action or proceeding pending against the corporation continues against the corporation as if the domestication and conversion had not occurred;

(d) The articles of domestication and conversion, or the articles attached to the articles of domestication and conversion, constitute the articles of incorporation of the corporation;

(e) Memberships, securities, obligations, rights to acquire memberships or securities of the corporation, or cash or other property must be issued or paid as provided pursuant to the laws of the foreign jurisdiction;

(f) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made to or for the foreign for-profit corporation before or after the domestication and conversion, inures to the domestic nonprofit corporation, subject to

the express terms of the will or other instrument and to applicable law of the foreign jurisdiction; and

(g) The corporation is deemed to be:

(i) A domestic corporation for all purposes; and

(ii) The same corporation without interruption as the foreign for-profit corporation.

(2) The interest holder liability of a shareholder of the foreign for-profit corporation who becomes a member of the domestic nonprofit corporation in the domestication and conversion is as follows:

(a) The domestication and conversion does not discharge any interest holder liability under the laws of the foreign jurisdiction to the extent the interest holder liability arose before the effective time of the articles of domestication and conversion.

(b) The member does not have interest holder liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication and conversion.

(c) The provisions of the laws of the foreign jurisdiction continue to apply to the collection or discharge of any interest holder liability preserved by (a) of this subsection, as if the domestication and conversion had not occurred.

(d) The member has whatever rights of contribution from other members are provided by the laws of the foreign jurisdiction with respect to any interest holder liability preserved by (a) of this subsection, as if the domestication and conversion had not occurred.

(3) A shareholder of a foreign for-profit corporation who becomes subject to interest holder liability for some or all of the debts, obligations, or liabilities of the corporation as a result of its domestication and conversion in this state has interest holder liability only for those debts, obligations, or liabilities of the corporation that arise after the effective time of the articles of domestication and conversion. [2021 c 176 § 3319.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.850 Abandonment of for-profit domestication and conversion. If the domestication and conversion of a foreign for-profit corporation to a domestic nonprofit corporation is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication and conversion have been filed by the secretary of state, then a statement that the domestication and conversion has been abandoned, executed by an officer or other authorized representative, must be delivered to the secretary of state for filing. The statement takes effect upon filing and the domestication and conversion is abandoned and does not become effective. [2021 c 176 § 3320.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.855 Entity conversion for noncharitable corporations.

(1) A domestic nonprofit corporation, other than a charitable corporation, may become a domestic unincorporated entity pursuant to a plan of entity conversion only if the entity conversion is permitted under the organic law governing the entity that would survive the entity conversion.

(2) A domestic nonprofit corporation, other than a charitable corporation, may become a foreign unincorporated entity if the entity conversion is permitted by the laws of the foreign jurisdiction.

(3) A domestic unincorporated entity may be converted into a domestic nonprofit corporation only if applicable Washington state law provides procedures for the approval of an entity conversion into a domestic nonprofit corporation.

(4) A foreign unincorporated entity may become a domestic nonprofit corporation if the law of the foreign jurisdiction authorizes it to become a nonprofit corporation in another jurisdiction.

(5) If any provision of a debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred, or executed by a domestic nonprofit corporation before January 1, 2022, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, then the provision is deemed to apply to an entity conversion of the corporation until the provision is later amended. [2021 c 176 § 3321.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.860 Plan of entity conversion. (1) A plan of entity conversion shall include:

(a) A statement of the type of unincorporated entity the surviving entity will be and, if it will be a foreign unincorporated entity, its jurisdiction of organization;

(b) The terms and conditions of the conversion;

(c) The manner and basis of converting the memberships in the domestic nonprofit corporation following its conversion into interests or other securities, obligations, rights to acquire interests or other securities, cash, other property, or any combination of the foregoing;

(d) If the corporation is holding assets for charitable purposes, a plan setting forth how the corporation will comply with RCW 24.03A.770 (1) through (3); and

(e) The full text, as they will be in effect immediately following the conversion, of the organic documents of the surviving entity.

(2) The plan of entity conversion may also include a provision that the plan may be amended before filing articles of entity conversion, except that after approval of the plan by the members the plan may not be amended to change:

(a) The amount or kind of memberships or other securities, interests, obligations, rights to acquire memberships, securities, or interests, cash, or other property to be received under the plan by the members;

(b) The organic documents that will be in effect immediately following the conversion, except for changes permitted by a provision of the organic law of the surviving entity comparable to RCW 24.03A.655(2); or

(c) Any of the other terms or conditions of the plan if the change would adversely affect any of the members in any material respect.

(3) Terms of a plan of entity conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with RCW 24.03A.060(3). [2021 c 176 § 3322.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.865 Action on a plan of entity conversion. In the case of an entity conversion of a domestic nonprofit corporation to a domestic or foreign unincorporated entity:

(1) The plan of entity conversion must be adopted by a vote of the majority of the directors in office.

(2) If there are no members entitled to vote on the plan, then the plan must be adopted by a vote of the majority of directors then in office. If a membership corporation has no members entitled to vote on the plan, then the corporation shall deliver notice of the proposed entity conversion to all members of the corporation at least ten days before the meeting at which the board is to adopt the plan.

(3) After adopting the plan of entity conversion, the board shall submit the plan to the members for their approval if there are members entitled to vote on the plan. The board shall also deliver to the members a recommendation that the members approve the plan, unless the board determines that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board shall deliver to the members the basis for that determination.

(4) The board may condition its submission of the plan of entity conversion to the members on any basis.

(5) If the approval of the members is to be given at a meeting, then the corporation shall notify each member, whether or not entitled to vote, of the meeting of members at which the plan of entity conversion is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. The notice shall include a copy of the organic documents as they will be in effect immediately after the entity conversion. The notice may additionally be accompanied by a summary of the required materials. If a summary is provided in lieu of a copy of the plan, then a copy of the plan must be available to members upon request and this fact must be stated in the notice. Such copy of the plan may be made available to members electronically.

(6) Unless the articles, or the board acting pursuant to subsection (3) of this section, requires a greater vote or a greater number of votes to be present, the approval of the plan of entity conversion by the members entitled to vote thereon requires the approval of a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the plan of entity conversion, the approval of a majority of the members of each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(7) If any provision of the articles, bylaws, or an agreement to which any of the directors or members are parties, adopted or entered into before January 1, 2022, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, then the provision is deemed to apply to an entity conversion of the corporation until the provision is later amended.

