

Senate Bill 148

By: Senators Kennedy of the 18th, Strickland of the 17th, Gooch of the 51st, Robertson of the 29th, Anavitarte of the 31st and others

**AS PASSED**

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 3 of Title 14 of the Official Code of Georgia Annotated, relating to  
2 nonprofit corporations, so as to comprehensively revise, simplify, and modernize said  
3 chapter; to provide for construction of said chapter; to provide definitions that clarify,  
4 shorten, and simplify the chapter and allow corporations flexibility in their articles and  
5 bylaws; to effect an order of bankruptcy relief upon the powers and duties of the corporation;  
6 to change certain provisions relating to forms, document filings, and fees; to provide that the  
7 articles of correction shall not state a delayed effective date; to clarify certain duties of the  
8 Secretary of State related to filings; to clarify the process for filing an appeal related to the  
9 Secretary of State's refusal to file certain documents; to clarify provisions related to the  
10 correction of filed documents; to provide for the signing of certain documents by an attorney  
11 in fact; to modernize and clarify certain provisions relating to notice, meetings, articles of  
12 incorporation, and emergency powers; to clarify the criteria and procedures for membership;  
13 to change and clarify certain provisions relating to liability for dues, assessments, or fees; to  
14 change certain provisions relating to how a corporation provides for delegates; to change,  
15 modernize, and clarify provisions relating to holding of, notice of, actions taken at,  
16 membership lists for, quorum to act at, and voting at membership meetings; to change and  
17 clarify certain provisions relating to agreements among members and derivative proceedings;  
18 to revise standing requirements for derivative actions; to change and clarify the number,

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19 election, resignation, removal, vacancies, meetings, and quorum of the board of directors;  
20 to clarify the process for appointment of committee members by the board of directors; to  
21 provide for directors' rights of access to corporate books and records; to change certain  
22 provisions relating to the standards of conduct for directors and officers; to clarify the types,  
23 duties, resignation, and removal of officers of a corporation; to change certain provisions  
24 related to indemnification and reimbursement of legal fees; to change certain provisions  
25 relating to conflicts of interest; to specify that members of corporations do not have certain  
26 property rights; to reorganize and clarify certain provisions relating to mergers; to change  
27 certain provisions relating to disposition of assets, distributions, and dissolution; to change  
28 certain provisions related to certificates of authority, foreign corporations, and inspection  
29 rights; to amend Code Section 8-2-42 of the Official Code of Georgia Annotated, relating to  
30 bribery of property or association managers regarding claims for damages arising out of  
31 construction defects prohibited and procedure for bringing action to remedy construction  
32 defects, so as to conform a cross-reference; to amend Code Section 14-5-40 of the Official  
33 Code of Georgia Annotated, relating to applicability of Chapter 3 of Title 14, so as to  
34 conform a cross-reference; to provide for related matters; to repeal conflicting laws; and for  
35 other purposes.

36           BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

37   **PART I**  
38   **SECTION 1-1.**

39 Chapter 3 of Title 14 of the Official Code of Georgia Annotated, relating to nonprofit  
40 corporations, is amended as follows:

## "CHAPTER 3

## ARTICLE 1

## Part 1

44 14-3-101.

45 This chapter shall be known and may be cited as the 'Georgia Nonprofit Corporation Code.'

46 14-3-102.

47 The General Assembly has power to amend or repeal all or part of this chapter at any time,  
48 and all domestic corporations and foreign corporations subject to this chapter are governed  
49 by the amendment or repeal.

50 14-3-103.

51 Each provision of this chapter shall have independent legal significance.

52 14-3-104.

53 (a) Any corporation, with respect to which an order for relief has been entered pursuant  
54 to the federal Bankruptcy Code (11 U.S.C. Section 101, et seq.), may put into effect and  
55 carry out any decrees and orders of the court or judge in such bankruptcy proceeding and  
56 may take any corporate action provided or directed by such decrees and orders, without  
57 further action by its directors or members. Such power and authority may be exercised,  
58 and such corporate action may be taken, as may be directed by such decrees and orders, by  
59 the trustee or trustees of such corporation appointed or elected in the bankruptcy  
60 proceeding, or a majority thereof, or, if none are appointed or elected and acting, by  
61 designated officers of the corporation, or by a representative appointed by the court or  
62 judge, with like effect as if exercised and taken by unanimous action of the directors and  
63 members of the corporation.

64 (b) Such corporation may, in the manner provided in subsection (a) of this Code section,  
65 but without limiting the generality or effect of the foregoing, alter, amend, or repeal its  
66 bylaws; constitute or reconstitute and classify or reclassify its board of directors and name,  
67 constitute, or appoint directors and officers in place of or in addition to all or some of the  
68 directors or officers then in office; amend its articles of incorporation or make any other  
69 amendment, change, or alteration, or provision authorized by this chapter; be dissolved,  
70 transfer all or part of its assets, or merge; change the location of its registered office,  
71 change its registered agent, and remove or appoint any agent to receive service of process;  
72 authorize and fix the terms, manner, and conditions of the issuance of bonds, debentures,  
73 or other obligations; or lease its property and franchises to any corporation, if permitted by  
74 law.

75 (c) Articles or a certificate of any amendment, correction, merger, or dissolution, made by  
76 such corporation pursuant to this Code section, shall be filed with the Secretary of State in  
77 accordance with Code Section 14-3-120, and, subject to Code Section 14-3-123 and  
78 subsection (c) of Code Section 14-3-124, shall thereupon become effective in accordance  
79 with its terms and the provisions thereof. Such articles, certificate, or other instrument  
80 shall be made, executed, and acknowledged, as may be directed by such decrees and  
81 orders, by the trustee or trustees appointed or elected in the bankruptcy proceeding, or a  
82 majority thereof, or, if none are appointed or elected and acting, by the officers of the  
83 corporation, or by a representative appointed by the court or judge, and shall certify that  
84 provision for the making of such articles, certificate, or instrument is contained in a decree  
85 or order of a court or judge having jurisdiction of a proceeding under the federal  
86 Bankruptcy Code.

87 (d) This Code section shall cease to apply to such corporation upon the entry of a final  
88 decree in the bankruptcy proceeding closing the case and discharging the trustee or  
89 trustees, if any; provided, however, that the closing of a case and discharge of the trustee

90 or trustees, if any, will not affect the validity of any act previously performed pursuant to  
91 subsection (a), (b), or (c) of this Code section.  
92 (e) On filing any articles, certificate, report, or other paper made or executed pursuant to  
93 this Code section, there shall be paid to the Secretary of State for the use of the state the  
94 same fees as are payable by corporations not in bankruptcy upon the filing of like articles,  
95 certificates, agreements, reports, or other papers.

96 Part 2

97 14-3-120.

98 (a) A document must satisfy the requirements of this Code section and of any other Code  
99 section that adds to or varies these requirements to be entitled to filing by the Secretary of  
100 State.

101 (b) This chapter must require or permit filing the document in the office of the Secretary  
102 of State.

103 (c) The document must contain the information required by this chapter. It may contain  
104 other information as well.

105 (d) The document must be typewritten or printed.

106 (e) The document must be in the English language. However, a corporate name need not  
107 be in English if written in English letters or Arabic or Roman numerals, and the certificate  
108 of existence required of foreign corporations need not be in English if accompanied by a  
109 reasonably authenticated English translation.

110 (f) The document must be executed:

111 (1) By the chairperson of the board of directors of a domestic corporation or foreign  
112 corporation, by its president chief executive officer, or by another of its officers;

113 (2) If directors have not been selected or the corporation has not been formed, by an  
114 incorporator; or

115 (3) If the corporation is in the hands of a receiver, trustee, or other court appointed  
116 fiduciary, by that fiduciary;  
117 provided, however, that the person executing the document may do so as an attorney in  
118 fact. Powers of attorney relating to the execution of the document do not need to be shown  
119 to or filed with the Secretary of State.

120 (g) The person executing a document shall sign it and state beneath or opposite the  
121 signature his or her name and the capacity in which he or she signs; provided, however,  
122 that, if the document is electronically transmitted, the electronic version of such person's  
123 name may be used in lieu of a signature. The document may, but need not, contain:

124 (1) The corporate seal;

125 (2) An attestation by the secretary or an assistant secretary; or

126 (3) An acknowledgment, verification, or proof.

127 (h) The document must be delivered to the office of the Secretary of State for filing and  
128 must be accompanied by ~~one exact or conformed copy (except as provided in Code~~  
129 ~~Sections 14-3-503 and 14-3-1509)~~; the correct filing fee, any certificate required by this  
130 chapter, and any penalty required by this chapter or other law. The Secretary of State may  
131 require that a document delivered in written form be accompanied by an identical or  
132 conformed copy.

133 (i) Notwithstanding the provisions of this chapter, the Secretary of State may authorize the  
134 filing of documents by electronic transmission, following the provisions of Chapter 12 of  
135 Title 10, the 'Uniform Electronic Transactions Act,' and the Secretary of State shall be  
136 authorized to promulgate such rules and regulations as are necessary to implement  
137 electronic filing procedures.

138 14-3-120.1.

139 Notwithstanding any other law to the contrary, the Secretary of State may provide for the  
140 annual registration required under this chapter to be valid for a period up to and including

141 three years. The Secretary of State is authorized to adopt the necessary rules and  
 142 regulations to implement such a registration process.

143 14-3-121.

144 The Secretary of State may prescribe and furnish on request; forms for:

- 145 (1) An application for a certificate of existence;
- 146 (2) A foreign corporation's application for a certificate of authority to ~~conduct affairs~~  
 147 transact business in this state;
- 148 (3) A foreign corporation's application for a certificate of withdrawal;
- 149 (4) The annual registration; and
- 150 (5) Such other forms not in conflict with this chapter as may be prescribed by the  
 151 Secretary of State.

152 14-3-122.

153 The Secretary of State shall collect the following fees when the documents described in this  
 154 Code section are delivered for filing:

<u>Document</u>	<u>Fee</u>
156 (1) Articles of incorporation . . . . .	\$ 100.00
157 (2) Application for certificate of authority . . . . .	225.00
158 (3) Annual registration . . . . .	30.00
159 (4) Penalty for late filing of annual registration . . . . .	25.00
160 (5) Agent's statement of resignation . . . . .	No fee
161 (6) Certificate of judicial dissolution . . . . .	No fee
162 (7) Articles of dissolution or intent to dissolve . . . . .	No fee
163 (8) Application of withdrawal . . . . .	No fee
164 (9) Application for reservation of a corporate name . . . . .	25.00

165 (10) Statement of change of address of registered agent  
 166 .....\$5.00 per corporation but not less than ..... 20.00  
 167 (11) Application for reinstatement ..... 250.00  
 168 (12) Certificate of conversion ..... 95.00  
 169 (13) Any other document required or permitted to be filed by this chapter .. 20.00

170 14-3-123.

171 (a) Except as provided in subsection (b) of this Code section and subsection (c) of Code  
 172 Section 14-3-124, a document is effective:

173 (1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's  
 174 endorsement on the original document; or

175 (2) At any later time specified in the document as its effective time on the date it is filed.

176 (b) A document may specify a delayed effective time and date, and if it does so the  
 177 document becomes effective at the time and date specified. If a delayed effective date but  
 178 no time is specified, the document is effective at the close of business on that date. A  
 179 delayed effective date for a document may not be later than the ninetieth day after the date  
 180 filed.

181 (c) If a document is determined by the Secretary of State to be incomplete and  
 182 inappropriate for filing, the Secretary of State may return the document to the person or  
 183 corporation filing it, together with a brief written explanation of the reason for the refusal  
 184 to file, in accordance with subsection (c) of Code Section 14-3-125 and, if the applicant  
 185 returns the document with corrections in accordance with the rules and regulations of the  
 186 Secretary of State, the filing date of the document will be the filing date that would have  
 187 been applied had the original document not been deficient.



188 14-3-124.

