
SUBSTITUTE HOUSE BILL 2239

State of Washington 62nd Legislature 2012 Regular Session

By House Judiciary (originally sponsored by Representatives Pedersen, Goodman, Rodne, and Hudgins; by request of Washington State Bar Association)

READ FIRST TIME 01/25/12.

1 AN ACT Relating to social purpose corporations; amending RCW
2 23B.01.400 and 23B.04.010; and adding a new chapter to Title 23B RCW.

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

4 NEW SECTION. **Sec. 1.** (1) Any corporation may elect to be governed
5 as a social purpose corporation by one of the following means:

6 (a) One or more persons may act as incorporator or incorporators of
7 a social purpose corporation by delivering articles of incorporation
8 that conform to the requirements of this chapter to the secretary of
9 state for filing; or

10 (b) Any corporation which is not a social purpose corporation may
11 elect to become a social purpose corporation by complying with section
12 14 of this act.

13 (2) Any social purpose corporation may elect to cease to be
14 governed as a social purpose corporation by complying with section 15
15 of this act.

16 NEW SECTION. **Sec. 2.** (1) Except as otherwise expressly stated in
17 this chapter, the provisions of this title and all powers, rights, and
18 obligations thereunder shall apply to social purpose corporations

1 organized under this chapter, and references in this title to the term
2 "corporation" shall be read to include social purpose corporations
3 organized under this chapter.

4 (2) Subject to any limitations contained in the articles of
5 incorporation, a social purpose corporation may engage in any lawful
6 business under RCW 23B.03.010.

7 NEW SECTION. **Sec. 3.** Every corporation governed by this chapter
8 must be organized to carry out its business purpose under RCW
9 23B.03.010 in a manner intended to promote positive short-term or
10 long-term effects of, or minimize adverse short-term or long-term
11 effects of, the corporation's activities upon any or all of (1) the
12 corporation's employees, suppliers, or customers; (2) the local, state,
13 national, or world community; or (3) the environment.

14 NEW SECTION. **Sec. 4.** In addition to the general social purpose
15 set forth in section 3 of this act, every corporation governed by this
16 chapter may have one or more specific social purposes for which the
17 corporation is organized.

18 NEW SECTION. **Sec. 5.** (1) In addition to the matters required to
19 be set forth in the articles of incorporation pursuant to RCW
20 23B.02.020 (1) and (2), the articles of incorporation of a social
21 purpose corporation must set forth:

22 (a) A corporate name for the social purpose corporation that
23 contains the words "social purpose corporation" or "SPC" as an
24 abbreviation of those words;

25 (b) A statement that the corporation is organized as a social
26 purpose corporation governed by this chapter;

27 (c) A statement setting forth the general social purpose or
28 purposes for which the corporation is organized pursuant to section 3
29 of this act;

30 (d) If the corporation has designated one or more specific social
31 purpose or purposes pursuant to section 4 of this act, a statement
32 setting forth such specific social purpose or purposes; and

33 (e) A provision that states the following: "The mission of this
34 social purpose corporation is not necessarily compatible with and may

1 be contrary to maximizing profits and earnings for shareholders, or
2 maximizing shareholder value in any sale, merger, acquisition, or other
3 similar actions of the corporation."

4 (2) In addition to the matters that must be set forth in the
5 articles of incorporation in accordance with subsection (1) of this
6 section and the provisions that may be set forth in the articles of
7 incorporation pursuant to RCW 23B.02.020 (5) and (6), the articles of
8 incorporation of a social purpose corporation may contain the following
9 provisions:

10 (a) A provision requiring the corporation's directors or officers
11 to consider the impacts of any corporate action or proposed corporate
12 action upon one or more of the social purposes of the corporation;

13 (b) A provision requiring the corporation to furnish to the
14 shareholders an assessment of the overall performance of the
15 corporation with respect to its social purpose or purposes, prepared in
16 accordance with a third-party standard;

17 (c) A provision requiring, for any or all corporate actions, the
18 vote of a larger proportion or of all of the shares of any class or
19 series, or the vote or quorum for taking action of a larger proportion
20 or of all of the directors, than is otherwise required by this title or
21 this chapter;

22 (d) A provision requiring the approval of the shareholders for any
23 corporate action, even though not otherwise required by this title; and

24 (e) A provision limiting the duration of the corporation's
25 existence to a specified date.