(8) If, as a result of the conversion, one or more members of the corporation would become subject to interest holder liability for the debts, obligations, or liabilities of any other person or entity, then approval of the plan of conversion requires the execution, by each affected member, of a separate written consent to become subject to interest holder liability. [2021 c 176 § 3323.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.870 Articles of entity conversion. (1) After the conversion of a domestic nonprofit corporation to a domestic or foreign unincorporated entity has been adopted and approved as required under RCW 24.03A.755 through 24.03A.880, articles of entity conversion must be executed on behalf of the converting corporation by an officer of the corporation. The articles must:

(a) Set forth the name of the corporation immediately before the filing of the articles of entity conversion and the name to which the name of the corporation is to be changed, which must be a name that satisfies the organic law of the surviving entity if the surviving entity is a domestic entity;

(b) State whether the corporation is holding assets for charitable purposes;

(c) If the corporation is holding assets for charitable purposes, state that the attorney general has approved, or is deemed to have approved, the entity conversion pursuant to RCW 24.03A.770(4);

(d) State the type of unincorporated entity that the surviving entity will be and its jurisdiction of organization;

(e) State that the plan of entity conversion was approved in the manner required by this chapter; and

(f) If the surviving entity is a domestic filing entity, either contain all of the provisions required to be set forth in its public organic record and any other desired provisions that are permitted, or have attached a public organic record.

(2) After the conversion of a domestic unincorporated entity to a domestic nonprofit corporation has been adopted and approved as required by the organic law of the unincorporated entity, articles of entity conversion must be executed on behalf of the unincorporated entity by an officer or other authorized representative. The articles must:

(a) Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of RCW 24.03A.095;

(b) Set forth a statement that the plan of entity conversion was approved in accordance with the organic law of the unincorporated entity; and

(c) Either contain all of the provisions that RCW 24.03A.100(1) requires to be set forth in articles of incorporation and any other desired provisions that RCW 24.03A.100(2) and (3) permit to be included in articles of incorporation, or have attached articles of incorporation that comply with chapter 176, Laws of 2021.

(3) After the conversion of a foreign unincorporated entity to a domestic nonprofit corporation has been authorized as required by the laws of the foreign jurisdiction, articles of entity conversion must

be executed on behalf of the foreign unincorporated entity by an officer or other authorized representative. The articles must:

(a) Set forth the name of the unincorporated entity immediately before the filing of the articles of entity conversion and the name to which the name of the unincorporated entity is to be changed, which must be a name that satisfies the requirements of RCW 24.03A.095;

(b) Set forth the jurisdiction under the laws of which the unincorporated entity was organized immediately before the filing of the articles of entity conversion and the date on which the unincorporated entity was organized in that jurisdiction;

(c) Set forth a statement that the conversion of the unincorporated entity was approved in the manner required by the law of the foreign jurisdiction; and

(d) Either contain all of the provisions that RCW 24.03A.100(1) requires to be set forth in articles of incorporation and any other desired provisions that RCW 24.03A.100 (2) and (3) permit to be included in articles of incorporation, or have attached articles of incorporation that comply with chapter 176, Laws of 2021; except that, in either case, provisions that would not be required to be included in restated articles of incorporation of a domestic nonprofit corporation may be omitted.

(4) The articles of entity conversion and articles of incorporation must be simultaneously delivered to the secretary of state for filing. The articles of entity conversion and articles of incorporation take effect at the effective time provided in RCW 23.95.210. Articles of entity conversion filed under subsection (1) or (2) of this section may be combined with any required conversion filing under the organic law of the domestic unincorporated entity if the combined filing satisfies the requirements of both this section and the other organic law.

(5) If the converting entity is a foreign unincorporated entity that is registered to do business in this state under chapter 23.95 RCW, then its registration statement is canceled automatically on the effective date of its conversion. [2021 c 176 § 3324.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.875 Effect of entity conversion. (1) Except as provided in RCW 24.03A.770, when a conversion under RCW 24.03A.755 through 24.03A.880 becomes effective:

(a) The title to all real and personal property, both tangible and intangible, of the converting entity remains in the surviving entity without reversion or impairment;

(b) The liabilities of the converting entity remain the liabilities of the surviving entity;

(c) An action or proceeding pending against the converting entity continues against the surviving entity as if the conversion had not occurred;

(d) In the case of a surviving entity that is a filing entity, its articles or public organic record and its private organic rules become effective;

(e) In the case of a surviving entity that is a nonfiling entity, its private organic rules become effective;

(f) The memberships or interests of the converting entity are reclassified into memberships, interests, other securities,

obligations, rights to acquire memberships, interests, or securities, or into cash or other property in accordance with the plan of conversion; and the members or interest holders of the converting entity are entitled only to the rights provided to them under the terms of the conversion and to any appraisal rights they may have under the organic law of the converting entity;

(g) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made to or for the converting entity before or after the conversion, inures to the surviving entity, subject to the express terms of the will or other instrument; and

(h) The surviving entity is deemed to be:

(i) Incorporated or organized under and subject to the organic law of the converting entity for all purposes; and

(ii) The same nonprofit corporation or unincorporated entity without interruption as the converting entity.

(2) A member who becomes subject to interest holder liability for some or all of the debts, obligations, or liabilities of the surviving entity has interest holder liability only for those debts, obligations, or liabilities of the surviving entity that arise after the effective time of the articles of entity conversion.

(3) The interest holder liability of an interest holder in an unincorporated entity that converts to a domestic nonprofit corporation is as follows:

(a) The conversion does not discharge any interest holder liability under the organic law of the unincorporated entity to the extent the interest holder liability arose before the effective time of the articles of entity conversion.

(b) The interest holder does not have interest holder liability under the organic law of the unincorporated entity for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of entity conversion.

(c) The provisions of the organic law of the unincorporated entity continue to apply to the collection or discharge of any interest holder liability preserved by (a) of this subsection, as if the conversion had not occurred.

(d) The interest holder has whatever rights of contribution from other interest holders are provided by the organic law of the unincorporated entity with respect to any interest holder liability preserved by (a) of this subsection, as if the conversion had not occurred. [2021 c 176 § 3325.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.880 Abandonment of entity conversion. (1) Unless otherwise provided in a plan of entity conversion of a domestic nonprofit corporation, after the plan has been adopted and approved as required by RCW 24.03A.755 through 24.03A.880, and at any time before the entity conversion has become effective, it may be abandoned by the members if there are members entitled to vote, or by the board without action by the members.