189 (a) A domestic corporation or foreign corporation may correct a document filed by the  
190 Secretary of State if the document:

191 (1) Contains an incorrect statement; or

192 (2) Was defectively executed, attested, sealed, verified, or acknowledged.

193 (b) A document is corrected:

194 (1) By preparing articles of correction that:

195 (A) Describe the document (including its filing date);

196 (B) Specify the incorrect statement and the reason it is incorrect or the manner in  
197 which the execution was defective; and

198 (C) Correct the incorrect statement or defective execution; and

199 (2) By delivering the articles of correction to the Secretary of State for filing.

200 (c) Articles of correction are effective on the effective date of the document they correct  
201 except as to persons relying on the uncorrected document and adversely affected by the  
202 correction. As to those persons, articles of correction are effective when filed. Articles of  
203 correction shall not state a delayed effective date.

204 14-3-125.

205 (a) If a document delivered to the office of the Secretary of State for filing satisfies the  
206 requirements of Code Section 14-3-120, the Secretary of State shall file it.

207 (b) The Secretary of State files a document by stamping or otherwise endorsing ~~his or her~~  
208 the Secretary of State's official title and the date and time of receipt on ~~both the original and~~  
209 ~~the document copy.~~ After ~~filing a document, except as provided in Code Sections 14-3-503~~  
210 ~~and 14-3-1510~~ a document is filed, the Secretary of State shall deliver a copy of the  
211 document copy to the domestic corporation or foreign corporation to which the document  
212 relates or its the person making the filing or the person's representative.

213 (c) If the Secretary of State refuses to file a document, ~~he or she~~ the Secretary of State  
214 shall return it the document to the domestic corporation or foreign corporation ~~or its to~~  
215 which the document relates or the person making the filing or the person's representative  
216 within ten days after the document was delivered, together with a brief, written explanation  
217 of the reason for his or her refusal.

218 (d) The Secretary of State's duty to file documents under this Code section is ministerial.  
219 Filing or refusing to file a document does not:

220 (1) Affect the validity or invalidity of the document in whole or in part;

221 (2) Relate to the correctness or incorrectness of information contained in the document;  
222 or

223 (3) Create a presumption that the document is valid or invalid or that information  
224 contained in the document is correct or incorrect.

225 14-3-126.

226 (a) If the Secretary of State refuses to file a document delivered to the Secretary of State's  
227 office for filing, the document may be resubmitted within 30 days accompanied by an  
228 opinion in a record from an attorney admitted to practice in this state stating why the  
229 document conforms to law and the authorities upon which the opinion is based. The  
230 Secretary of State may rely with respect to any disputed point of law upon the opinion in  
231 determining whether the document conforms to law.

232 (b) If the Secretary of State refuses to file a document delivered to his or her the Secretary  
233 of State's office for filing, as an alternative to resubmitting the document under subsection  
234 (a) of this Code section or following a refusal by the Secretary of State to file the document  
235 after it is resubmitted under subsection (a) of this Code section, the domestic corporation  
236 or foreign corporation may appeal the refusal to the superior court. Such appeal must be  
237 filed with the superior court within 30 days after the return of the document to the superior  
238 court by the Secretary of State. The appeal is commenced by petitioning the court to

239 compel filing of the document and by attaching to the petition the document and the  
240 Secretary of State's explanation of his or her refusal to file.

241 ~~(b)~~(c) The matter shall promptly be tried de novo by the court without a jury. The court  
242 may summarily order the Secretary of State to file the document or take other action the  
243 court considers appropriate.

244 ~~(c)~~(d) The court's final decision may be appealed as in other civil proceedings.

245 14-3-127.

246 A certificate attached to a copy of a document or electronic transmission filed by the  
247 Secretary of State, bearing his or her signature, which may be in facsimile, and the printed  
248 or embossed seal of this state, or its electronic equivalent, is prima-facie evidence that the  
249 original document has been filed with the Secretary of State.

250 14-3-128.

251 (a) Any person may apply to the Secretary of State to furnish a certificate of existence for  
252 a domestic corporation or a certificate of ~~authorization~~ authority for a foreign corporation.

253 (b) A certificate of existence or ~~authorization~~ authority sets forth:

254 (1) The domestic corporation's corporate name or the foreign corporation's corporate  
255 name used in this state;

256 (2) That the domestic corporation is duly incorporated under the law of this state and the  
257 date of its incorporation, or that the foreign corporation is authorized to transact business  
258 in this state;

259 (3) That its most recent annual registration required by Code Section 14-3-1622 has been  
260 delivered to the Secretary of State; and

261 (4) That articles of dissolution have not been filed.

262 (c) Subject to any qualification stated in the certificate, a certificate of existence or  
263 ~~authorization~~ authority issued by the Secretary of State may be relied upon as prima-facie

264 evidence that the domestic corporation or foreign corporation is in existence or is  
265 authorized to transact business in this state.

266 14-3-129.

267 (a) A person who signs a document he or she knows is false in any material respect with  
268 intent that the document be delivered to the Secretary of State for filing shall be guilty of  
269 a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed  
270 \$500.00.

271 (b) A document filed under this chapter may be signed by an attorney in fact. Whenever  
272 this chapter requires a particular individual to sign a document and the individual is  
273 deceased or incompetent, the document may be signed by a legal representative of the  
274 individual.

275 (c) A person who signs a document as an attorney in fact or legal representative affirms  
276 as a fact that such person is authorized to sign the document.

277 Part 3

278 14-3-130.

279 The Secretary of State has the power reasonably necessary to perform the duties required  
280 of him or her by this chapter.

281 Part 4

282 14-3-140.

283 As used in this chapter, the term:

284 (1) 'Articles of incorporation' or 'articles' includes amended and restated articles of  
285 incorporation and articles of merger.

286 (2) 'Board of directors' or 'board' means the person or persons vested with the authority  
287 to manage the affairs of the corporation, irrespective of the name ~~by which~~ of such group  
288 ~~is designated~~, but shall not include any person solely by virtue of powers delegated to him  
289 or her by Code Section 14-3-801.

290 (3) 'Business corporation' means a corporation for profit, incorporated under the  
291 provisions of Chapter 2 of this title.

292 (4) 'Bylaws' means the code of rules other than the articles adopted pursuant to this  
293 chapter for the regulation or management of the affairs of the corporation, irrespective  
294 of the name or names ~~by which~~ of such rules ~~are designated~~.

295 (5) 'Charitable corporation' means a corporation that meets the requirements of  
296 paragraph (2) of subsection (a) of Code Section 14-3-1302.

297 (6) 'Chief executive officer' includes a president or any other individual holding a similar  
298 position designated by another title.

299 (7) 'Chief financial officer' includes a treasurer or any other individual holding a similar  
300 position designated by another title.

301 ~~(5)~~(8) 'Class' refers to a group of memberships which have the same rights with respect  
302 to voting, dissolution, redemption, and transfer. For the purpose of this Code section,  
303 rights shall be considered the same if they are determined by a formula applied  
304 uniformly.

305 ~~(6)~~(9) 'Corporation' or 'domestic corporation' means a corporation, other than a foreign  
306 corporation, incorporated under or subject to the provisions of this chapter.

307 ~~(7)~~(10) 'Delegate' means a person elected or appointed to vote in a representative  
308 assembly for the election of a director or on other matters. A person is not a member  
309 solely by virtue of such person's status as a delegate.

310 ~~(8)~~(11) 'Deliver' includes delivery by hand, mail, private carrier, and electronic  
311 transmission.

312 ~~(9) 'Distribution' means the payment of a dividend or any part of the income or profit of~~  
313 ~~a corporation to its members, directors, or officers. Payment of indemnification or~~  
314 ~~reasonable compensation, fees, or expenses incurred in the performance of duties on~~  
315 ~~behalf of the corporation is not a distribution.~~

316 (12) 'Document' means:

317 (A) Any tangible medium on which information is inscribed, and includes handwritten,  
318 typed, printed, or similar instruments and copies of such instruments; and

319 (B) Any electronic or other medium that is retrievable in perceivable form.

320 ~~(10)(13) 'Effective date of notice' is defined~~ described in Code Section 14-3-141.

321 (14) 'Electronic' means relating to technology having electrical, digital, magnetic,  
322 wireless, optical, electromagnetic, or similar capabilities.

323 ~~(11)(15) 'Electronic network' means any medium~~ or electronic system for creating,  
324 generating, sending, receiving, and storing, displaying, processing, or viewing electronic  
325 documents or electronic transmissions among persons.

326 ~~(12)(16) 'Electronic transmission' or 'electronically transmitted' means any form of~~  
327 electronic communication not directly involving the physical transmission of paper that  
328 creates a record that may be retained, retrieved, and reviewed by a recipient thereof and  
329 that may be directly reproduced in paper form by such a recipient through an automated  
330 process. Electronic transmissions include, but are not limited to, telegraphs, telegrams,  
331 cablegrams, teletypes, e-mail, and facsimile transmissions.

332 ~~(13) 'Employee' includes an officer but not a director. A director may accept duties that~~  
333 ~~make him or her also an employee.~~

334 ~~(14)(17) 'Entity' includes corporation and foreign corporation; business corporation and~~  
335 ~~foreign business corporation; profit and nonprofit unincorporated association; business~~  
336 ~~trust, estate, general partnership, limited partnership,~~ foreign limited partnership, trust,  
337 and two or more persons having a joint or common economic interest; domestic  
338 joint-stock association and foreign joint-stock association; limited liability company and

339 foreign limited liability company; limited liability partnership and foreign limited liability  
340 partnership; state, United States, and foreign government; and regional commission solely  
341 for the purpose of implementing subsection (f) of Code Section 50-8-35.

342 ~~(15)~~(18) 'Foreign business corporation' means a corporation for profit incorporated under  
343 a law other than the law of this state.

344 ~~(16)~~(19) 'Foreign corporation' means a corporation incorporated under a law other than  
345 the law of this state which would be a nonprofit corporation if incorporated under, or  
346 subject to, this chapter.

347 ~~(16.1)~~(20) 'Foreign limited liability company' means a limited liability company formed  
348 under the laws of a jurisdiction other than this state.

349 (21) 'Governing agreements' includes the articles of incorporation and bylaws of a  
350 business corporation, foreign business corporation, or corporation or foreign corporation;  
351 the articles of association or trust agreement or indenture and bylaws of a joint-stock  
352 association; the articles of organization and operating agreement of a limited liability  
353 company; the certificate of limited partnership and limited partnership agreement of a  
354 limited partnership; and agreements serving comparable purposes under the laws of other  
355 states or jurisdictions.

356 ~~(17)~~(22) 'Governmental subdivision' includes an authority, county, district, and  
357 municipality or any other political subdivision.

358 ~~(18)~~(23) 'Includes' or 'including' denotes a partial definition or a nonexclusive list.

359 ~~(19)~~(24) 'Individual' means a natural person and includes the estate of an incompetent  
360 or deceased individual.

361 (25) 'Joint-stock association' includes any association of the kind commonly known as  
362 a joint-stock association or joint-stock company and any unincorporated association,  
363 trust, or enterprise having members or having outstanding shares of stock or other  
364 evidences of financial and beneficial interest therein, whether formed by agreement or  
365 under statutory authority or otherwise, but shall not include a corporation, partnership,

366 limited liability partnership, limited liability company, or nonprofit organization. A  
 367 joint-stock association as defined in this paragraph may be formed under the laws of this  
 368 state, including a trust created pursuant to Article 2 of Chapter 12 of Title 53 or a trust  
 369 formed under or pursuant to the laws of any other state or jurisdiction.

370 ~~(19.1)~~(26) 'Limited liability company' means any limited liability company formed under  
 371 Chapter 11 of this title.

372 (27) 'Limited partnership' includes limited partnerships formed under the laws of this  
 373 state or of any other state or territory of the United States or the District of Columbia.

374 ~~(20)~~(28) 'Mail' includes the United States mail.

375 ~~(21)~~(29) 'Means' denotes an exhaustive definition.