26 (3) Prior to the issuance of shares, the corporation shall furnish
27 a prospective shareholder with a copy of the articles of incorporation
28 in the form of a record.

29 (4) Prior to the transfer of shares, the transferor shareholder
30 shall give notice of the transfer to the corporation. Within a
31 reasonable time after receiving notice, the corporation shall provide
32 the prospective transferee with a copy of the articles of incorporation
33 in the form of a record.

34 NEW SECTION. **Sec. 6.** (1) A director of a social purpose
35 corporation shall discharge the duties of a director, including duties
36 as a member of any committee of the board upon which the director may
37 serve, in good faith, with the care an ordinarily prudent person in a

1 like position would exercise under similar circumstances, and in a
2 manner the director reasonably believes to be in the best interests of
3 the corporation in accordance with RCW 23B.08.300.

4 (2) Unless the articles of incorporation provide otherwise, in
5 discharging his or her duties as a director, the director of a social
6 purpose corporation may consider and give weight to one or more of the
7 social purposes of the corporation as the director deems relevant.

8 (3) Any action taken as a director of a social purpose corporation,
9 or any failure to take any action, that the director reasonably
10 believes is intended to promote one or more of the social purposes of
11 the corporation shall be deemed to be in the best interests of the
12 corporation.

13 (4) A director of a social purpose corporation is not liable for
14 any action taken as a director, or any failure to take any action, if
15 the director performed the duties of the director's office in
16 compliance with this section.

17 (5) Nothing in this chapter creates any liability or grants any
18 right in or for any person or any cause of action by or for any person,
19 and a director shall not be responsible to any party other than the
20 corporation and its shareholders.

21 (6) Nothing in this chapter alters the general standards for any
22 director of a corporation that is not a social purpose corporation.

23 NEW SECTION. **Sec. 7.** (1) An officer of a social purpose
24 corporation with discretionary authority shall discharge the officer's
25 duties under that authority in good faith, with the care an ordinarily
26 prudent person in a like position would exercise under similar
27 circumstances, and in a manner the officer reasonably believes to be in
28 the best interests of the corporation in accordance with RCW
29 23B.08.420.

30 (2) Unless the articles of incorporation provide otherwise, in
31 discharging his or her duties as an officer, the officer of a social
32 purpose corporation may consider and give weight to one or more of the
33 social purposes of the corporation as the officer deems relevant.

34 (3) Any action taken as an officer of a social purpose corporation,
35 or any failure to take any action, that the officer reasonably believes
36 is intended to promote one or more of the social purposes of the

1 corporation shall be deemed to be in the best interests of the
2 corporation.

3 (4) An officer of a social purpose corporation is not liable for
4 any action taken as an officer, or any failure to take any action, if
5 the officer performed the duties of the officer's office in compliance
6 with this section.

7 (5) Nothing in this chapter creates any liability or grants any
8 right in or for any person or any cause of action by or for any person,
9 and an officer shall not be responsible to any party other than the
10 corporation and its shareholders.

11 (6) Nothing in this chapter alters the general standards for any
12 officer of a corporation that is not a social purpose corporation.

13 NEW SECTION. **Sec. 8.** (1) Shares issued by a social purpose
14 corporation may but need not be represented by certificates.

15 (2) If shares are represented by certificates, in addition to the
16 information required on certificates by RCW 23B.06.250 (2) and (3),
17 each share certificate must state on its face the following language in
18 a conspicuous manner:

19 "This entity is a social purpose corporation organized under
20 Title 23B RCW of the Washington business corporation act. The
21 articles of incorporation of this corporation state one or more
22 social purposes of this corporation. The corporation will
23 furnish the shareholder this information without charge on
24 request in writing."