(2) If an entity conversion is abandoned after articles of entity conversion have been filed by the secretary of state but before the entity conversion has become effective, then a statement that the entity conversion has been abandoned in accordance with this section,

executed by an officer of the corporation, must be delivered to the secretary of state for filing before the effective date of the entity conversion. Upon filing, the statement takes effect and the entity conversion is abandoned and does not become effective. [2021 c 176 § 3326.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 4
DISPOSITION OF ASSETS

RCW 24.03A.885 Dispositions not requiring member approval.

Unless the articles or bylaws otherwise provide, approval of the members of a nonprofit corporation is not required:

- (1) To sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets:
 - (a) In the usual and regular course of its activities; or
 - (b) If the assets disposed of represent less than fifty percent of the total assets of the corporation and its consolidated subsidiaries, determined as of the end of the most recently completed fiscal year;
- (2) To mortgage, pledge, dedicate to the repayment of indebtedness whether with or without recourse, or otherwise encumber any or all of the corporation's assets, whether or not in the usual and regular course of business its activities; or
- (3) To transfer any or all of the corporation's assets to one or more corporations or other entities all of the memberships or interests of which are owned by the corporation. [2021 c 176 § 3401.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.890 Dispositions requiring member approval. (1) A sale, lease, exchange, or other disposition of assets, other than a disposition described in RCW 24.03A.885, requires approval of the corporation's members that are entitled to vote on the disposition, unless the articles or bylaws otherwise provide.

(2) A disposition that requires approval of the members must be initiated by a resolution by the board authorizing the disposition. After adoption of the resolution, the board shall submit the proposed disposition to the members for their approval. The board shall also deliver to the members a recommendation that the members approve the proposed disposition, unless the board makes a determination that because of conflicts of interest or other special circumstances it should not make a recommendation, in which case the board shall deliver to the members the basis for that determination.

(3) The board may condition its submission of a disposition to the members under subsection (2) of this section on any basis.

(4) If a disposition is required to be approved by the members, and if the approval is to be given at a meeting, then the nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the meeting of members at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and

must contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(5) Unless the articles, bylaws, or the board acting pursuant to subsection (3) of this section requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the members entitled to vote thereon requires the approval of a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the disposition, the approval of a majority of the members of each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present.

(6) If a membership corporation has no members entitled to vote on a disposition, then the corporation shall deliver notice of a proposed disposition to all members of the corporation at least ten days before the meeting at which the board is to act upon the disposition.

(7) After a disposition has been approved by the members under subsection (5) of this section, and at any time before the disposition has been consummated, it may be abandoned by the nonprofit corporation without action by the members, subject to any contractual rights of other parties to the disposition.

(8) In addition to the approval of a disposition of assets by the board and members as required by this section, the disposition must also be approved in the form of a record by any person or group of persons whose approval is required under RCW 24.03A.705 to amend the articles or bylaws.

(9) The assets of a direct or indirect consolidated subsidiary are deemed the assets of the parent nonprofit corporation for the purposes of this section.

(10) A disposition of assets in the course of a dissolution governed by RCW 24.03A.904 through 24.03A.926 is not governed by RCW 24.03A.885 through 24.03A.902. [2021 c 176 § 3402.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.895 Effect of dispositions. Unless a domestic entity that is a party to a disposition of assets obtains an appropriate order of the court or approval from the attorney general under the law of this state, a disposition of assets under RCW 24.03A.885 through 24.03A.902 may not affect:

(1) Any restriction imposed upon the entity by its organic documents or other governing authority that may not be amended by its directors, members, or interest holders; or

(2) The existing rights of persons other than members, shareholders, or interest holders of the entity. [2021 c 176 § 3403.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.900 Property held for charitable purposes. (1) In a disposition of assets under RCW 24.03A.885 through 24.03A.902, property held for charitable purposes by a nonprofit corporation may not be diverted from charitable purposes.

(2) Property held by a nonprofit corporation and restricted to charitable purposes by a gift instrument may not be diverted from the restricted charitable purpose by a disposition of assets under RCW 24.03A.885 through 24.03A.902 unless modified in accordance with RCW 24.03A.190.

(3) Property held for charitable purposes pursuant to a trust instrument governed by chapter 11.110 RCW in which the nonprofit corporation is a trustee or a beneficiary may not be diverted from the charitable purposes specified in the trust instrument unless those purposes are modified by the court or pursuant to an agreement between all interested parties, including the attorney general, under chapter 11.96A RCW.

(4) Property held by a nonprofit corporation for charitable purposes upon condition requiring return, transfer, or conveyance, which condition occurs by reason of a disposition of assets under RCW 24.03A.885 through 24.03A.902, must be returned, transferred, or conveyed in accordance with that condition.

(5) A charitable corporation or a corporation holding property for charitable purposes shall deliver to the attorney general of its intent to consummate a disposition, other than a disposition described in RCW 24.03A.885. The notice must be delivered to the attorney general in the form of a record at least twenty days before the meeting at which the proposed disposition is to be approved. Such a disposition may not be implemented without the approval of the attorney general, or the approval of the court in a proceeding to which the attorney general is made a party. In the event that the attorney general does not deliver a notice of objection in the form of a record to the corporation within twenty days after the delivery to the attorney general of notice of the disposition, approval of the disposition is deemed to have been given.

(6) The notice described in subsection (5) of this section shall include:

(a) A statement specifying how the disposition will comply with subsections (1) through (4) of this section; and

(b) A brief description of:

(i) Real property held for charitable purposes that will be included in the disposition, and its nature and location;

(ii) Cash, bank deposits, brokerage accounts, or other financial assets held for charitable purposes that will be included in the disposition in full or in part, and their approximate total fair market value;

(iii) Other personal property held for charitable purposes that will be included in the disposition, and its nature and approximate total fair market value; and

(iv) Any gift restrictions applicable to any property described in (b) (i) through (iii) of this subsection, and the nature of those restrictions. [2021 c 176 § 3404.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.902 Prohibition of financial benefit. A person who is a member or otherwise affiliated with a charitable corporation may not receive a direct or indirect financial benefit in connection with a disposition of assets governed by RCW 24.03A.885 through 24.03A.902 unless the person is a charitable corporation, the federal government,

a tribal government, a state or local government, a governmental subdivision, or an unincorporated entity that has charitable purposes. This section does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3405.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 5
VOLUNTARY DISSOLUTION

RCW 24.03A.904 Authorization of voluntary dissolution. (1)

Unless the articles or bylaws require a greater vote, a majority of the directors in office of a nonprofit corporation may authorize the dissolution of any nonprofit corporation that is not a membership corporation or is a membership corporation but has no members entitled to vote on its dissolution.