376 ~~(22)~~(30) 'Member' means without regard to the name by which a person is designated in  
 377 the articles or bylaws any person who is entitled to vote for the election of a director or  
 378 directors pursuant to a provision of the corporation's articles ~~or bylaws~~ that expressly  
 379 provides for or contemplates the existence of members. A person is not a member solely  
 380 by virtue of any of the following:

381 (A) Any rights such person has as a delegate;

382 (B) Any rights such person has to ~~designate~~ nominate, appoint, or confirm a director  
 383 or directors; ~~or~~

384 (C) Any rights such person has as a director; or

385 (D) A contribution by such person to the corporation.

386 (31) 'Membership corporation' means a corporation whose articles of incorporation  
 387 provide for a member or members.

388 ~~(23)~~(32) 'Notice' is ~~defined~~ described in Code Section 14-3-141.

389 ~~(24)~~(33) 'Person' includes an individual and an entity.

390 ~~(25)~~(34) 'Principal office' means the office in or out of this state so designated in the  
 391 annual registration where the principal executive offices of a domestic corporation or  
 392 foreign corporation are located.



393 ~~(26)~~(35) 'Proceeding' includes civil suit and criminal, administrative, and investigatory  
394 action.

395 ~~(27)~~(36) 'Record date' means the date established under Article 6 or 7 of this chapter on  
396 which a corporation determines the identity of its members for purposes of this chapter.  
397 The determinations shall be made as of the close of business on the record date unless  
398 another time for doing so is specified when the record date is fixed.

399 ~~(28)~~(37) 'Secretary' means the corporate officer to whom the board of directors has  
400 delegated responsibility under subsection ~~(b)~~ (d) of Code Section 14-3-840 for custody  
401 of the minutes of the meetings of the board of directors and of any members and for  
402 authenticating records of the corporation.

403 (38) 'Share' includes shares, memberships, financial or beneficial interests, units, or  
404 proprietary or partnership interests in a business corporation or a foreign business  
405 corporation, limited liability company, joint-stock association, or limited partnership but  
406 does not include debt obligations of any entity.

407 (39) 'Shareholder' means any person who owns or holds title to or beneficial interest in  
408 a share.

409 ~~(29)~~(40) 'Signature' or 'sign' includes any manual, facsimile, conformed, or electronic  
410 signature.

411 ~~(30)~~(41) 'State,' when referring to a part of the United States, includes a state,  
412 commonwealth, the District of Columbia (and their agencies and governmental  
413 subdivisions) and a territory and insular possession (and their agencies and governmental  
414 subdivisions) of the United States.

415 ~~(31)~~(42) 'Superior court' means the superior court of the county in which the  
416 corporation's registered office is located; ~~or~~, if the corporation has no registered office,  
417 the county in which the corporation's principal office is located; or, if the corporation has  
418 neither a registered office nor a principal office, then the Superior Court of Fulton  
419 County.

420 ~~(32)~~(43) 'United States' includes district, authority, bureau, commission, department, and  
421 any other agency of the United States.

422 ~~(33)~~(44) 'Voting power' means the total number of votes entitled to be cast for the  
423 election of directors at the time the determination of voting power is made, excluding a  
424 vote which is contingent upon the happening of a condition or event that has not occurred  
425 at the time. Where a class is entitled to vote as a class for directors, the determination of  
426 voting power of the class shall be based on the percentage of the number of directors the  
427 class is entitled to elect out of the total number of authorized directors.

428 14-3-141.

429 (a) Notice under this chapter shall be in writing or by electronic transmission unless oral  
430 notice is reasonable under the circumstances.

431 (b) Notice may be communicated in person; by telephone, electronic transmission, or other  
432 form of wire or wireless communication; or by mail or private carrier. If these forms of  
433 personal notice are impracticable, notice may be communicated by a newspaper of general  
434 circulation in the area where published or by radio, television, or other form of public  
435 broadcast communication. Unless otherwise provided in the articles of incorporation,  
436 bylaws, or this chapter, notice by electronic transmission shall be deemed to be notice in  
437 writing for purposes of this chapter.

438 (c) Written notice by a domestic corporation or a foreign corporation to its members, if in  
439 a comprehensible form, is effective when mailed, if mailed with first-class postage prepaid  
440 and correctly addressed to the member's address shown in the corporation's or foreign  
441 corporation's current record of members. If the corporation or foreign corporation has  
442 more than 500 members of record entitled to vote at a meeting, it may utilize a class of mail  
443 other than first class if the notice of the meeting is mailed, with adequate postage prepaid,  
444 not less than 30 days before the date of the meeting.

445 (d) Written notice to a domestic corporation or a foreign corporation authorized to transact  
446 business in this state may be addressed to its registered agent at its registered office or to  
447 ~~the~~ such corporation or its secretary at its principal office shown in its most recent annual  
448 registration or, in the case of a foreign corporation that has not yet delivered an annual  
449 registration, in its application for a certificate of authority.

450 (e) Except as provided in subsections (c) and (h) of this Code section or in the articles of  
451 incorporation or bylaws, written notice, if in a comprehensible form, is effective at the  
452 earliest of the following:

453 (1) When received or when delivered, properly addressed, to the addressee's last known  
454 principal place of business or residence;

455 (2) Five days after its deposit in the mail, as evidenced by the postmark, if mailed with  
456 first-class postage prepaid and correctly addressed; or

457 (3) On the date shown on the return receipt, if sent by registered or certified mail or  
458 statutory overnight delivery, return receipt requested, and the receipt is signed by or on  
459 behalf of the addressee.

460 (f) Oral notice is effective when communicated if communicated in a comprehensible  
461 manner.

462 (g) In calculating time periods for notice under this chapter, when a period of time  
463 measured in days, weeks, months, years, or other measurement of time is prescribed for the  
464 exercise of any privilege or the discharge of any duty, the first day shall not be counted but  
465 the last day shall be counted.

466 (h)(1) Without limiting the manner by which notice otherwise may be given effectively  
467 to members, any notice to members given by the corporation under any provision of this  
468 chapter, the articles of incorporation, or the bylaws shall be effective if given by a form  
469 of electronic transmission consented to by the member to whom the notice is given. Any  
470 such consent shall be revocable by the member by written notice to the corporation. Any  
471 such consent shall be deemed revoked if:

- 472 (A) The corporation is unable to deliver by electronic transmission two consecutive  
473 notices given by the corporation in accordance with such consent; and
- 474 (B) Such inability becomes known to the secretary or an assistant secretary of the  
475 corporation or ~~to the transfer agent~~ or other person responsible for the giving of notice;  
476 provided, however, that the inadvertent failure to treat such inability as a revocation  
477 shall not invalidate any meeting or other action.
- 478 (2) Notice given pursuant to this subsection shall be deemed effective:
- 479 (A) If by facsimile telecommunication, when transmitted to a number at which the  
480 member has consented to receive notice;
- 481 (B) If by ~~e-mail~~ email, when transmitted to an ~~e-mail~~ email address at which the  
482 member has consented to receive notice;
- 483 (C) If by a posting on an electronic network together with separate notice to the  
484 member of such specific posting, upon the later of (i) such posting or (ii) the giving of  
485 such separate notice; and
- 486 (D) If by any other form of electronic transmission, when transmitted to the member.
- 487 (i) An affidavit, certificate, or other written confirmation of the secretary or an assistant  
488 secretary or ~~of the transfer agent~~ or other agent of the corporation that the notice has been  
489 given under this Code section shall, in the absence of fraud, be prima-facie evidence of the  
490 facts stated therein.
- 491 (j) The corporation may be obligated to accept from a member consents, requests,  
492 demands, or notices given and delivered under this chapter to the principal place of  
493 business of the corporation or to an officer or agent of the corporation having custody of  
494 the books in which proceedings of meetings of members are recorded by electronic  
495 transmission only as provided by resolution of the board of directors of the corporation or  
496 in the articles of incorporation.
- 497 (k) Unless the registered agent of the corporation ~~shall provide~~ provides written consent  
498 to the corporation to the receipt of a member's consent, request, demand, or notice by

499 electronic transmission under this chapter, delivery ~~made~~ to a corporation's registered  
500 office shall be made by hand or by certified or registered mail or statutory overnight  
501 delivery, return receipt requested.

502 (l) If this chapter prescribes notice requirements for particular circumstances, those  
503 requirements govern. If articles of incorporation or bylaws prescribe notice requirements,  
504 not inconsistent with this Code section or other provisions of this chapter, those  
505 requirements govern.

506 (m) Whenever notice would otherwise be required to be given under any provision of this  
507 chapter to a member, the notice need not be given if notice of two consecutive annual  
508 meetings, and all notices of meetings during the period between such two consecutive  
509 annual meetings, have been returned undeliverable or could not be delivered. Unless  
510 otherwise provided by the corporation's bylaws, if a member delivers to the corporation a  
511 notice setting forth the member's then-current mailing address, telephone number, means  
512 of electronic communication, or address for private carrier delivery, the requirement that  
513 notice be given to that member shall be reinstated.

514 Part 5

515 14-3-160.

516 (a) If for any reason it is impractical or impossible for ~~any~~ a corporation to call or conduct  
517 a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the  
518 manner prescribed by its articles, bylaws, or this chapter, then upon petition of a director,  
519 officer, delegate, member, other person entitled to participate, or the Attorney General, the  
520 superior court may order that such a meeting be called or that a ballot in writing or by  
521 electronic transmission or other form of obtaining the vote of members, delegates, or  
522 directors be authorized, in such a manner as the court finds fair and equitable under the  
523 circumstances.

524 (b) The court shall, in an order issued pursuant to this Code section, provide for a method  
525 of notice reasonably designed to give actual notice to all persons who would be entitled to  
526 notice of a meeting held pursuant to the articles, bylaws, or this chapter, whether or not the  
527 method results in actual notice to all such persons or conforms to the notice requirements  
528 that would otherwise apply. In a proceeding under this Code section the court may  
529 determine who the members or directors are.

530 (c) The order issued pursuant to this Code section may dispense with any requirement  
531 relating to the holding of or voting at meetings or obtaining votes, including any  
532 requirement as to quorums or as to the number or percentage of votes needed for approval,  
533 that would otherwise be imposed by the articles, bylaws, or this chapter.

534 (d) Whenever practical, any order issued pursuant to this Code section shall limit the  
535 subject matter of meetings or other forms of consent authorized to items, including  
536 amendments to the articles or bylaws, the resolution of which will or may enable the  
537 corporation to continue managing its affairs without further resort to this Code section;  
538 provided, however, that an order under this Code section may also authorize the obtaining  
539 of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

540 (e) Any meeting or other method of obtaining the vote of members, delegates, or directors  
541 conducted pursuant to an order issued under this Code section, and that complies with all  
542 the provisions of such order, is for all purposes a valid meeting or vote, as the case may be,  
543 and shall have the same force and effect as if it complied with every requirement imposed  
544 by the articles, bylaws, and this chapter.

545 Part 6

546 14-3-170.

547 (a) The Attorney General may petition the superior court:

- 548 (1) To enjoin the proposed unlawful conveyance, transfer, or assignment of assets of a  
549 charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
550 ~~14-3-1302~~ in situations in which the transferee knew of its unlawfulness;
- 551 (2) To set aside the unlawful conveyance, transfer, or assignment of assets of a charitable  
552 corporation ~~described in paragraph (2) of subsection (a) of Code Section 14-3-1302~~ in  
553 situations in which the transferee knew of its unlawfulness;
- 554 (3) To dissolve a corporation that:
- 555 (A) Obtained its articles of incorporation through fraud; ~~or~~
- 556 (B) Was reinstated under Code Section 14-3-1422 through fraud; or
- 557 (C) Has ~~continued~~ exceeded or abused, and is continuing to exceed or abuse, the  
558 authority conferred upon it by law; or
- 559 (4) To compel accounting and restitution or other appropriate relief for violation of Code  
560 Sections 14-3-830, 14-3-842, 14-3-860 through 14-3-864, or 14-3-1301.
- 561 (b) In connection with any such proceeding or proposed proceeding, the Attorney General  
562 shall have the same power to investigate and issue subpoenas as he or she has with respect  
563 to investigations authorized under Code Section 45-15-17.