25 (3) If shares are not represented by certificates, within a
26 reasonable time after the issue or transfer of such shares, the
27 corporation shall send the shareholder a record containing the
28 information required pursuant to RCW 23B.06.260(2) and the language
29 required on certificates by subsection (2) of this section.

30 NEW SECTION. **Sec. 9.** (1) No proceeding may be instituted or
31 maintained in the right of any social purpose corporation under this
32 title by any party other than a shareholder of the social purpose
33 corporation.

34 (2) A person may not commence a proceeding in the right of a social
35 purpose corporation unless the person was a shareholder of the

1 corporation when the transaction complained of occurred or unless the
2 person became a shareholder through transfer by operation of law from
3 one who was a shareholder at that time.

4 (3) Any proceeding instituted or maintained in the right of
5 a social purpose corporation must comply with the procedure set forth
6 in RCW 23B.07.400.

7 NEW SECTION. **Sec. 10.** If a proposed amendment to a social purpose
8 corporation's articles of incorporation would materially change one or
9 more of the social purposes of the corporation, in addition to approval
10 in accordance with RCW 23B.10.030, the amendment to be adopted must be
11 approved by two-thirds of the voting group comprising all the votes
12 entitled to be cast on the proposed amendment, and by two-thirds of the
13 holders of the outstanding shares of each class or series, voting as
14 separate voting groups, and of each other voting group entitled under
15 the articles of incorporation to vote separately on the proposed
16 amendment. The articles of incorporation may require a greater vote
17 than that provided for in this section.

18 NEW SECTION. **Sec. 11.** (1) In addition to approval in accordance
19 with RCW 23B.11.030, a plan of merger or share exchange pursuant to
20 which a social purpose corporation would not be the surviving
21 corporation must be approved by two-thirds of the voting group
22 comprising all the votes of the corporation entitled to be cast on the
23 plan, and by two-thirds of the holders of the outstanding shares of
24 each class or series, voting as separate voting groups, and of each
25 other voting group entitled under the articles of incorporation to vote
26 separately on the proposed plan. The articles of incorporation may
27 require a greater vote than that provided for in this subsection.

28 (2) The additional approval described in subsection (1) of this
29 section is not required if the surviving corporation of the plan of
30 merger or share exchange is a social purpose corporation governed by
31 this chapter and includes a specific social purpose or purposes that do
32 not materially differ from the disappearing corporation's specific
33 social purpose or purposes, if any.

34 NEW SECTION. **Sec. 12.** (1) In addition to approval in accordance
35 with RCW 23B.12.020, a proposed transaction in which the social purpose

1 corporation is to sell, lease, exchange, or otherwise dispose of all,
2 or substantially all, of its property, otherwise than in the usual and
3 regular course of business, must be approved by two-thirds of the
4 voting group comprising all the votes entitled to be cast on the
5 transaction, and by two-thirds of the holders of the outstanding shares
6 of each class or series, voting as separate voting groups, and of each
7 other voting group entitled under the articles of incorporation to vote
8 separately on the proposed transaction. The articles of incorporation
9 may require a greater vote than that provided for in this section.

10 (2) The additional approval described in subsection (1) of this
11 section is not required if the acquirer of such property is a social
12 purpose corporation governed by this chapter and includes a specific
13 social purpose or purposes that do not materially differ from the
14 disposing corporation's specific social purpose or purposes, if any.

15 NEW SECTION. **Sec. 13.** In addition to the corporate actions set
16 forth in RCW 23B.13.020(1), a shareholder is entitled to dissent from,
17 and obtain payment of the fair value of the shareholder's shares in the
18 event of, any of the following corporate actions:

19 (1) An election by a corporation to become a social purpose
20 corporation, which has become effective, to which the corporation is a
21 party if shareholder approval was required for the election by section
22 14 of this act or the articles of incorporation;

23 (2) An election to cease to be a social purpose corporation, which
24 has become effective, to which the corporation is a party if
25 shareholder approval was required for the election by section 15 of
26 this act or the articles of incorporation, and the shareholder was
27 entitled to vote on the election; and

28 (3) An amendment of the social purpose corporation's articles of
29 incorporation that would materially change one or more of the social
30 purposes of the corporation.