(2) If a membership corporation has no members entitled to vote on dissolution, then the corporation shall deliver notice of the proposed dissolution to all members of the corporation at least ten days before the meeting at which the board is to authorize the dissolution.

(3) For a membership corporation that has members that are entitled to vote on its dissolution:

(a) The board may propose dissolution for submission to the members entitled to vote, and for such a proposal to dissolve to be authorized:

(i) The board shall recommend dissolution to the members entitled to vote on the dissolution, unless the board determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the members entitled to vote on the dissolution;

(ii) The board may condition its submission of the proposal for dissolution on any basis, including approval of the proposed plan of distribution if required under RCW 24.03A.906;

(iii) The nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the proposed meeting of members that includes the following statements:

(A) That the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation; and

(B) How the assets of the corporation will be distributed after all creditors have been paid or how the distribution of assets will be determined; and

(iv) The members entitled to vote on the dissolution shall approve the proposal to dissolve as provided in (b) of this subsection.

(b) Unless the articles, the bylaws, or the board acting pursuant to (a)(ii) of this subsection requires a greater vote or a greater number of members to be present, the adoption of the proposal to dissolve by the members entitled to vote thereon requires the approval of at least a majority of those members at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the proposal, the approval by a majority of the members in each separate voting group entitled to vote at a meeting at which a quorum of the voting group is present. [2021 c 176 § 3501.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.906 Distribution of assets on dissolution. The assets of a corporation in the process of dissolution shall be applied and distributed in the following order:

(1) All known liabilities and obligations of the corporation must be paid, satisfied, and discharged, or adequate provision must be made to pay, satisfy, and discharge those liabilities.

(2) All property held for charitable purposes by the corporation, including all assets of a charitable corporation remaining after satisfaction of subsection (1) of this section, must be applied and distributed consistently with the corporation's articles, such that property is not diverted from charitable purposes, and as follows:

(a) Property held for charitable purposes pursuant to a trust instrument in which the nonprofit corporation is a trustee or a beneficiary must be governed by and distributed in accordance with the trust instrument and chapter 11.110 RCW, and any modification of restrictions imposed through the trust instrument accomplished through an appropriate order of the court or the agreement of all interested parties, including the attorney general, pursuant to chapter 11.96A RCW.

(b) Property owned outright and held for charitable purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution and not subject to any gift restriction, must be transferred or conveyed:

(i) To one or more entities operated exclusively for one or more charitable purposes;

(ii) To the federal government, a tribal government, or a state or local government for a public purpose; or

(iii) Subject to one or more gift restrictions requiring the property to be used exclusively for the same charitable purposes for which the dissolving corporation holds the property.

(c) Property that is subject to charitable purpose or management or investment restrictions that do not require modification at the time of dissolution and is not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution must be transferred or conveyed subject to all restrictions applicable to the property, except to the extent restrictions are modified pursuant to RCW 24.03A.190 before distribution, pursuant to a plan of distribution adopted by the board and as provided by RCW 24.03A.904 through 24.03A.926.

(d) Property subject to charitable purpose or management or investment restrictions that require modification at the time of dissolution and are not held upon a condition requiring return, transfer, or conveyance by reason of dissolution, must be modified pursuant to RCW 24.03A.190 before the gifts can be distributed, pursuant to a plan of distribution adopted by the board and as provided by RCW 24.03A.904 through 24.03A.926.

(e) Property held for charitable purposes by the nonprofit corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, must be returned, transferred, or conveyed in accordance with those requirements.

(3) Property held by a corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of

the dissolution, must be returned, transferred, or conveyed in accordance with the requirements of the condition.

(4) Other assets of a corporation other than a charitable corporation, if any, must be distributed:

(a) To members or other persons in accordance with the articles or bylaws, to the extent that the articles or bylaws determine the rights of members to distributions upon dissolution, or provide for distribution to other persons or classes of persons; and

(b) To the extent that the articles or bylaws do not govern distribution of assets on dissolution, to any persons the board may select. [2021 c 176 § 3502.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.908 Corporations holding property for charitable purposes. (1) A nonprofit corporation holding property for charitable purposes, including any charitable corporation, may not deliver articles of dissolution to the secretary of state for filing pursuant to RCW 24.03A.910 until it has complied with all of the requirements of this section.

(2) A nonprofit corporation described in subsection (1) of this section shall adopt a plan for the distribution of assets for the purpose of authorizing any transfer or conveyance of property held for charitable purposes, which shall:

(a) Be consistent with RCW 24.03A.906 and 24.03A.914; and

(b) Include a brief description of the following:

(i) Real property held for charitable purposes, and its nature and location;

(ii) Cash, bank deposits, brokerage accounts, or other financial assets held for charitable purposes, and their approximate total fair market value;

(iii) Other personal property held for charitable purposes, and its nature and approximate total fair market value; and

(iv) Any gift restrictions applicable to any property described in (b) (i) through (iii) of this subsection, and the nature of those restrictions.

(3) A plan of distribution shall be adopted in the following manner:

(a) Where there are no members, or no members having voting rights, a plan of distribution is adopted at a meeting of the board upon receiving a vote of a majority of the directors in office.

(b) Where there are members having voting rights, the board shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members having voting rights. Such vote may take place at the same meeting during which members having voting rights vote upon dissolution of the nonprofit corporation. Notice in the form of a record setting forth the proposed plan of distribution or a summary thereof must be given to each member, whether or not entitled to vote at the meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. Such plan of distribution is adopted upon receiving votes from a majority of the members entitled to vote at a meeting at which a quorum is present, and, if any class of members is entitled to vote as a separate group on the plan, the approval by a majority of the members in each separate voting group

entitled to vote at a meeting at which a quorum of the voting group is present. If the members entitled to vote on the dissolution approve the proposal to dissolve but do not approve the proposed plan of distribution in all material respects, then the board may either accept the plan of distribution, as approved by the members, or propose a new plan of distribution to the members for approval. This process shall continue until a plan of distribution acceptable to the board has been approved by the members. If successive votes take place at the same meeting of members, then no further notices or meetings are required.