564

## Part 7

565 14-3-180.

566 If religious doctrine governing the affairs of a corporation is inconsistent with the  
567 provisions of this chapter on the same subject, the religious doctrine shall control to the  
568 extent required by the Constitution of the United States or the Constitution of this state or  
569 both.

570

## ARTICLE 2

571 14-3-201.

572 One or more persons may act as the incorporator or incorporators of a corporation by  
573 delivering articles of incorporation to the Secretary of State for filing.

574 14-3-202.

575 (a) The articles of incorporation must set forth:

576 (1) A corporate name for the corporation that satisfies the requirements of Code Section  
577 14-3-401;

578 (2) The street address and county of the corporation's initial registered office and the  
579 name of its initial registered agent at that office;

580 (3) The name and address of each incorporator;

581 (4) Whether or not the corporation will have members;

582 (5) The mailing address of the initial principal office of the corporation, if different from  
583 the initial registered office; and

584 (6) A statement that the corporation is organized pursuant to the Georgia Nonprofit  
585 Corporation Code.

586 (b) The articles of incorporation may set forth:

587 (1) The purpose or purposes for which the corporation is organized, which may be, either  
588 alone or in combination with other purposes, the transaction of any lawful activity;

589 (2) The names and addresses of the individuals who are to serve as the initial directors;

590 (3) Provisions not inconsistent with law regarding:

591 (A) Managing and regulating the affairs of the corporation;

592 (B) Defining, limiting, and regulating the powers of the corporation, its board of  
593 directors, and members (or any class of members); and



- 594 (C) The characteristics, qualifications, rights, limitations, and obligations attaching to  
595 each or any class of members;
- 596 (4) A provision eliminating or limiting the liability of a director to the corporation or its  
597 members for monetary damages for any action taken, or any failure to take any action,  
598 as a director, except liability:
- 599 (A) For any appropriation, in violation of his or her duties, of any business opportunity  
600 of the corporation;
- 601 (B) For acts or omissions which involve intentional misconduct or a knowing violation  
602 of law;
- 603 (C) For the types of liability set forth in Code Sections 14-3-860 through 14-3-864; or  
604 (D) For any transaction from which the director received an improper personal benefit,  
605 provided that no such provision shall eliminate or limit the liability of a director for any  
606 act or omission occurring prior to the date when such provision becomes effective;
- 607 (5) A provision permitting indemnification of directors as set forth in Code Section  
608 14-3-856, provided that no such provision shall permit indemnification of a director for  
609 any act or omission occurring prior to the date when such provision becomes effective.
- 610 ~~(5)(6)~~ Any provision that under this chapter is required or permitted to be set forth in the  
611 bylaws; and
- 612 ~~(6)(7)~~ Provisions not inconsistent with law regarding the distribution of assets on  
613 dissolution.
- 614 (c) One or more incorporators named in the articles must sign the articles unless the filing  
615 is being signed by an attorney in fact.
- 616 (d) The articles of incorporation need not set forth any of the corporate powers enumerated  
617 in this chapter.

618 14-3-202.1.

619 Code Section 14-2-201.1 shall apply equally to the organization of corporations under this  
620 chapter, except that the notice to the publisher of the newspaper shall be in substantially  
621 the following form:

622 'NOTICE OF INCORPORATION

623 Notice is given that articles of incorporation which incorporate  
624 \_\_\_\_\_ (name of corporation) have been delivered to the  
625 Secretary of State for filing in accordance with the Georgia Nonprofit Corporation Code.  
626 The initial registered office of the corporation is located at \_\_\_\_\_  
627 (address of registered office) and its initial registered agent at such address is  
628 \_\_\_\_\_ (name of agent).'

629 14-3-203.

630 (a) Unless a delayed effective date is specified, the corporate existence begins when the  
631 articles of incorporation are filed.

632 (b) The Secretary of State's filing of the articles of incorporation is conclusive proof that  
633 the incorporators satisfied all conditions precedent to incorporation except in a proceeding  
634 by the state to cancel or revoke the incorporation or administratively dissolve the  
635 corporation.

636 14-3-204.

637 All persons purporting to act as or on behalf of a corporation, knowing there was no  
638 incorporation under this chapter, are jointly and severally liable for all liabilities created  
639 while so acting.

640 14-3-205.

641 (a) After incorporation:

642 (1) If initial directors are named in the articles of incorporation, the initial directors shall  
643 hold an organizational meeting, at the call of a majority of the directors, to complete the  
644 organization of the corporation by appointing officers, adopting bylaws, and carrying on  
645 any other business brought before the meeting; or

646 (2) If initial directors are not named in the articles, the incorporator or incorporators shall  
647 hold an organizational meeting at the call of a majority of the incorporators:

648 (A) To elect directors and complete the organization of the corporation; or

649 (B) To elect a board of directors who shall complete the organization of the  
650 corporation.

651 (b) Action required or permitted by this chapter to be taken by incorporators at an  
652 organizational meeting may be taken without a meeting if the action taken is evidenced by  
653 one or more consents in writing or by electronic transmission describing the action taken  
654 and signed by each incorporator.

655 (c) An organizational meeting may be held in or out of this state or in accordance with  
656 Code Section 14-3-821.

657 14-3-206.

658 (a) The incorporators or board of directors of a corporation shall adopt bylaws for the  
659 corporation.

660 (b) The bylaws may contain any provision for regulating and managing the affairs of the  
661 corporation that is not inconsistent with law or the articles of incorporation.

662 14-3-207.

663 (a) Unless the articles provide otherwise, the directors of a corporation may adopt, amend,  
664 or repeal bylaws to be effective only in an emergency defined in subsection (d) of this  
665 Code section. The emergency bylaws, which are subject to amendment or repeal by the

666 members, may provide special procedures necessary for managing the corporation during  
667 the emergency, including:

- 668 (1) How to call a meeting of the board;
- 669 (2) Quorum requirements for the meeting; and
- 670 (3) Designation of additional or substitute directors.

671 (b) All provisions of the regular bylaws consistent with the emergency bylaws remain  
672 effective during the emergency. The emergency bylaws are not effective after the  
673 emergency ends.

674 (c) Corporate action taken in good faith in accordance with the emergency bylaws:

- 675 (1) Binds the corporation; and
- 676 (2) May not be used to impose liability on a corporate director, officer, employee, or  
677 agent.

678 (d) An emergency exists for purposes of this Code section if a quorum of the corporation's  
679 directors cannot readily be assembled because of some catastrophic event.

680 **ARTICLE 3**

681 14-3-301.

682 (a) Every corporation incorporated under this chapter has the purpose of engaging in any  
683 lawful activity unless a more limited purpose is set forth in the articles of incorporation.

684 (b) A corporation engaging in an activity that is subject to regulation under another statute  
685 of this state may incorporate under this chapter only if incorporation under this chapter is  
686 not prohibited by the other statute. The corporation shall be subject to all limitations of the  
687 other statute.

688 14-3-302.

689 Every corporation has perpetual duration and succession in its corporate name, unless its  
690 articles of incorporation adopted on or after April 1, 1969, or in the case of a corporation  
691 existing prior to or on April 1, 1969, an amendment thereto adopted on or after April 1,  
692 1969, provides otherwise. Unless its articles of incorporation provide otherwise, every  
693 corporation has the same powers as an individual to do all things necessary or convenient  
694 to carry out its business and affairs, including without limitation power:

695 (1) To sue, be sued, complain, and defend in its corporate name;

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

698 (3) To make and amend bylaws, not inconsistent with its articles of incorporation or with  
699 the laws of this state, for regulating and managing the affairs of the corporation;

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

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

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

708 (7) To make contracts and guaranties; incur liabilities; borrow money; issue notes,  
709 bonds, and other obligations; and secure any of its obligations by mortgage or pledge of  
710 any of its property, franchises, or income;

711 (8) To lend money, invest and reinvest its funds, and receive and hold real and personal  
712 property as security for repayment, except as limited by Code Sections 14-3-860  
713 through 14-3-864;

- 714 (9) To be a promoter, fiduciary, shareholder, partner, member, associate, or manager of  
715 any partnership, joint venture, trust, or other entity;
- 716 (10) To conduct its activities, locate offices, and exercise the powers granted by this  
717 chapter within or without this state;
- 718 (11) To elect or appoint directors, officers, delegates, employees, and agents of the  
719 corporation; define their duties; fix their compensation; and lend them money and  
720 credit;
- 721 (12) To pay pensions and establish pension plans, pension trusts, and other benefit and  
722 incentive plans for any or all of its current or former directors, officers, employees, and  
723 agents;
- 724 (13) To make donations not inconsistent with law for the public welfare or for charitable,  
725 religious, scientific, or educational purposes and for other purposes that further the  
726 corporate interest;
- 727 (14) To impose dues, assessments, admission fees, and transfer fees upon its members;
- 728 (15) To provide insurance for its benefit on the life or physical or mental ability of any  
729 of its directors, officers, or employees or any other person whose death or physical or  
730 mental disability might cause financial loss to the corporation; or, pursuant to any  
731 contract obligating the corporation, as part of compensation arrangements, or pursuant  
732 to any contract obligating the corporation as guarantor or surety, on the life of the  
733 principal obligor, and for these purposes the corporation is deemed to have an insurable  
734 interest in such persons;
- 735 (16) To establish conditions for admission of members, admit members, and issue  
736 memberships;
- 737 (17) To carry on a business; and
- 738 (18) To do all things necessary or convenient, not inconsistent with law, to further the  
739 activities and affairs of the corporation.

740 14-3-303.

741 (a) In anticipation of or during an emergency defined in subsection (d) of this Code  
742 section, the board of directors of a corporation may:

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

745 (2) Relocate the principal office, designate alternative principal offices or regional  
746 offices, or authorize the officers to do so.

747 (b) During an emergency defined in subsection (d) of this Code section, unless emergency  
748 bylaws provide otherwise:

749 (1) Notice of a meeting of the board of directors need be given only to those directors it  
750 is practicable to reach and may be given in any practicable manner, including by  
751 publication and radio; ~~and~~

752 (2) Those directors who participate in a meeting of the board of directors shall constitute  
753 a quorum; and

754 ~~(2)(3)~~ One or more officers of the corporation present at a meeting of the board of  
755 directors may be deemed to be directors for the meeting, in order of rank and within the  
756 same rank in order of seniority, ~~as necessary to achieve a quorum.~~

757 (c) Corporate action taken in good faith during an emergency under this Code section to  
758 further the ordinary affairs of the corporation:

759 (1) Binds the corporation; and

760 (2) May not be used to impose liability on a corporate director, officer, employee, or  
761 agent.

762 (d) An emergency exists for purposes of this Code section if a quorum of the corporation's  
763 directors cannot readily be assembled because of some catastrophic event.

764 14-3-304.

765 (a) Except as provided in subsection (b) of this Code section, the validity of corporate  
766 action may not be challenged on the ground that the corporation lacks or lacked power to  
767 act.

768 (b) A corporation's power to act may be challenged:

769 (1) In a proceeding by a member against the corporation to enjoin the act;

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

773 (3) In a proceeding by the Attorney General under Code Section 14-3-170 or 14-3-1430.

774 (c) In a member's proceeding under paragraph (1) of subsection (b) of this Code section  
775 to enjoin an unauthorized corporate act, the court may enjoin or set aside the act, if  
776 equitable and if all affected persons are parties to the proceeding, and may award damages  
777 for loss, other than anticipated profits, suffered by the corporation or another party because  
778 of enjoining the unauthorized act.

779 14-3-305.

780 (a) As used in this Code section only, the term 'nonprofit' means any corporation which  
781 is formed, created, or operated by or on behalf of a hospital authority.

782 (b) Nonprofits shall have all of the rights, powers, benefits, and purposes granted to other  
783 corporations under this chapter and shall not be subject to any restrictions contained in  
784 Article 4 of Chapter 7 of Title 31, the 'Hospital Authorities Law,' except as provided in  
785 subsections (c) and (d) of this Code section.