31 NEW SECTION. **Sec. 14.** (1) Any corporation that is not a social
32 purpose corporation may elect to become a social purpose corporation
33 if, pursuant to the proposed election, each of the following conditions
34 are met:

35 (a) Each share of the same class or series of the electing
36 corporation shall, unless all shareholders of the class or series

1 consent, be treated equally with respect to any cash, rights,
2 securities, or other property to be received by, or any obligations or
3 restrictions to be imposed on, the holder of that share;

4 (b) The board of directors of the electing corporation must
5 recommend the election to the shareholders, unless the board of
6 directors determines that because of conflict of interest or other
7 special circumstances it should make no recommendation and communicates
8 the basis for its determination to the shareholders with the proposed
9 election; and

10 (c) In addition to any other voting conditions imposed by the board
11 of directors under subsection (2) of this section, the election must be
12 approved by an affirmative vote of at least two-thirds of the voting
13 group comprising all the votes of the electing corporation's
14 shareholders entitled to be cast on the corporate action, and by
15 two-thirds of the holders of the outstanding shares of each class or
16 series, voting as separate voting groups, and each other voting group
17 entitled under the articles of incorporation to vote separately on the
18 corporate action.

19 (2) The board of directors of a corporation electing to become a
20 social purpose corporation may condition its submission of the proposed
21 election on any basis, including the affirmative vote of holders of a
22 specified percentage of shares held by any group of shareholders not
23 otherwise entitled to vote as a separate group on the proposed
24 election.

25 (3) To elect to become a social purpose corporation, an electing
26 corporation must amend its articles of incorporation to include the
27 matters required to be set forth in the articles of incorporation
28 pursuant to section 5(1) of this act.

29 (4) After an election to become a social purpose corporation is
30 approved, and at any time prior to filing the articles of amendment to
31 amend the electing corporation's articles of incorporation in
32 compliance with subsection (3) of this section, the planned election
33 may be abandoned by the electing corporation, subject to any
34 contractual rights, without further shareholder approval, in the manner
35 determined by the board of directors.

36 (5) The election to become a social purpose corporation shall be
37 effective upon the later of the filing of the articles of amendment

1 with the secretary of state or the effective date or time set forth in
2 the articles of amendment.

3 (6) Upon the effective time of the election to become a social
4 purpose corporation, the electing corporation shall thereafter be a
5 social purpose corporation and shall be subject to all of the
6 provisions of this chapter and the existence of the social purpose
7 corporation shall be deemed to have commenced on the date the electing
8 corporation was incorporated.

9 (7) The election to become a social purpose corporation shall not
10 be deemed to affect any obligations or liabilities of the electing
11 corporation incurred prior to its election to become a social purpose
12 corporation or the personal liability of any person incurred prior to
13 such election.

14 NEW SECTION. **Sec. 15.** (1) Any social purpose corporation may
15 elect to cease to be a social purpose corporation if, pursuant to the
16 proposed election, each of the following conditions are met:

17 (a) Each share of the same class or series of the electing social
18 purpose corporation shall, unless all shareholders of the class or
19 series consent, be treated equally with respect to any cash, rights,
20 securities, or other property to be received by, or any obligations or
21 restrictions to be imposed on, the holder of that share;

22 (b) The board of directors of the electing social purpose
23 corporation must recommend the election to the shareholders, unless the
24 board of directors determines that because of conflict of interest or
25 other special circumstances it should make no recommendation and
26 communicates the basis for its determination to the shareholders with
27 the proposed election; and

28 (c) In addition to any other voting conditions imposed by the board
29 of directors under subsection (2) of this section, the election must be
30 approved by an affirmative vote of at least two-thirds of the voting
31 group comprising all the votes of the electing social purpose
32 corporation's shareholders entitled to be cast on the corporate action,
33 and by two-thirds of the holders of the outstanding shares of each
34 class or series, voting as separate voting groups, and each other
35 voting group entitled under the articles of incorporation to vote
36 separately on the corporate action.