(4) A nonprofit corporation described in subsection (1) of this section shall give the attorney general notice that it intends to dissolve. The notice shall include:

(a) A copy of the plan of distribution proposed to be adopted in accordance with subsection (3) of this section; and

(b) The names and phone numbers of individuals available to answer questions regarding the dissolution and proposed plan of distribution.

(5) Notice required under subsection (4) of this section must be delivered to the attorney general in the form of a record at least twenty days before the meeting at which the proposed plan is to be adopted. No plan of distribution for a corporation described in subsection (1) of this section may be implemented without the approval of the attorney general, or the approval of the court in a proceeding to which the attorney general is made a party. In the event that the attorney general does not deliver a notice of objection in the form of a record to the corporation within twenty days after the delivery to the attorney general of notice of the plan, approval of the plan is deemed to have been given. [2021 c 176 § 3503.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.910 Articles of dissolution. (1) At any time after dissolution is authorized, the nonprofit corporation may dissolve by filing with the secretary of state articles of dissolution, accompanied by a revenue clearance certificate issued pursuant to RCW 82.32.260. The articles of dissolution shall set forth:

(a) The name of the corporation;

(b) The date of its incorporation;

(c) The effective date of the dissolution, which may be the date on which the articles of dissolution are filed or any date and time up to thirty days thereafter;

(d) Whether it is a membership corporation and, if it is a membership corporation, whether it has members that have a right to vote on its dissolution;

(e) If the corporation is not a membership corporation or has no members that have a right to vote on its dissolution, that the dissolution was authorized by the requisite number of directors;

(f) If the corporation is a membership corporation that has members that have a right to vote on its dissolution, that the requisite number of members has approved the proposal to dissolve;

(g) Whether the corporation is a charitable corporation or is holding property for charitable purposes;

(h) If the corporation is a charitable corporation or is holding property for charitable purposes, that the attorney general has

approved, or is deemed to have approved, the corporation's plan of distribution pursuant to RCW 24.03A.908; and

(i) That the net assets of the corporation remaining after winding up have been, or will be, distributed in accordance with the corporation's articles and bylaws and the corporation's adopted plan of distribution.

(2) A nonprofit corporation is dissolved upon the effective date of its articles of dissolution.

(3) For purposes of RCW 24.03A.904 through 24.03A.926, "dissolved corporation" means a nonprofit corporation whose articles of dissolution have become effective and includes a liquidating trust, if any, or other acquirer entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation. [2021 c 176 § 3504.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.912 Revocation of dissolution. (1) A nonprofit corporation may revoke its dissolution within one hundred twenty days of the effective date of the dissolution.

(2) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board alone, in which event the board may revoke the dissolution without action by the members.

(3) Except as provided in subsection (4) of this section, after the revocation of dissolution is authorized, the nonprofit corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a) The name of the corporation;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was authorized;

and

(d) That the revocation of dissolution was approved in the manner required by this chapter and by the articles and bylaws.

(4) A charitable corporation or a nonprofit corporation holding property restricted to charitable purposes shall not deliver articles of revocation of dissolution to the secretary of state for filing without the approval of the attorney general. Such a corporation shall give the attorney general notice in the form of a record that it intends to revoke its dissolution, to which notice a copy of the articles of revocation of dissolution adopted in accordance with subsection (2) of this section must be attached. In the event that the attorney general does not deliver a notice of objection in the form of a record to the corporation within twenty days after the delivery to the attorney general of notice of the revocation of dissolution, approval of the revocation of dissolution is deemed to have been given.

(5) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(6) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the nonprofit corporation resumes carrying on its activities as if dissolution had never occurred. [2021 c 176 § 3505.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.914 Effect of dissolution. (1) A nonprofit corporation, the dissolution of which has been authorized, continues its corporate existence but may not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

- (a) Collecting its assets;
- (b) Disposing of its properties that will not be distributed in kind;
- (c) Discharging or making provision for discharging its liabilities;
- (d) Distributing its remaining property as required by the plan of distribution; and
- (e) Doing every other act necessary to wind up and liquidate its activities and affairs.

(2) Dissolution of or authorization to dissolve a nonprofit corporation does not:

- (a) Transfer title to the corporation's property;
- (b) Subject its directors or officers to standards of conduct different from those prescribed in RCW 24.03A.495 and 24.03A.590;
- (c) Change quorum or voting requirements for its board or members; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;
- (d) Prevent commencement of a proceeding by or against the corporation in its corporate name;
- (e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;
- (f) Terminate the authority of the registered agent of the corporation; or
- (g) Modify any gift restriction, unless the restriction is modified in accordance with RCW 24.03A.190. [2021 c 176 § 3506.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.916 Prohibition of financial benefit. No person may receive a direct or indirect financial benefit in connection with the dissolution of a charitable corporation unless the person is an entity operated exclusively for one or more charitable purposes, the federal government, a tribal government, a state or local government, or an unincorporated entity that has charitable purposes. This section does not apply to the receipt of reasonable compensation for services rendered. [2021 c 176 § 3507.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.918 Known claims against dissolved corporation. (1) A dissolved nonprofit corporation shall deliver notice of the dissolution in the form of a record to all of the corporation's known claimants within thirty days of the date when the corporation delivered articles of dissolution to the secretary of state for filing.

(2) A dissolved nonprofit corporation may dispose of the known claims against it by delivering a notice in the form of a record that meets the requirements listed in subsection (3) of this section to its known claimants at any time after the date when the corporation delivered articles of dissolution to the secretary of state for filing. Delivery of a notice under this subsection shall satisfy the requirement of subsection (1) of this section if the notice is delivered to all known claimants within thirty days of the date when the corporation delivered articles of dissolution to the secretary of state for filing.

(3) A notice to claimants under subsection (2) of this section must:

- (a) Describe information that must be included in a claim;
- (b) Provide a mailing address where a claim may be sent;
- (c) State the deadline, which may not be fewer than one hundred twenty days from the effective date of the notice, by which the dissolved nonprofit corporation must receive the claim; and
- (d) State that the claim will be barred if not received by the deadline.