786 (c) A director of a nonprofit shall be subject to the provisions of Code Section 31-7-74.1  
787 with respect to conflicts of interest regarding such nonprofit and the hospital authority  
788 which formed, created, or operates such nonprofit, and Code Section 31-7-74.1 shall be  
789 deemed to apply to such nonprofit and such hospital authority only for such purpose.



790 (d) A nonprofit shall be subject to the provisions of Code Section 31-7-90.1 with respect  
791 to reporting community benefits provided by such nonprofit and with respect to annual  
792 reports by such nonprofit disclosing certain transactions with the nonprofit or with the  
793 hospital authority which formed, created, or operates the nonprofit and Code Section  
794 31-7-90.1 shall be deemed to apply to both that nonprofit and that hospital authority only  
795 for such purposes.

796 (e) Nothing in this Code section shall be deemed or construed to affect in any manner the  
797 provisions of Code Section 31-7-75.2, Chapter 14 of Title 50, or Article 4 of Chapter 18  
798 of Title 50 or to change existing law as to whether such statutory provisions are applicable  
799 to nonprofits.

800 ARTICLE 4

801 14-3-401.

802 (a) A corporate name:

803 (1) Must contain the word 'corporation,' 'incorporated,' 'company,' or 'limited,' or the  
804 abbreviation 'Corp.,' 'Inc.,' 'Co.,' or 'Ltd.,' or words or abbreviations of like import in a  
805 language other than English;

806 (2) May not contain language stating or implying that the corporation is organized for  
807 a purpose other than that permitted by its articles of incorporation and by Code Section  
808 14-3-301;

809 (3) May not contain anything which, in the reasonable judgment of the Secretary of  
810 State, is obscene; and

811 (4) Shall not in any instance exceed 80 characters, including spaces and punctuation.

812 (b) Except as authorized by subsections (c) and (d) of this Code section, a corporate name  
813 must be distinguishable upon the records of the Secretary of State from:

- 814 (1) The corporate name of ~~an incorporated organization~~ a corporation, whether for profit  
815 or not for profit, incorporated or authorized to transact business in this state;
- 816 (2) A ~~corporate~~ name reserved or registered under ~~this chapter or Chapter 2~~ of this title;
- 817 (3) The fictitious name adopted by a foreign corporation authorized to transact business  
818 in this state because its real name is unavailable;
- 819 (4) The name of a limited partnership or professional association reserved or filed with  
820 the Secretary of State under ~~Chapter 9~~ of this title; and
- 821 (5) The name of a limited liability company formed or authorized to transact business  
822 in this state.
- 823 (c) A corporation may apply to the Secretary of State for authorization to use a name that  
824 is not distinguishable upon his or her records from one or more of the names described in  
825 subsection (b) of this Code section. The Secretary of State shall authorize use of the name  
826 applied for if the other corporation consents to the use in writing and files with the  
827 Secretary of State articles of amendment to its articles of incorporation changing its name  
828 to a name that is distinguishable upon the records of the Secretary of State from the name  
829 of the applying corporation.
- 830 (d) A corporation may use the name (including the fictitious name) of another domestic  
831 corporation or foreign corporation that is used in this state if the other corporation is  
832 incorporated or authorized to transact business in this state and:
- 833 (1) The proposed user corporation has merged with the other corporation;
- 834 (2) The proposed user corporation has been formed by reorganization of the other  
835 corporation; or
- 836 (3) The other domestic corporation or foreign corporation has taken the steps required  
837 by this chapter to change its name to a name that is distinguishable upon the records of  
838 the Secretary of State from the name of the foreign corporation applying to use its former  
839 name.

840 (e) This chapter does not control the use of fictitious or trade names. Issuance of a name  
841 under this chapter means that the name is distinguishable for filing purposes on the records  
842 of the Secretary of State pursuant to subsection (b) of this Code section. Issuance of a  
843 corporate name does not affect the commercial availability of the name.

844 14-3-402.

845 (a) A person may apply to reserve a name for the purpose of incorporation by paying the  
846 fee specified in Code Section 14-3-122. If the Secretary of State finds that the corporate  
847 name applied for is available, he or she shall reserve the name for the applicant's use for  
848 30 days or until articles of incorporation are filed, whichever is sooner. If the Secretary of  
849 State finds that the name applied for is not distinguishable for filing purposes upon the  
850 records of the Secretary of State, he or she shall notify the applicant who may then submit  
851 another reservation request within ten days of the date of the rejection notice without  
852 payment of an additional reservation fee.

853 (b) Upon expiration of a name reservation after 30 days without the filing of articles of  
854 incorporation, the name may again be reserved for another 30 day period by the same or  
855 another applicant under the same guidelines of subsection (a) of this Code section.

856 (c) A person who has in effect a name reservation under subsection (a) of this Code section  
857 may transfer the reservation to another person by delivering to the Secretary of State a  
858 signed notice of the transfer that states the name and address of the transferee.

859 ARTICLE 5

860 Part 1

861 14-3-501.

862 Each corporation must continuously maintain in this state:

863 (1) A registered office with the same address as that of the registered agent; and

- 864 (2) A registered agent, who may be:
- 865 (A) A person who resides in this state and whose office is identical with the registered
- 866 office;
- 867 (B) A domestic ~~business or nonprofit~~ corporation, business corporation, or domestic
- 868 limited liability company formed under ~~this chapter or under Chapter 2~~ of this title
- 869 whose office is identical with the registered office; or
- 870 (C) A foreign corporation, foreign business or nonprofit corporation, or foreign limited
- 871 liability company authorized to transact business in this state whose office is identical
- 872 with the registered office.

873 14-3-502.

- 874 (a) A domestic corporation or a foreign corporation may change its registered office or
- 875 registered agent by delivering to the Secretary of State for filing an amendment to its
- 876 annual registration that sets forth:
- 877 (1) The name of the corporation;
- 878 (2) The street address of its current registered office;
- 879 (3) If the current registered office is to be changed, the street address of the new
- 880 registered office;
- 881 (4) The name of its current registered agent;
- 882 (5) If the current registered agent is to be changed, the name of the new registered agent;
- 883 and
- 884 (6) That after the change or changes are made, the street addresses of its registered office
- 885 and the office of its registered agent will be identical.
- 886 (b) If the street address of a registered agent's office is changed, the registered agent may
- 887 change the street address of the registered office of any corporation for which the registered
- 888 agent is the registered agent by notifying the corporation in writing of the change and by
- 889 signing (~~either manually or in facsimile~~) and delivering to the Secretary of State for filing

890 a statement that complies with the requirements of subsection (a) of this Code section and  
891 recites that the corporation has been notified of the change.

892 14-3-503.

893 (a) A registered agent may resign his or her agency appointment by signing and delivering  
894 to the Secretary of State for filing a statement of resignation. The statement may include  
895 a statement that the registered office is also discontinued.

896 (b) On or before the date of the filing of the statement of resignation, the registered agent  
897 shall deliver or mail a written notice of the agent's intention to resign to the chief executive  
898 officer, chief financial officer, or secretary of the corporation or the foreign corporation,  
899 ~~or a person holding a position comparable to any of the foregoing,~~ as named and at the  
900 address shown in the annual registration; or in the articles of incorporation if no annual  
901 registration has been filed.

902 (c) The agency appointment is terminated, and the registered office discontinued if so  
903 provided, on the earlier of the filing by the corporation or the foreign corporation of an  
904 amendment to its annual registration designating a new registered agent and registered  
905 office if also discontinued or the thirty-first day after the date on which the statement was  
906 filed.

907 (d) When a statement of resignation takes effect, the person who resigned ceases to have  
908 responsibility under this chapter for any matter thereafter tendered to it as registered agent  
909 for the corporation or the foreign corporation. The resignation does not affect any  
910 contractual rights the corporation or the foreign corporation has against the registered agent  
911 or that the registered agent has against the corporation or the foreign corporation.

912 (e) A registered agent may resign with respect to a corporation or a foreign corporation  
913 regardless of whether the corporation or the foreign corporation is entitled at the time to  
914 a certificate of existence or authority under Code Section 14-3-128.

915 14-3-504.

916 (a) A corporation's registered agent is the corporation's agent for service of process, notice,  
917 or demand required or permitted by law to be served on the corporation.

918 (b) If a corporation has no registered agent, or the agent cannot with reasonable diligence  
919 be served, the corporation may be served by registered or certified mail or statutory  
920 overnight delivery, return receipt requested, addressed to the secretary of the corporation  
921 at its principal office. Service is perfected under this subsection on the earliest of:

922 (1) The date the corporation receives the mail;

923 (2) The date shown on the return receipt, if signed on behalf of the corporation; or

924 (3) Five days after its deposit in the United States mail, if mailed postage prepaid and  
925 correctly addressed.

926 (c) This Code section does not prescribe the only means, or necessarily the required  
927 means, of serving a corporation.

928 Part 2

929 14-3-510.

930 (a) Venue in proceedings against a corporation shall be determined in accordance with the  
931 pertinent constitutional and statutory provisions of this state in effect as of July 1, 1991, or  
932 thereafter.

933 (b) Each domestic corporation and each foreign corporation authorized to transact business  
934 in this state shall be deemed to reside and to be subject to venue as follows:

935 (1) In civil proceedings generally, in the county of this state where the corporation  
936 maintains its registered office, or if the corporation fails to maintain a registered office,  
937 it shall be deemed to reside in the county where its last named registered office or  
938 principal office, as shown by the records of the Secretary of State, was maintained;

939 (2) In actions based on contracts, in that county in this state where the contract to be  
940 enforced was made or is to be performed, if the corporation has an office and transacts  
941 business in that county;

942 (3) In actions for damages because of torts, wrong, or injury done, in the county where  
943 the cause of action originated, if the corporation has an office and transacts business in  
944 that county;

945 (4) In actions for damages because of torts, wrong, or injury done, in the county where  
946 the cause of action originated. If venue is based solely on this paragraph, the defendant  
947 shall have the right to remove the action to the county in Georgia where the defendant  
948 maintains its principal place of business. A notice of removal shall be filed within 45  
949 days of service of the summons. Upon motion by the plaintiff filed within 45 days of the  
950 removal, the court to which the case is removed may remand the case to the original court  
951 if it finds that removal is improper under the provisions of this paragraph. Upon the  
952 defendant's filing of a notice of removal, the 45 day time period for filing such notice  
953 shall be tolled until the remand, the entry of an order by the court determining that the  
954 removal is valid, or the expiration of the time period for the plaintiff to file a motion  
955 challenging the removal, whichever occurs first; and

956 (5) In garnishment proceedings, in the county of this state in which is located the  
957 corporate office or place of business where the employee who is the defendant in the  
958 main action is employed.

959 (c) Any residences established by this Code section shall be in addition to, and not in  
960 limitation of, any other residence that any domestic corporation or foreign corporation may  
961 have by reason of other laws.

962 (d) Whenever this chapter either requires or permits a proceeding to be brought in the  
963 county where the registered office of the corporation is maintained, if the proceeding is  
964 against a corporation having a principal office as required under a prior general corporation

965 law, the action or proceeding may be brought in the county where the principal office is  
966 located.

967 ARTICLE 6

968 Part 1

969 14-3-601.

970 (a) The articles or bylaws may establish criteria or procedures for admission of members.

971 (b) No person shall be admitted as a member without his or her consent.

972 (c) A person is not a member of a corporation for the purposes of this chapter unless the  
973 person meets the definition of a member under Code Section 14-3-140, regardless of  
974 whether the corporation designates or refers to the person as a member.

975 14-3-602.

976 Except as provided in its articles or bylaws, a corporation may admit members for no  
977 consideration or for such consideration as is determined by the board.

978 14-3-603.

979 A corporation is not required to have members.

980 Part 2

981 14-3-610.