1 (2) The board of directors of a social purpose corporation electing
2 to cease to be a social purpose corporation may condition its
3 submission of the proposed election on any basis, including the
4 affirmative vote of holders of a specified percentage of shares held by
5 any group of shareholders not otherwise entitled to vote as a separate
6 group on the proposed election.

7 (3) To elect to cease to be a social purpose corporation, an
8 electing social purpose corporation must amend its articles of
9 incorporation to remove the matters required to be set forth in the
10 articles of incorporation pursuant to section 5(1) (a) and (b) of this
11 act.

12 (4) After an election to cease to be a social purpose corporation
13 is approved, and at any time prior to the filing of the articles of
14 amendment to amend the electing social purpose corporation's articles
15 of incorporation in compliance with subsection (3) of this section, the
16 planned election may be abandoned by the electing social purpose
17 corporation, subject to any contractual rights, without further
18 shareholder approval, in the manner determined by the board of
19 directors.

20 (5) The election to cease to be a social purpose corporation shall
21 be effective upon the later of the filing of the articles of amendment
22 with the secretary of state or the effective date or time set forth in
23 the articles of amendment.

24 (6) Upon the effective time of the election to cease to be a social
25 purpose corporation, the electing social purpose corporation shall
26 thereafter be a corporation which is not a social purpose corporation
27 and shall be subject to all of the provisions of this title applicable
28 to corporations generally and the existence of the corporation shall be
29 deemed to have commenced on the date the electing social purpose
30 corporation was incorporated.

31 (7) The election to cease to be a social purpose corporation shall
32 not be deemed to affect any obligations or liabilities of the electing
33 social purpose corporation incurred prior to its election to cease to
34 be a social purpose corporation or the personal liability of any person
35 incurred prior to such election.

36 NEW SECTION. **Sec. 16.** (1) The board of directors of a social
37 purpose corporation shall cause a social purpose report to be furnished

1 to the shareholders by making such report publicly accessible, free of
2 charge, at the corporation's principal internet web site address, not
3 later than four months after the close of the corporation's fiscal
4 year, and such report shall remain available on that web site through
5 the end of the corporation's fiscal year.

6 (2) The social purpose report shall include a narrative discussion
7 concerning the social purpose or purposes of the corporation, including
8 the corporation's efforts intended to promote its social purpose or
9 purposes. The narrative discussion may include the following
10 information:

11 (a) Identification and discussion of the short-term and long-term
12 objectives of the corporation relating to its social purpose or
13 purposes;

14 (b) Identification and discussion of the material actions taken by
15 the corporation during the fiscal year to achieve its social purpose or
16 purposes;

17 (c) Identification of material actions that the corporation expects
18 to take in the future with respect to achievement of its social purpose
19 or purposes; and

20 (d) A description of the financial, operating, or other measures
21 used by the corporation during the fiscal year for evaluating its
22 performance in achieving its social purpose or purposes.

23 (3) The requirements of subsection (1) of this section shall be
24 satisfied if a social purpose corporation with an outstanding class of
25 securities registered under section 12 of the securities exchange act
26 of 1934 both complies with section 240.14a-16 of Title 17 of the code
27 of federal regulations, as amended from time to time, with respect to
28 the obligation of a corporation to furnish an annual report to
29 shareholders pursuant to section 240.14a-3(b) of Title 17 of the code
30 of federal regulations, and includes the information required by
31 subsection (2) of this section in the annual report.

32 (4) The failure to furnish to shareholders a social purpose report
33 required by subsection (1) of this section does not affect the validity
34 of any corporate action.

35 (5) The superior court of the county in which the social purpose
36 corporation's registered office is located may, after notice to the
37 corporation, summarily order a social purpose report to be furnished to

1 shareholders on application of any shareholder of a social purpose
2 corporation if a social purpose report was not furnished to
3 shareholders for at least two consecutive fiscal years.