(4) A claim against the dissolved nonprofit corporation is barred:

- (a) If a claimant who was given notice under subsection (2) of this section does not deliver the claim to the dissolved corporation by the deadline; or
- (b) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

(5) For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution. [2021 c 176 § 3508.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.920 Other claims against dissolved corporation. (1)

A dissolved nonprofit corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(2) The notice must:

- (a) Be published three times during three successive weeks in a newspaper of general circulation in the county where the principal office of the dissolved nonprofit corporation or, if none in this state, its registered office is or was last located;
- (b) Describe the information that must be included in a claim and provide a mailing address where the claim shall be sent; and
- (c) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within three years after the last publication of the notice.

(3) If the dissolved nonprofit corporation publishes a newspaper notice in accordance with subsection (2) of this section, then the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within three years after the last publication date of the newspaper notice:

- (a) A claimant who was not given notice under RCW 24.03A.918;

(b) A claimant whose claim was timely sent to the dissolved corporation but not acted on; or

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution. [2021 c 176 § 3509.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.922 Enforcement of claims. A claim that is not barred by RCW 24.03A.918(4) or 24.03A.920(3) may be enforced:

(1) Against the dissolved nonprofit corporation, to the extent of its undistributed assets; or

(2) Except as provided in RCW 24.03A.924(4), if the assets have been distributed in liquidation, against any person, other than a creditor of the dissolved corporation, to whom the corporation distributed its property, subject to the following restrictions:

(a) Recovery is limited to the amount of the distributee's pro rata share of the claim or the corporate assets distributed to the distributee in liquidation, whichever is less;

(b) A distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee; and

(c) A distributee is only liable to the extent permitted by existing common law or statutory remedies, and nothing in this section creates a separate cause of action against a distributee. [2021 c 176 § 3510.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.924 Court proceedings. (1) A dissolved nonprofit corporation that has published a notice under RCW 24.03A.918 may file an application with the court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to be presented after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under RCW 24.03A.918(3).

(2) Within ten days after the filing of the application, the dissolved corporation shall give notice of the proceeding to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(3) The court may appoint a special representative to represent the interests of all claimants whose identities are unknown in any proceeding brought under this section. The dissolved corporation shall pay reasonable fees and expenses of the special representative, including all reasonable expert witness fees.

(4) Provision by the dissolved nonprofit corporation for security in the amount and the form ordered by the court under this section satisfies the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective

date of dissolution. Such claims may not be enforced against a person who received assets in liquidation. [2021 c 176 § 3511.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.926 Directors' duties. (1) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets in accordance with the plan of distribution after payment or provision for claims.

(2) Directors of a dissolved corporation that has disposed of claims under RCW 24.03A.918, 24.03A.920, or 24.03A.924 are not liable for breach of subsection (1) of this section with respect to claims against the dissolved corporation that are barred or satisfied under RCW 24.03A.918, 24.03A.920, or 24.03A.924.

(3) Failure to dispose of claims under RCW 24.03A.918, 24.03A.920, or 24.03A.924 is not, in and of itself, a violation of this section. [2021 c 176 § 3512.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 6
ADMINISTRATIVE AND JUDICIAL DISSOLUTION

RCW 24.03A.928 Administrative dissolution. The secretary of state may commence a proceeding under RCW 23.95.610 to administratively dissolve a nonprofit corporation for any reason set forth in RCW 23.95.605. [2021 c 176 § 3601.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.930 Procedure and effect of administrative dissolution. (1) Administrative dissolution does not terminate, bar, or otherwise modify any claim against the administratively dissolved corporation.

(2) A person is not liable in contract, tort, or otherwise solely by reason of being a director, officer, or member of a nonprofit corporation that was dissolved under RCW 24.03A.928 through 24.03A.942, with respect to the activities or affairs of the corporation that have been continued, without knowledge of the dissolution. [2021 c 176 § 3602.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.932 Property held for charitable purposes. (1) If a charitable corporation, or a corporation holding property for charitable purposes, has been administratively dissolved and has not been reinstated, then neither the corporation nor any other person may transfer or distribute to any other person any property held for charitable purposes by the corporation unless the corporation has:

(a) Adopted a plan of distribution satisfying the requirements of RCW 24.03A.908(2) and following the procedure set out in RCW 24.03A.908(3); and

(b) Obtained the approval or deemed approval of the attorney general of the plan of distribution, following the procedure set out in RCW 24.03A.908 (4) and (5).

(2) A corporation that has been administratively dissolved is not required to apply for reinstatement if its only activities will consist of adopting a plan of distribution, obtaining the approval or deemed approval of the attorney general of the plan of distribution, and distributing assets in accordance with the plan of distribution. [2021 c 176 § 3603.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.934 Reinstatement of administratively dissolved corporation. A nonprofit corporation administratively dissolved under RCW 23.95.610 may apply to the secretary of state for reinstatement by following the procedure and meeting the requirements set forth in RCW 23.95.615. A nonprofit corporation denied reinstatement may obtain judicial review of the denial within the time specified in RCW 23.95.620. [2021 c 176 § 3604.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.936 Judicial dissolution. The court may dissolve a nonprofit corporation:

(1) In a proceeding by the attorney general, if it is established that:

(a) The corporation obtained its articles through fraud; or

(b) The corporation has exceeded or abused, and is continuing to exceed or abuse, the authority conferred upon it by law; or

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

(d) The corporation is misapplying or wasting property held for charitable purposes;

(2) Except as provided in the articles or bylaws, in a proceeding by fifty members or members holding at least five percent of the voting power, whichever is less, or by a director, if it is established that:

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

(b) The directors or those in control of the corporation have acted, are acting, or have expressed intent to act in a manner that is illegal, oppressive, or fraudulent;

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

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

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

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

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

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

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision. [2021 c 176 § 3605.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.938 Procedure for judicial dissolution. (1) It is not necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(2) A person commencing a proceeding to dissolve a nonprofit corporation shall notify the attorney general of the proceeding in the form of a record if:

(a) The corporation is recognized by the internal revenue service as an organization described in section 501(c)(3) of the internal revenue code; or

(b) The person bringing the proceeding knows that the nonprofit corporation is a charitable corporation or has property held for charitable purposes.