982 Members as defined in ~~paragraph (22)~~ of Code Section 14-3-140 shall have no voting  
983 rights, other than to elect directors, except as specifically provided in the articles or bylaws.  
984 All members shall have the same rights and obligations with respect to any other matters,  
985 except as set forth in or authorized by the articles or bylaws. Except for the rights specified



986 in Code Sections 14-3-740 through 14-3-747, members of any corporation existing on  
987 July 1, 1991, shall be limited to having the same voting and other rights as before such  
988 date, until changed by amendment of its articles of incorporation or bylaws.

989 14-3-611.

990 A member of a corporation is not, as such, personally liable for the acts, debts, liabilities,  
991 or obligations of the corporation.

992 14-3-612.

993 ~~A member may become liable to the corporation for dues, assessments, or fees; provided;~~  
994 ~~however, that an article or bylaw provision or a resolution adopted by the board authorizing~~  
995 ~~or imposing dues, assessments, or fees does not, of itself, create liability.~~

996 (a) A membership corporation may levy dues, assessments, and fees on its members to the  
997 extent authorized in the articles of incorporation or bylaws.

998 (b) The amount and method of collection of such dues, assessments, and fees may be fixed  
999 in the articles of incorporation or bylaws, or the articles or bylaws may authorize the board  
1000 of directors or members to fix the amount and method of collection.

1001 (c) The articles of incorporation or bylaws may provide reasonable means, such as  
1002 termination and reinstatement of membership, to enforce the collection of dues,  
1003 assessments, and fees.

1004 14-3-613.

1005 (a) No proceeding may be brought by a creditor to reach the liability, if any, of a member  
1006 to the corporation unless final judgment has been rendered in favor of the creditor against  
1007 the corporation and execution has been returned unsatisfied in whole or in part or unless  
1008 such action would be useless.

1009 (b) All creditors of the corporation, with or without reducing their claims to judgment, may  
1010 intervene in any creditor's proceeding brought under subsection (a) of this Code section to  
1011 reach and apply unpaid amounts due the corporation. Any or all members who owe  
1012 amounts to the corporation may be joined in such proceeding.

1013 Part 3

1014 14-3-620.

1015 (a) Unless otherwise provided by law, a member may resign from membership at any time  
1016 by delivering notice in writing or by electronic transmission to the corporation. A  
1017 resignation is effective when the notice is delivered unless the notice specifies a later  
1018 effective date, although the articles or bylaws may require reasonable notice before the  
1019 resignation is effective.

1020 (b) This Code section shall not relieve the resigning member from any obligation for  
1021 charges incurred, services or benefits actually rendered, dues, assessments, or fees, or  
1022 arising from contract, a condition to ownership of land, an obligation arising out of  
1023 ownership of land, or otherwise, and this Code section shall not diminish any right of the  
1024 corporation to enforce any such obligation or obtain damages for its breach.

1025 14-3-621.

1026 Unless otherwise expressly provided in a corporation's articles of incorporation or bylaws  
1027 or, in the case of a corporation in existence before July 1, 1991, by resolution of the  
1028 directors or members adopted before that date:

1029 (1) No member of a corporation may be expelled or suspended, and no membership or  
1030 memberships in such corporations may be terminated or suspended except pursuant to a  
1031 procedure that is fair and reasonable and is carried out in good faith;

1032 (2) A procedure is fair and reasonable when either:

- 1033 (A) The articles or bylaws set forth a procedure that provides:
- 1034 (i) Not less than 15 days' prior written notice of the expulsion, suspension, or
- 1035 termination and the reasons therefor; and
- 1036 (ii) An opportunity for the member to be heard, orally or in writing, not less than five
- 1037 days before the effective date of the expulsion, suspension, or termination by a person
- 1038 or persons authorized to decide that the proposed expulsion, termination, or
- 1039 suspension not take place; or
- 1040 (B) It is fair and reasonable taking into consideration all of the relevant facts and
- 1041 circumstances;
- 1042 (3) Any written notice given by mail must be given by first-class or certified mail or
- 1043 statutory overnight delivery, return receipt requested, sent to the last address of the
- 1044 member shown on the corporation's records;
- 1045 (4) Any proceeding challenging an expulsion, suspension, or termination, including a
- 1046 proceeding in which defective notice is alleged, must be commenced within one year
- 1047 after the effective date of the expulsion, suspension, or termination; and
- 1048 (5) A member who has been expelled or suspended may be liable to the corporation for
- 1049 dues, assessments, or fees as a result of obligations incurred or commitments made prior
- 1050 to or during expulsion or suspension.

1051 Part 4

1052 14-3-630.

- 1053 (a) A corporation may provide ~~in its articles or bylaws~~ for delegates having some or all of
- 1054 the rights and authority of members. Any such provision must be set forth in such
- 1055 corporation's articles or bylaws.
- 1056 (b) If the corporation's articles or bylaws provide for delegates, the ~~The~~ articles or bylaws
- 1057 ~~may~~ must set forth provisions relating to:

- 1058 (1) The characteristics, qualifications, rights, limitations, and obligations of delegates,  
1059 including their selection and removal;
- 1060 (2) Calling, noticing, holding, and conducting meetings of delegates; and
- 1061 (3) Carrying on corporate activities during and between meetings of delegates.

1062 ARTICLE 7

1063 Part 1

1064 14-3-701.

1065 (a) A membership corporation ~~with members~~ shall hold a meeting of members annually  
1066 at a time stated in or fixed in accordance with the bylaws.

1067 (b) A membership corporation ~~with members~~ may hold regular meetings of members at  
1068 the times stated in or fixed in accordance with the bylaws.

1069 (c)(1) Except as provided for in paragraph (2) of this subsection, annual and regular  
1070 meetings of members may be held in or out of this state at the place stated in or fixed in  
1071 accordance with the bylaws. If no place is stated in or fixed in accordance with the  
1072 bylaws, annual and regular meetings shall be held at the corporation's principal office or  
1073 other suitable place.

1074 (2) Unless the articles of incorporation or the bylaws provide otherwise, the board of  
1075 directors may determine that an annual and regular meeting of the members may be held  
1076 wholly or partially by means of remote communication ~~which shall mean an opportunity~~  
1077 ~~for members to read or hear the proceedings of the meeting substantially concurrently~~  
1078 ~~with such proceedings~~ as authorized and provided for in Code Section 14-3-709.

1079 (d) At the annual meeting:

1080 (1) The ~~president~~ chief executive officer and chief financial officer shall report on the  
1081 activities and financial condition of the corporation; and

1082 (2) The members shall consider and act upon such other matters as may be raised  
1083 consistent with the notice requirements of Code Sections 14-3-704 and 14-3-705 and  
1084 ~~14-3-706~~.

1085 (e) At regular meetings the members shall consider and act upon such matters as may be  
1086 raised consistent with the notice requirements of Code Sections 14-3-704 and 14-3-705 and  
1087 ~~14-3-706~~.

1088 (f) The failure to hold an annual or regular meeting at a time stated in or fixed in  
1089 accordance with a corporation's bylaws does not affect the validity of any corporate action.

1090 14-3-702.

1091 (a) A membership corporation ~~with members~~ shall hold a special meeting of members:

1092 (1) On call of its board or the person or persons authorized to do so by the articles or  
1093 bylaws; or

1094 (2) ~~Except as otherwise provided in the articles or bylaws, if~~ If the holders of at least 5  
1095 percent of the voting power of ~~any~~ the corporation, or such other amount as the articles  
1096 of incorporation or bylaws shall specify (but such articles or bylaws shall not require  
1097 more than 25 percent as a minimum of the voting power), sign, date, and deliver to any  
1098 corporate officer one or more demands in writing or by electronic transmission for the  
1099 meeting describing the purpose or purposes for which it is to be held.

1100 (b) If not otherwise fixed under Code Section 14-3-703 or Code Section ~~14-3-707~~  
1101 14-3-706, the record date for determining members entitled to demand a special meeting  
1102 is the date the first member signs the demand.

1103 (c) If a notice for a special meeting demanded under paragraph (2) of subsection (a) of this  
1104 Code section is not given pursuant to Code Section ~~14-3-705~~ 14-3-704 within 30 days after  
1105 the date the demand or demands in writing or by electronic transmission are delivered to  
1106 a corporate officer, regardless of the requirements of subsection (d) of this Code section,

1107 a person signing the demand or demands may set the time and place of the meeting and  
1108 give notice pursuant to Code Section ~~14-3-705~~ 14-3-704.

1109 ~~(d)(1) Except as provided for in paragraph (2) of this subsection, special~~ Special  
1110 meetings of members may be held in or out of this state at the place stated in or fixed in  
1111 accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws,  
1112 special meetings shall be held at the corporation's principal office or other suitable place.

1113 (2) Unless the articles of incorporation or the bylaws provide otherwise, the board of  
1114 directors may determine that a special meeting of members be held wholly or partially  
1115 by means of remote communication as authorized by Code Section 14-3-709.

1116 (e) Only those matters that are within the purpose or purposes described in the meeting  
1117 notice required by Code Section ~~14-3-705~~ 14-3-704 may be conducted at a special meeting  
1118 of members.

1119 (f) Unless otherwise provided in the articles, a demand by a member for a special meeting  
1120 may be revoked ~~by a written or in writing or by~~ electronic transmission to that effect by the  
1121 member if such revocation is received by the corporation prior to the call of the special  
1122 meeting.

1123 (g) A bylaw provision governing the voting power required to call special meetings is not  
1124 a quorum or voting requirement.

1125 ~~(h) Unless the articles or bylaws provide otherwise, any special meeting may be held~~  
1126 ~~wholly or partially by means of remote communication as authorized and provided for in~~  
1127 ~~Code Section 14-3-709.~~

1128 14-3-703.

1129 (a) The superior court may summarily order a meeting to be held:

1130 (1) On application of any member or other person entitled to participate in an annual  
1131 meeting, or, in the case of a charitable corporation ~~described in paragraph (2) of~~  
1132 ~~subsection (a) of Code Section 14-3-1302~~, the Attorney General, if an annual meeting

1133 was not held within the earlier of six months after the end of a fiscal year of the  
1134 corporation or 15 months after its last annual meeting; or

1135 (2) On application of any member or other person entitled to participate in a regular  
1136 meeting, or, in the case of a charitable corporation ~~described in paragraph (2) of~~  
1137 ~~subsection (a) of Code Section 14-3-1302~~, the Attorney General, if a regular meeting is  
1138 not held within ~~40~~ 30 days after the date it was required to be held; or

1139 (3) On application of a member who signed a demand for a special meeting valid under  
1140 Code Section 14-3-702, a person or persons entitled to call a special meeting, or, in the  
1141 case of a charitable corporation ~~described in paragraph (2) of subsection (a) of Code~~  
1142 ~~Section 14-3-1302~~, the Attorney General, if:

1143 (A) Notice of the special meeting was not given within 30 days after the date the  
1144 demand was delivered to a corporate officer; or

1145 (B) The special meeting was not held in accordance with the notice.

1146 (b) After notice to the corporation, the court may fix the time and place of the meeting,  
1147 specify a record date for determining members entitled to notice of and to vote at the  
1148 meeting, prescribe the form and content of the meeting notice, fix the quorum required for  
1149 specific matters to be considered at the meeting (or direct that the votes represented at the  
1150 meeting constitute a quorum for action on those matters), and enter other orders necessary  
1151 to accomplish the purpose or purposes of the meeting.

1152 (c) If the court orders a meeting, it may also order the corporation to pay the member's or  
1153 other person's costs (including reasonable ~~counsel~~ attorney's fees) incurred to obtain the  
1154 order.