4 **Sec. 17.** RCW 23B.01.400 and 2009 c 189 s 1 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this title.

8 (1) "Articles of incorporation" include amended and restated
9 articles of incorporation and articles of merger.

10 (2) "Authorized shares" means the shares of all classes a domestic
11 or foreign corporation is authorized to issue.

12 (3) "Conspicuous" means so prepared that a reasonable person
13 against whom the record is to operate should have noticed it. For
14 example, printing in italics or boldface or contrasting color, or
15 typing in capitals or underlined, is conspicuous.

16 (4) "Corporate action" means any resolution, act, policy, contract,
17 transaction, plan, adoption or amendment of articles of incorporation
18 or bylaws, or other matter approved by or submitted for approval to a
19 corporation's incorporators, board of directors or a committee thereof,
20 or shareholders.

21 (5) "Corporation" or "domestic corporation" means a corporation for
22 profit, including a social purpose corporation, which is not a foreign
23 corporation, incorporated under or subject to the provisions of this
24 title.

25 (6) "Deliver" includes (a) mailing, (b) for purposes of delivering
26 a demand, consent, notice, or waiver to the corporation or one of its
27 officers, directors, or shareholders, transmission by facsimile
28 equipment, and (c) for purposes of delivering a demand, consent,
29 notice, or waiver to the corporation or one of its officers, directors,
30 or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11,
31 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

32 (7) "Distribution" means a direct or indirect transfer of money or
33 other property, except its own shares, or incurrence of indebtedness by
34 a corporation to or for the benefit of its shareholders in respect to
35 any of its shares. A distribution may be in the form of a declaration
36 or payment of a dividend; a distribution in partial or complete

1 liquidation, or upon voluntary or involuntary dissolution; a purchase,
2 redemption, or other acquisition of shares; a distribution of
3 indebtedness; or otherwise.

4 (8) "Effective date of notice" has the meaning provided in RCW
5 23B.01.410.

6 (9) "Electronic transmission" means an electronic communication (a)
7 not directly involving the physical transfer of a record in a tangible
8 medium and (b) that may be retained, retrieved, and reviewed by the
9 sender and the recipient thereof, and that may be directly reproduced
10 in a tangible medium by such a sender and recipient.

11 (10) "Electronically transmitted" means the initiation of an
12 electronic transmission.

13 (11) "Employee" includes an officer but not a director. A director
14 may accept duties that make the director also an employee.

15 (12) "Entity" includes a corporation and foreign corporation, not-
16 for-profit corporation, business trust, estate, trust, partnership,
17 limited liability company, association, joint venture, two or more
18 persons having a joint or common economic interest, the state, United
19 States, and a foreign governmental subdivision, agency, or
20 instrumentality, or any other legal or commercial entity.

21 (13) "Execute," "executes," or "executed" means (a) signed with
22 respect to a written record or (b) electronically transmitted along
23 with sufficient information to determine the sender's identity with
24 respect to an electronic transmission, or (c) with respect to a record
25 to be filed with the secretary of state, in compliance with the
26 standards for filing with the office of the secretary of state as
27 prescribed by the secretary of state.

28 (14) "Foreign corporation" means a corporation for profit
29 incorporated under a law other than the law of this state.

30 (15) "Foreign limited partnership" means a partnership formed under
31 laws other than of this state and having as partners one or more
32 general partners and one or more limited partners.

33 (16) "General social purpose" means the general social purpose for
34 which a social purpose corporation is organized as set forth in the
35 articles of incorporation of the corporation in accordance with section
36 5(1)(c) of this act.

37 (17) "Governmental subdivision" includes authority, county,
38 district, and municipality.

1 ~~((17))~~ (18) "Includes" denotes a partial definition.

2 ~~((18))~~ (19) "Individual" includes the estate of an incompetent or
3 deceased individual.