(3) The court in a proceeding brought to dissolve a nonprofit corporation may issue injunctions, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held. [2021 c 176 § 3606.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.940 Receivership. The court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more receivers to wind up and liquidate, or to manage, the affairs of the corporation, pursuant to chapter 7.60 RCW. [2021 c 176 § 3607.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.942 Decree of dissolution. (1) If, after a hearing, the court determines that one or more grounds for judicial dissolution described in RCW 24.03A.936 exist, then it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering a decree of dissolution, the court shall direct the winding up and liquidation of the nonprofit corporation's affairs in accordance with RCW 24.03A.914 and the notification of

claimants in accordance with RCW 24.03A.918 and 24.03A.920. [2021 c 176 § 3608.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

PART IV
ACTIONS INVOLVING NONPROFIT CORPORATIONS
ARTICLE 1
SUPERVISION OF PROPERTY HELD FOR CHARITABLE PURPOSES

RCW 24.03A.944 Notice to attorney general. (1) Every notice to the attorney general required under this chapter must be served upon the attorney general. Service upon the attorney general must be via United States mail, postage prepaid, or by other means as authorized by the attorney general.

(2) Every notice to the attorney general under this chapter shall identify the provisions of this chapter relevant to the subject matter of the notice.

(3) Any person that has commenced any proceeding which this chapter authorizes the attorney general to bring, including but not limited to any proceeding involving a charitable corporation or property held for charitable purposes brought under RCW 24.03A.185, 24.03A.200, 24.03A.610, 24.03A.922, 24.03A.936, or 24.03A.966, shall serve notice of the commencement of the proceeding upon the attorney general. Any other party to such a proceeding may serve notice of the commencement of the proceeding upon the attorney general. To be valid, the notice must identify that it is being given pursuant to this subsection. The attorney general may waive this notice at any time.

(4) Notice to the attorney general is effective:

(a) Five days after its deposit in the United States mail, only if the postage is paid and the notice is correctly addressed; or

(b) When given, if the notice is delivered in any other manner that the attorney general has authorized. [2021 c 176 § 4101.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.946 Actions to secure property held for charitable purposes. The attorney general may commence in the court described in RCW 24.03A.025 any action or proceeding to:

(1) Ensure compliance by a nonprofit corporation, or its members, directors, officers, employees, or agents, with any provision of this chapter that governs the distribution, disposition, management, or expenditure of, or reporting obligations relating to, any property held for charitable purposes;

(2) Secure the proper administration of a charitable corporation, or of property held for charitable purposes by a nonprofit corporation, when reasonably necessary to protect property held for charitable purposes; and

(3) Restrain and prevent any act that violates any provision of this chapter that governs the distribution, disposition, management, or expenditure of, or reporting obligations relating to, any property held for charitable purposes. [2021 c 176 § 4102.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.948 Attorney general's right to intervene. The attorney general, as of right, may intervene in any proceeding that has been commenced by a person other than the attorney general if the attorney general is otherwise authorized to bring such a proceeding under this chapter. [2021 c 176 § 4103.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.950 Attorney general's investigative power. Upon reasonable suspicion that there has been a violation of any provision of this chapter that governs the distribution, disposition, management, or expenditure of, or reporting obligations relating to, any property held for charitable purposes, or that a charitable corporation or property held for charitable purposes by a nonprofit corporation has been improperly administered, the attorney general may institute an investigation for the purpose of determining whether there has been such a violation or improper administration. [2021 c 176 § 4104.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.952 Civil investigative demands. (1) The attorney general may, before the institution of a civil proceeding arising from an investigation instituted under RCW 24.03A.950, execute in writing and cause to be served upon a person a civil investigative demand requiring the person to produce documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of those demands, whenever the attorney general believes that the person:

(a) May be in possession, custody, or control of any original or copy of any record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other document or recording, wherever situated, which the attorney general reasonably believes to be relevant to the subject matter of any investigation instituted under RCW 24.03A.950; or

(b) May have knowledge of any information which the attorney general reasonably believes to be relevant to the subject matter of any such investigation.

(2) The provisions of RCW 19.86.110 (2) through (9) [,] except for RCW 19.86.110(7) (b) and (c), shall apply to every civil investigative demand issued under this section.

(3) With respect to a civil investigative demand issued under this section, the venue for filing a petition to extend a return date under RCW 19.86.110(8) or a petition for an order of enforcement under RCW 19.86.110(9) shall include any court described in RCW 24.03A.025.

(4) The attorney general may provide copies of documentary material, answers to written interrogatories, or transcripts of oral testimony provided under this section to an official of this state, another state, or the federal government who is charged with the enforcement of state or federal laws related to the protection or regulation of property held for charitable purposes, provided that

before the disclosure the receiving official agrees in the form of a record that the information may not be disclosed to anyone other than that official or the official's authorized employees or agents. Material provided under this subsection is subject to the limitations on disclosure contained in RCW 19.86.110(7)(a), and, where applicable, Title 5 U.S.C. Sec. 552, and may not be introduced as evidence in a criminal prosecution.

(5) The attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as the attorney general determines necessary in the enforcement of any provision of this chapter that governs the distribution, disposition, management, or expenditure of, or reporting obligations relating to, any property held for charitable purposes, including presentation before any court, provided, however, that any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which the action is pending after adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony. [2021 c 176 § 4105.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.954 Religious corporations. The attorney general shall not commence any action under RCW 24.03A.946 against a religious corporation; intervene in any action under RCW 24.03A.948 involving a religious corporation; institute any investigation under RCW 24.03A.950, the subject of which is a religious corporation; or serve any civil investigative demand under RCW 24.03A.952 on a religious corporation, unless for the purposes of this section only:

(1) The basis for the action, investigation, or civil investigative demand is the attorney general's knowledge of facts, circumstances, or results that property held by the religious corporation for charitable purposes has been, is threatened to be, or is about to be distributed in violation of RCW 24.03A.155;

(2) The board of directors of the religious corporation has adopted a resolution in the form of a record requesting the attorney general's involvement in the action or investigation; or