1155 ~~14-3-704.~~

1156 ~~(a) Unless limited or prohibited by the articles or bylaws, or unless this chapter requires~~  
1157 ~~a greater number of affirmative votes, action required or permitted by this chapter to be~~  
1158 ~~approved by the members may be approved without a meeting of members if the action is~~

1159 ~~approved by members holding at least a majority of the voting power. The action must be~~  
1160 ~~evidenced by one or more consents in writing or by electronic transmission describing the~~  
1161 ~~action taken, signed by those members representing at least a majority of the voting power,~~  
1162 ~~and delivered to the corporation for inclusion in the minutes or filing with the corporate~~  
1163 ~~records.~~

1164 ~~(b) No consent in writing or by electronic transmission signed under this Code section~~  
1165 ~~shall be valid unless:~~

1166 ~~(1) The consenting member has been furnished the same material that, under this chapter,~~  
1167 ~~would have been required to be sent to members in a notice of a meeting at which the~~  
1168 ~~proposed action would have been submitted to the members for action; or~~

1169 ~~(2) The written consent contains an express waiver of the right to receive the material~~  
1170 ~~otherwise required to be furnished.~~

1171 ~~(c) If not otherwise determined under Code Section 14-3-703 or Code Section 14-3-707,~~  
1172 ~~the record date for determining members entitled to take action without a meeting is the~~  
1173 ~~date the first member signs the consent.~~

1174 ~~(d) A consent signed under this Code section has the effect of a meeting vote and may be~~  
1175 ~~described as such in any document.~~

1176 ~~(e) Written notice of member approval pursuant to this Code section shall be given to all~~  
1177 ~~members who have not signed the written consent. If written notice is required, member~~  
1178 ~~approval pursuant to this Code section shall be effective ten days after such written notice~~  
1179 ~~is given.~~

1180 ~~(f) An electronic transmission which is transmitted by a member that evidences a~~  
1181 ~~member's consent or approval on a ballot, requests or demands an action to be taken by the~~  
1182 ~~corporation, or provides notice to the corporation under this chapter shall be deemed to be~~  
1183 ~~written, signed, and dated for the purposes of this chapter, provided that any such electronic~~  
1184 ~~transmission sets forth or is delivered with information from which the corporation can~~  
1185 ~~determine (1) that the electronic transmission was transmitted by the member and (2) the~~



1186 ~~date on which such member transmitted such electronic transmission. The date on which~~  
1187 ~~such electronic transmission is transmitted shall be deemed to be the date on which such~~  
1188 ~~consent, request, demand, or notice was signed.~~

1189 ~~14-3-705.~~ 14-3-704.

1190 (a) A corporation shall give notice consistent with its bylaws of meetings of members in  
1191 a fair and reasonable manner.

1192 (b) Any notice that conforms to the requirements of subsection (c) of this Code section is  
1193 fair and reasonable, but other means of giving notice may also be fair and reasonable when  
1194 all the circumstances are considered; provided, however, that notice of matters referred to  
1195 in paragraph (2) of subsection (c) of this Code section must be given as provided in  
1196 subsection (c) of this Code section.

1197 (c) Notice is fair and reasonable if:

1198 (1) The corporation notifies its members of the place, date, and time of each annual,  
1199 regular, and special meeting of members no fewer than ten days (or if notice is mailed by  
1200 other than first-class or registered mail or statutory overnight delivery, 30 days) nor more  
1201 than 60 days before the meeting date;

1202 (2) Notice of an annual or regular meeting includes a description of any matter or matters  
1203 that must be approved by the members under Code Section 14-3-855, 14-3-856,  
1204 14-3-863, 14-3-1003, 14-3-1021, 14-3-1103, 14-3-1202, or 14-3-1402; and

1205 (3) Notice of a special meeting includes a description of the matter or matters for which  
1206 the meeting is called.

1207 (d) Unless the bylaws require otherwise, if an annual, regular, or special meeting of  
1208 members is adjourned to a different date, time, or place, notice need not be given of the  
1209 new date, time, or place, if the new date, time, or place is announced at the meeting before  
1210 adjournment. If a new record date for the adjourned meeting is or must be fixed under

1211 Code Section ~~14-3-707~~ 14-3-706, however, notice of the adjourned meeting must be given  
1212 under this Code section to the members of record as of the new record date.

1213 (e) When giving notice of an annual, regular, or special meeting of members, a corporation  
1214 shall give notice of a matter a member intends to raise at the meeting if:

1215 (1) Requested in writing or by electronic transmission to do so by a person entitled to  
1216 call a special meeting; and

1217 (2) The request is received by the secretary or ~~president of the corporation~~ chief  
1218 executive officer at least ten days before the corporation gives notice of the meeting.

1219 ~~14-3-706.~~ 14-3-705.

1220 (a) A member may waive any notice required by this chapter, the articles, or the bylaws  
1221 before or after the date and time stated in the notice. The waiver must be in writing or by  
1222 electronic transmission, be signed by the member entitled to the notice, and be delivered  
1223 to the corporation for inclusion in the minutes or filing with the corporate records.

1224 (b) A member's attendance at a meeting:

1225 (1) Waives objection to lack of notice or defective notice of the meeting, unless the  
1226 member at the beginning of the meeting objects to holding the meeting or transacting  
1227 business at the meeting; and

1228 (2) Waives objection to consideration of a particular matter at the meeting that is not  
1229 within the purpose or purposes described in the meeting notice, unless the member  
1230 objects to considering the matter when it is presented.

1231 ~~14-3-707.~~ 14-3-706.

1232 (a) The bylaws may fix or provide the manner of fixing the record date to determine the  
1233 members entitled to notice of a members' meeting, to demand a special meeting to vote, or  
1234 to take any other action. If the bylaws do not fix or provide for fixing such a record date,  
1235 the board may fix a future date as such a record date.

1236 (b) A record date fixed under this Code section may not be more than 70 days before the  
1237 meeting or action requiring a determination of members.

1238 (c) A determination of members entitled to notice of or to vote at a membership meeting  
1239 is effective for any adjournment of the meeting unless the board fixes a new record date,  
1240 which it must do if the meeting is adjourned to a date more than 120 days after the date  
1241 fixed for the original meeting.

1242 (d) If a court orders a meeting adjourned to a date more than 120 days after the date fixed  
1243 for the original meeting, it may provide that the original record date continues in effect or  
1244 it may fix a new record date.

1245 ~~14-3-708.~~ 14-3-707.

1246 (a) Unless prohibited or limited by the articles or bylaws, any action that may be taken at  
1247 any annual, regular, or special meeting of members may be taken without a meeting if the  
1248 corporation delivers a ballot in writing or by electronic transmission to every member  
1249 entitled to vote on the matter.

1250 (b) A ballot in writing or by electronic transmission shall:

1251 (1) Set forth each proposed action; ~~and~~

1252 (2) Provide an opportunity to vote for, or withhold a vote for, each candidate for election  
1253 as a director, if any; and

1254 ~~(2)(3)~~ Provide an opportunity to vote for or against each other proposed action.

1255 (c) Approval by ballot in writing or by electronic transmission pursuant to this Code  
1256 section shall be valid only when the number of votes cast by ballot equals or exceeds the  
1257 quorum required to be present at a meeting authorizing the action, and the number of  
1258 approvals equals or exceeds the number of votes that would be required to approve the  
1259 matter at a meeting at which the total number of votes cast was the same as the number of  
1260 votes cast by ballot.

1261 (d) All solicitations for votes by ballot in writing or by electronic transmission shall:

- 1262 (1) Indicate the number of responses needed to meet the quorum requirements;  
1263 (2) State the percentage of approvals necessary to approve each matter other than  
1264 election of directors; and  
1265 (3) Specify the time by which a ballot must be received by the corporation in order to be  
1266 counted.  
1267 (e) Except as otherwise provided in the articles or bylaws, a ballot in writing or by  
1268 electronic transmission may not be revoked.

1269 14-3-708.

1270 (a) Unless limited or prohibited by the articles or bylaws, action required or permitted by  
1271 this chapter to be approved by the members may be approved without a meeting of  
1272 members if the action is approved by members who would be entitled to vote at a meeting  
1273 and who have voting power to cast not less than the minimum number of votes that would  
1274 be necessary to authorize or take the action at a meeting at which all members entitled to  
1275 vote were present and voted. The action must be evidenced by one or more consents in  
1276 writing or by electronic transmission describing the action taken, signed by those members  
1277 representing the requisite number of votes, and delivered to the corporation for inclusion  
1278 in the minutes or filing with the corporate records.

1279 (b) No consent in writing or by electronic transmission signed under this Code section  
1280 shall be valid unless:

- 1281 (1) The consenting member has been furnished the same material that, under this chapter,  
1282 would have been required to be sent to members in a notice of a meeting at which the  
1283 proposed action would have been submitted to the members for action; or  
1284 (2) The written consent contains an express waiver of the right to receive the material  
1285 otherwise required to be furnished.

1286 (c) If not otherwise determined under Code Section 14-3-703 or Code Section 14-3-706,  
1287 the record date for determining members entitled to take action without a meeting is the  
1288 date the first member signs the consent.

1289 (d) A consent signed under this Code section has the effect of a meeting vote and may be  
1290 described as such in any document. Except as otherwise provided in the articles or bylaws,  
1291 whenever this chapter or the articles or bylaws require a signature of a member, the  
1292 signature may be a manual, facsimile, conformed, or electronic signature.

1293 (e) Written notice of member approval pursuant to this Code section shall be given to all  
1294 members who have not signed the written consent. If such written notice is required,  
1295 member approval pursuant to this Code section shall be effective ten days after such  
1296 written notice is given.

1297 (f) An electronic transmission which is transmitted by a member that evidences a  
1298 member's consent, whether such consent is on a ballot or other document; requests or  
1299 demands an action to be taken by the corporation; or provides notice to the corporation  
1300 under this chapter shall be deemed to be written, signed, and dated for the purposes of this  
1301 chapter, provided that any such electronic transmission sets forth or is delivered with  
1302 information from which the corporation can determine:

1303 (1) That the electronic transmission was transmitted by the member; and

1304 (2) The date on which such member transmitted such electronic transmission. The date  
1305 on which such electronic transmission is transmitted shall be deemed to be the date on  
1306 which such consent, request, demand, or notice was signed.

1307 (g) With respect to notices and demands by a member to the corporation, this subsection  
1308 is in addition to, and not in lieu of, the restrictions and limitations applicable to notices set  
1309 forth in Code Section 14-3-141.

1310 14-3-709.

1311 When authorized by the board of directors, and subject to such guidelines and procedures  
1312 as such board of directors may adopt, members not physically present at a meeting of the  
1313 corporation may, by means of remote communication:

1314 (1) Participate in a meeting of members; and

1315 (2) Be deemed present in person and vote at a meeting of members, whether such  
1316 meeting is held at a designated place or held wholly by means of remote communication,  
1317 provided that:

1318 (A) The corporation implements reasonable procedures to verify that each person  
1319 deemed present at the meeting by means of remote communication is a member or  
1320 holder of a proxy; and

1321 (B) When any member or holder of a proxy votes at the meeting by means of remote  
1322 communication, a record of such vote or such other action shall be maintained by the  
1323 corporation.

1324 Part 2

1325 14-3-720.

1326 (a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list  
1327 of the names of all its members who are entitled to notice of the meeting. The list must  
1328 show the address of and number of votes each member is entitled to vote at the meeting.  
1329 Nothing contained in this Code section shall require the corporation to include ~~e-mail~~ email  
1330 addresses or other information for delivery of electronic transmissions on such list.

1331 (b) The list of members must be available for inspection by any member for the purpose  
1332 of communication with other members concerning the meeting, beginning two business  
1333 days after notice is given of the meeting for which the list was prepared and continuing  
1334 through the meeting: (1) on a reasonably accessible electronic network, provided that the

1335 information required to gain access to such list is provided with the notice of the meeting  
1336 or upon request or (2) during ordinary business hours at the corporation's principal office  
1337 or at a reasonable place identified in the meeting notice in the city where the meeting will  
1338 be held. In the event that the corporation makes the list available on an electronic network,  
1339 the corporation may take reasonable steps to ensure that such information is available only  
1340 to members of the corporation. A member, a member's agent, or a member's attorney is  
1341 entitled on written demand to inspect and, subject to the limitations of subsection (c) of  
1342 Code Section 14-3-1602 and Code Section 14-3-1605, to copy the list, at a reasonable time  
1343 and at the member's expense, during the period it is available for inspection.