4 ~~((19))~~ (20) "Limited partnership" or "domestic limited
5 partnership" means a partnership formed by two or more persons under
6 the laws of this state and having one or more general partners and one
7 or more limited partners.

8 ~~((20))~~ (21) "Means" denotes an exhaustive definition.

9 ~~((21))~~ (22) "Notice" has the meaning provided in RCW 23B.01.410.

10 ~~((22))~~ (23) "Person" means an individual, corporation, business
11 trust, estate, trust, partnership, limited liability company,
12 association, joint venture, government, governmental subdivision,
13 agency, or instrumentality, or any other legal or commercial entity.

14 ~~((23))~~ (24) "Principal office" means the office, in or out of
15 this state, so designated in the annual report where the principal
16 executive offices of a domestic or foreign corporation are located.

17 ~~((24))~~ (25) "Proceeding" includes civil suit and criminal,
18 administrative, and investigatory action.

19 ~~((25))~~ (26) "Public company" means a corporation that has a class
20 of shares registered with the federal securities and exchange
21 commission pursuant to section 12 or 15 of the securities exchange act
22 of 1934, or section 8 of the investment company act of 1940, or any
23 successor statute.

24 ~~((26))~~ (27) "Record" means information inscribed on a tangible
25 medium or contained in an electronic transmission.

26 ~~((27))~~ (28) "Record date" means the date established under
27 chapter 23B.07 RCW on which a corporation determines the identity of
28 its shareholders and their shareholdings for purposes of this title.
29 The determinations shall be made as of the close of business on the
30 record date unless another time for doing so is specified when the
31 record date is fixed.

32 ~~((28))~~ (29) "Secretary" means the corporate officer to whom the
33 board of directors has delegated responsibility under RCW 23B.08.400(3)
34 for custody of the minutes of the meetings of the board of directors
35 and of the shareholders and for authenticating records of the
36 corporation.

37 ~~((29))~~ (30) "Shares" means the units into which the proprietary
38 interests in a corporation are divided.

1 ~~((+30+))~~ (31) "Shareholder" means the person in whose name shares
2 are registered in the records of a corporation or the beneficial owner
3 of shares to the extent of the rights granted by a nominee certificate
4 on file with a corporation.

5 ~~((+31+))~~ (32) "Social purpose" includes any general social purpose
6 and any specific social purpose.

7 (33) "Social purpose corporation" means a corporation that has
8 elected to be governed as a social purpose corporation under chapter
9 23B.--- RCW (the new chapter created in section 19 of this act).

10 (34) "Specific social purpose" means the specific social purpose or
11 purposes for which a social purpose corporation is organized as set
12 forth in the articles of incorporation of the corporation in accordance
13 with section 5(2)(a) of this act.

14 (35) "State," when referring to a part of the United States,
15 includes a state and commonwealth, and their agencies and governmental
16 subdivisions, and a territory and insular possession, and their
17 agencies and governmental subdivisions, of the United States.

18 ~~((+32+))~~ (36) "Subscriber" means a person who subscribes for shares
19 in a corporation, whether before or after incorporation.

20 ~~((+33+))~~ (37) "Tangible medium" means a writing, copy of a writing,
21 or facsimile, or a physical reproduction, each on paper or on other
22 tangible material.

23 ~~((+34+))~~ (38) "United States" includes a district, authority,
24 bureau, commission, department, and any other agency of the United
25 States.

26 ~~((+35+))~~ (39) "Voting group" means all shares of one or more
27 classes or series that under the articles of incorporation or this
28 title are entitled to vote and be counted together collectively on a
29 matter at a meeting of shareholders. All shares entitled by the
30 articles of incorporation or this title to vote generally on the matter
31 are for that purpose a single voting group.

32 ~~((+36+))~~ (40) "Writing" does not include an electronic
33 transmission.

34 ~~((+37+))~~ (41) "Written" means embodied in a tangible medium.