(3) The attorney general has knowledge of facts, circumstances, or results indicating that the religious corporation has no directors in office, in which case the attorney general may investigate the issue of whether the religious corporation has directors in office, and, if necessary, appoint one or more directors of the religious corporation following the procedure set out in RCW 24.03A.535(4). [2021 c 176 § 4106.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.956 Assurances of discontinuance. In the enforcement of the provisions of this chapter that govern the distribution, disposition, or expenditure of, or reporting obligations relating to, property held for charitable purposes, the attorney general may accept an assurance of discontinuance of any act or practice deemed in violation of such provision, from any person engaging in, or who has engaged in, such act or practice. Any such assurance must be in

writing and be filed with and subject to the approval of the court. Such assurance of discontinuance is not an admission of a violation for any purpose, but proof of failure to comply with the assurance of discontinuance is prima facie evidence of a violation of this chapter. [2021 c 176 § 4107.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.958 Civil penalties, costs, and fees. (1) Pursuant to an action by the attorney general, a person shall forfeit and pay a civil penalty of not more than five thousand dollars for each violation if such person:

(a) Engages in conduct that violates any provision of this chapter governing the distribution, disposition, management, or expenditure of, or reporting obligations relating to, property held for charitable purposes, intending or knowing that such conduct was in violation of this chapter;

(b) As a director or officer of a corporation, votes for or assents to a distribution of property held for charitable purposes that would give rise to liability under RCW 24.03A.610; or

(c) Receives any portion of a distribution described in (b) of this subsection knowing that the distribution was made in violation of this chapter.

(2) Any person who shall violate the terms of any injunction issued pursuant to an action by the attorney general under RCW 24.03A.946 shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars for each violation.

(3) At the discretion of the court, the attorney general is entitled to recovery of its costs and fees incurred in securing compliance with the provisions of this chapter governing the distribution, disposition, management, or expenditure of, or reporting obligations relating to, property held for charitable purposes. [2021 c 176 § 4108.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.960 Charitable asset protection account. (1) The Washington state attorney general charitable asset protection account is created in the custody of the state treasurer. Only the attorney general or the attorney general's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for:

(a) The costs associated with the attorney general's enforcement of the provisions of this chapter governing the distribution, disposition, management, or expenditure of, or reporting obligations relating to, property held for charitable purposes, or the proper administration of a charitable corporation or property held for charitable purposes;

(b) The costs associated with the attorney general's review and handling of notices and requests submitted to the attorney general under the provisions of this chapter including, but not limited to, binding agreements described in RCW 24.03A.195, major changes in purposes or programs reported under RCW 24.03A.075, and notices of proposed transactions under RCW 24.03A.640 through 24.03A.942;

(c) The costs associated with the attorney general's review and handling of notices and requests submitted to the attorney general in connection with the release or modification under RCW 24.55.045 of restrictions applicable to institutional funds;

(d) The costs associated with the attorney general's supervision of charitable trusts under the authority granted in chapter 11.110 RCW, including review and handling of binding agreements under chapter 11.96A RCW, involving assets held in charitable trust; and

(e) The charitable solicitation education program.

An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

(2) (a) The secretary of state shall collect a charitable asset protection fee, in addition to fees that the secretary of state may set under RCW 24.03A.085, for filing:

(i) Annual reports under RCW 24.03A.070;

(ii) Articles of incorporation of newly formed corporations under RCW 24.03A.100;

(iii) Articles of domestication under RCW 24.03A.795; and

(iv) Articles of domestication and conversion under RCW 24.03A.840.

(b) The charitable asset protection fee is fifty dollars per year, reduced to ten dollars if the corporation certifies that its total gross revenue in the most recent fiscal year was less than five hundred thousand dollars.

(c) Revenue generated from the charitable asset protection fee must be distributed as follows:

(i) Ninety-five percent of the revenue must be deposited into the Washington state attorney general charitable asset protection account created in subsection (1) of this section; and

(ii) Five percent of the revenue must be deposited into the secretary of state's revolving fund to cover the administrative costs of assessing the fee. [2021 c 176 § 4109.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

ARTICLE 2 CONTESTED CORPORATE ACTION

RCW 24.03A.962 Definitions. This section and RCW 24.03A.964 and 24.03A.966 apply to, and the term "corporate action" in this section and RCW 24.03A.964 and 24.03A.966 means, any of the following actions:

(1) The election, appointment, designation, or other selection and the suspension, removal, or expulsion of members, delegates, directors, or officers of a nonprofit corporation;

(2) The taking of any action on any matter that:

(a) Is required under this chapter or any other provision of law to be submitted for approval of or adoption by the members, delegates, directors, or officers of a nonprofit corporation;

(b) Under the articles or bylaws may be submitted for approval of or adoption by the members, delegates, directors, or officers of a nonprofit corporation; or

(c) Is in fact approved or adopted by the members, delegates, directors, or officers of a nonprofit corporation. [2021 c 176 § 4201.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.964 Proceedings prior to corporate action. (1) Where under applicable law or the articles or bylaws of a nonprofit corporation there has been a failure to hold a meeting to take corporate action and the failure has continued for thirty days after the date designated or appropriate therefor, the court may summarily order a meeting to be held upon the application of any person entitled, either alone or in conjunction with other persons similarly seeking relief under this section, to call a meeting to consider the corporate action in issue, and, in the case of a charitable corporation, upon the application of the attorney general.

(2) The court may determine the right to vote at the meeting of persons claiming that right, may appoint an individual to hold the meeting under such orders and powers as the court may deem proper, and may take such action as may be required to give due notice of the meeting and convene and conduct the meeting in the interests of justice. [2021 c 176 § 4202.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 24.03A.966 Review of contested corporate action. (1) Except as provided in subsection (3) of this section, upon petition of a person whose status as, or whose rights or duties as, a member, delegate, director, or officer of a corporation are or may be affected by any corporate action, or, in the case of a charitable corporation, the attorney general, the court may hear and determine the validity of the corporate action. The petitioner shall provide notice of the proceeding to every other person the petitioner knows, or should reasonably know, to be affected by the proceeding.

(2) The court may make such orders in any such case as may be just and proper, with power to enforce the production of any books, papers, and records of the corporation and other evidence that may relate to the issue, and may provide for notice of the proceeding to other parties if necessary. If it is determined that no valid corporate action has been taken, the court may order a meeting to be held in accordance with RCW 24.03A.964.

(3) If a nonprofit corporation has provided in its articles or bylaws for a means of resolving a challenge to a corporate action, then subsection (1) of this section shall not apply, except in the case of actions brought by the attorney general with respect to corporate actions of charitable corporations. The court may enforce provisions of the articles or bylaws if appropriate. [2021 c 176 § 4203.]

Effective date—2021 c 176: See note following RCW 24.03A.005.