35 **Sec. 18.** RCW 23B.04.010 and 1998 c 102 s 1 are each amended to
36 read as follows:

37 (1) A corporate name:

1 (a) Must contain the word "corporation," "incorporated," "company,"
2 or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.";

3 (b) Must not contain language stating or implying that the
4 corporation is organized for a purpose other than those permitted by
5 RCW 23B.03.010 and its articles of incorporation;

6 (c) Must not contain any of the following words or phrases:

7 "Bank," "banking," "banker," "trust," "cooperative," or any
8 combination of the words "industrial" and "loan," or any combination of
9 any two or more of the words "building," "savings," "loan," "home,"
10 "association," and "society," or any other words or phrases prohibited
11 by any statute of this state; and

12 (d) Except as authorized by subsections (2) and (3) of this
13 section, must be distinguishable upon the records of the secretary of
14 state from:

15 (i) The corporate name of a corporation incorporated or authorized
16 to transact business in this state;

17 (ii) A corporate name reserved or registered under chapter 23B.04
18 RCW;

19 (iii) The fictitious name adopted under RCW 23B.15.060 by a foreign
20 corporation authorized to transact business in this state because its
21 real name is unavailable;

22 (iv) The corporate name or reserved name of a not-for-profit
23 corporation incorporated or authorized to conduct affairs in this state
24 under chapter 24.03 RCW;

25 (v) The name or reserved name of a mutual corporation or
26 miscellaneous corporation incorporated or authorized to do business
27 under chapter 24.06 RCW;

28 (vi) The name or reserved name of a foreign or domestic limited
29 partnership formed or registered under chapter 25.10 RCW;

30 (vii) The name or reserved name of a limited liability company
31 organized or registered under chapter 25.15 RCW; (~~and~~)

32 (viii) The name or reserved name of a limited liability partnership
33 registered under chapter 25.04 RCW; and

34 (ix) The name or reserved name of a social purpose corporation
35 registered under chapter 23B.--- RCW (the new chapter created in
36 section 19 of this act).

37 (2) A corporation may apply to the secretary of state for
38 authorization to use a name that is not distinguishable upon the

1 records from one or more of the names described in subsection (1) of
2 this section. The secretary of state shall authorize use of the name
3 applied for if:

4 (a) The other corporation, company, holder, limited liability
5 partnership, or limited partnership consents to the use in writing and
6 files with the secretary of state documents necessary to change its
7 name or the name reserved or registered to a name that is
8 distinguishable upon the records of the secretary of state from the
9 name of the applying corporation; or

10 (b) The applicant delivers to the secretary of state a certified
11 copy of the final judgment of a court of competent jurisdiction
12 establishing the applicant's right to use the name applied for in this
13 state.

14 (3) A corporation may use the name, including the fictitious name,
15 of another domestic or foreign corporation, limited liability company,
16 limited partnership, or limited liability partnership, that is used in
17 this state if the other entity is formed or authorized to transact
18 business in this state, and the proposed user corporation:

19 (a) Has merged with the other corporation, limited liability
20 company, or limited partnership; or

21 (b) Has been formed by reorganization of the other corporation.

22 (4) This title does not control the use of assumed business names
23 or "trade names."

24 (5) A name shall not be considered distinguishable upon the records
25 of the secretary of state by virtue of:

26 (a) A variation in any of the following designations for the same
27 name: "Corporation," "incorporated," "company," "limited,"
28 "partnership," "limited partnership," "limited liability company,"
29 ((~~or~~)) "limited liability partnership," or "social purpose
30 corporation," or the abbreviations "corp.," "inc.," "co.," "ltd.,"
31 "LP," "L.P.," "LLP," "L.L.P.," "LLC," ((~~or~~)) "L.L.C." "SPC," or
32 "S.P.C.";

33 (b) The addition or deletion of an article or conjunction such as
34 "the" or "and" from the same name;

35 (c) Punctuation, capitalization, or special characters or symbols
36 in the same name; or

37 (d) Use of abbreviation or the plural form of a word in the same
38 name.

1 NEW SECTION. **Sec. 19.** Sections 1 through 16 of this act
2 constitute a new chapter in Title 23B RCW.

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