1344 (c) ~~If the meeting is to be held in person, the~~ The corporation shall make the list of  
1345 members available at the meeting, and any member, a member's agent, or member's  
1346 attorney is entitled to inspect the list at any time during the meeting or any adjournment.  
1347 If the meeting is to be held ~~solely~~ wholly or partially by means of remote communication,  
1348 then the list shall be open to the examination of any member, member's agent, or member's  
1349 attorney during the duration of the meeting on a reasonably accessible electronic network,  
1350 and the information required to access such list shall be provided with the notice of the  
1351 meeting. In the event that the corporation makes the list available on an electronic  
1352 network, the corporation may take reasonable steps to ensure that such information is  
1353 available only to members of the corporation or their agents or attorneys.

1354 (d) If the corporation refuses to allow a member, a member's agent, or a member's attorney  
1355 to inspect or copy the list of members before or at the meeting (~~or copy the list~~ as permitted  
1356 by subsection (b) of this Code section), the superior court, on application of the member,  
1357 may summarily order the inspection or copying at the corporation's expense; ~~and may~~  
1358 postpone the meeting for which the list was prepared until the inspection or copying is  
1359 complete; order the corporation to pay the member's costs, including reasonable attorney's  
1360 fees, incurred to obtain the order; and order other appropriate relief.

1361 (e) Refusal or failure to prepare or make available the members' list does not affect the  
1362 validity of action taken at the meeting.

1363 14-3-721.

1364 (a) Unless the articles or bylaws provide otherwise, each member is entitled to one vote  
1365 on each matter voted on by the members.

1366 (b) Unless the articles or bylaws provide otherwise, if a membership stands of record in  
1367 the names of two or more persons, their acts with respect to voting shall have the following  
1368 effect:

1369 (1) If only one votes, such act binds all; and

1370 (2) If more than one votes, the vote shall be divided on a pro rata basis.

1371 14-3-722.

1372 (a) Members entitled to vote may take action at a meeting on a matter only if a quorum of  
1373 those members exists with respect to that matter. Unless this chapter, the articles, or the  
1374 bylaws provide for a higher or lower quorum, ~~10 percent~~ a majority of the votes entitled  
1375 to be cast on a matter ~~must be represented at a meeting of members to~~ shall constitute a  
1376 quorum for action on that matter.

1377 (b) ~~A bylaw amendment to decrease the quorum for any member action may be approved~~  
1378 ~~by the members or, unless prohibited by the bylaws, by the board.~~ An amendment to the  
1379 articles or bylaws that changes or removes a greater quorum requirement shall meet such  
1380 existing quorum requirement and shall be adopted by the same vote required to take action  
1381 under the existing quorum requirement prescribed in the provision being amended.

1382 (c) ~~A bylaw amendment to increase the quorum required for any member action must be~~  
1383 ~~approved by the members.~~



1384 ~~(d)~~(c) Unless ~~20 percent~~ one-third or more of the voting power is present in person or by  
1385 proxy, the only matters that may be voted upon at an annual or regular meeting of members  
1386 are those matters that are described in the meeting notice.

1387 (d) Notwithstanding subsection (a) of this Code section, for a corporation in existence  
1388 prior to July 1, 2023, a quorum shall be 10 percent of the votes entitled to be cast on a  
1389 matter unless this chapter, the articles, or the bylaws provide for a higher or lower quorum.

1390 14-3-723.

1391 (a) Unless this chapter, the articles, or the bylaws require a greater vote or voting by class,  
1392 if a quorum is present, the affirmative vote of a majority of the votes cast is the act of the  
1393 members.

1394 (b) ~~A bylaw amendment to increase or decrease the vote required for any member action~~  
1395 ~~must be approved by the members.~~ The articles or bylaws may provide for a greater voting  
1396 requirement for members than is provided for by this chapter.

1397 (c) An amendment to the articles or bylaws that changes or removes a greater voting  
1398 requirement shall be adopted by the same vote required to take action under the existing  
1399 voting requirement prescribed in the provision being amended.

1400 14-3-724.

1401 (a) Unless the articles or bylaws prohibit or limit proxy voting, a member may vote in  
1402 person or by proxy.

1403 (b) A member or his or her agent or attorney in fact may appoint a proxy to vote or  
1404 otherwise act for the member by signing an appointment form either personally or by an  
1405 electronic transmission. An electronic transmission must contain or be accompanied by  
1406 information from which it can be determined that the member, the member's agent, or the  
1407 member's attorney in fact authorized the electronic transmission.

- 1408 (c) An appointment of a proxy is effective when a signed appointment form or electronic  
1409 transmission of the appointment is received by the secretary or other officer or agent  
1410 authorized to tabulate votes. An appointment is valid for 11 months unless a different  
1411 period is expressly provided in the appointment form.
- 1412 (d) An appointment of a proxy is revocable by the member.
- 1413 (e) The death or incapacity of the member appointing a proxy does not affect the right of  
1414 the corporation to accept the proxy's authority unless notice of the death or incapacity is  
1415 received by the secretary or other officer or agent authorized to tabulate votes before the  
1416 proxy exercises authority under the appointment.
- 1417 (f) Appointment of a proxy is revoked by the person appointing the proxy:
- 1418 (1) Attending any meeting and voting in person; or  
1419 (2) Signing and delivering to the secretary or other officer or agent authorized to tabulate  
1420 proxy votes either a writing stating that the appointment of the proxy is revoked or a  
1421 subsequent appointment form.
- 1422 (g) Subject to Code Section 14-3-727 and any express limitation on the proxy's authority  
1423 appearing on the face of the appointment form or in the electronic transmission, a  
1424 corporation is entitled to accept the proxy's vote or other action as that of the member  
1425 making the appointment.
- 1426 (h) Any copy, facsimile transmission, or other reliable reproduction of the writing or  
1427 electronic transmission created pursuant to subsection (b) of this Code section may be  
1428 substituted or used in lieu of the original writing or electronic transmission for any and all  
1429 purposes for which the original writing or electronic transmission could be used, provided  
1430 that such copy, facsimile transmission, or other reproduction shall be a complete  
1431 reproduction of the entire original writing or electronic transmission.
- 1432 (i) A corporation may adopt bylaws authorizing additional means or procedures for  
1433 members to exercise rights granted by this Code section.

1434 14-3-725.

1435 (a) Unless otherwise provided in the articles or bylaws, directors are elected by a majority  
1436 of the votes cast by the members entitled to vote in the election at a meeting at which a  
1437 quorum is present.

1438 (b) If the articles or bylaws provide for cumulative voting by members, members may so  
1439 vote, by multiplying the number of votes the members are entitled to cast by the number  
1440 of directors for whom they are entitled to vote, and cast the product for a single candidate  
1441 or distribute the product among two or more candidates.

1442 (c) Cumulative voting is not authorized at a particular meeting unless:

1443 (1) The meeting notice or statement accompanying the notice states that cumulative  
1444 voting will take place; or

1445 (2) A member gives notice during the meeting and before the vote is taken of the  
1446 member's intent to cumulate votes, and if one member gives this notice all other members  
1447 participating in the election are entitled to cumulate their votes without giving further  
1448 notice.

1449 (d) A director elected by cumulative voting may be removed by the members without  
1450 cause if the requirements of Code Section 14-3-808 are met, unless the votes cast against  
1451 removal or not consenting in writing to such removal would be sufficient to elect such  
1452 director if voted cumulatively at an election at which the same total number of votes were  
1453 cast (or, if such action is taken by written ballot, all memberships entitled to vote were  
1454 voted) and the entire number of directors authorized at the time of the director's most recent  
1455 election were then being elected.

1456 (e) Members may not cumulatively vote if the directors and members are identical.

1457 14-3-726.

1458 A corporation may provide in its articles or bylaws for election of directors by members  
1459 or delegates:

- 1460 (1) ~~On the basis of~~ By chapter or other organizational unit;  
1461 (2) By region or other geographic unit;  
1462 (3) By preferential voting; ~~or~~  
1463 (4) By class; or  
1464 (5) By any other reasonable method.

1465 14-3-727.

1466 (a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the  
1467 name of a member, the corporation if acting in good faith is entitled to accept the vote,  
1468 consent, waiver, or proxy appointment and give it effect as the act of the member.

1469 (b) If the name signed on a vote, consent, waiver, or proxy appointment does not  
1470 correspond to the record name of a member, the corporation if acting in good faith is  
1471 nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it  
1472 effect as the act of the member if:

1473 (1) The member is an entity and the name signed purports to be that of an officer or  
1474 agent of the entity;

1475 (2) The name signed purports to be that of an attorney in fact of the member and, if the  
1476 corporation requests, evidence acceptable to the corporation of the signatory's authority  
1477 to sign for the member has been presented with respect to the vote, consent, waiver, or  
1478 proxy appointment;

1479 (3) Two or more persons hold the membership as cotenants or fiduciaries and the name  
1480 signed purports to be the name of at least one of the coholders and the person signing  
1481 appears to be acting on behalf of all the coholders;

1482 (4) The name signed purports to be that of an administrator, executor, guardian, or  
1483 conservator representing the member and, if the corporation requests, evidence of  
1484 fiduciary status acceptable to the corporation has been presented with respect to the vote,  
1485 consent, waiver, or proxy appointment; or

1486 (5) The name signed purports to be that of a receiver or trustee in bankruptcy of the  
1487 member, and, if the corporation requests, evidence of this status acceptable to the  
1488 corporation has been presented with respect to the vote, consent, waiver, or proxy  
1489 appointment.

1490 (c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if  
1491 the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has  
1492 reasonable basis for doubt about the validity of the signature on it or about the signatory's  
1493 authority to sign for the member or about the faithfulness or completeness of the  
1494 reproduction when the original has not been examined.

1495 (d) The corporation and its officer or agent who accept or reject a vote, consent, waiver,  
1496 or proxy appointment in good faith and in accordance with the standards of this Code  
1497 section or subsection (b) of Code Section 14-3-724 are not liable in damages to the member  
1498 for the consequences of the acceptance or rejection.

1499 (e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or  
1500 proxy appointment under this Code section or subsection (b) of Code Section 14-3-724 is  
1501 valid unless a court of competent jurisdiction determines otherwise.

1502 Part 3

1503 14-3-730.

1504 (a) Two or more members may provide for the manner in which they will vote by signing  
1505 an agreement for that purpose. ~~Such agreements may be valid for a period of up to 20~~  
1506 ~~years.~~ For charitable corporations described in paragraph (2) of subsection (a) of Code  
1507 ~~Section 14-3-1302~~, such agreements must have a reasonable purpose not inconsistent with  
1508 the corporation's public or charitable purposes.

1509 (b) A voting agreement created under this Code section is specifically enforceable.

1510 (c) The duration of any agreement created under this Code section shall not exceed 20  
 1511 years. Failure to state a period of duration or stating a period of duration in excess of 20  
 1512 years shall not invalidate the agreement, but in either case the period of duration shall be  
 1513 20 years. Any such agreement may be renewed for a period not in excess of 20 years from  
 1514 the date of renewal by agreement of all the members bound thereby at the date of renewal.

1515

Part 4

1516

ARTICLE 7A

1517 14-3-740.

1518 As used in this ~~part~~ article, the term:

1519 ~~(1) 'Derivative~~ 'derivative proceeding' means a civil suit in the right of a domestic  
 1520 corporation or, to the extent provided in Code Section 14-3-747, in the right of a foreign  
 1521 corporation.

1522 ~~(2) 'Member' includes those who are members under Code Section 14-3-140, as well as~~  
 1523 ~~any person who is entitled to some portion of the corporation's property upon dissolution,~~  
 1524 ~~and any person or class of persons specifically designated in the corporation's bylaws or~~  
 1525 ~~articles of incorporation as having standing to bring a derivative proceeding.~~

1526 14-3-741.

1527 (a) A derivative proceeding may be brought ~~either~~ by:1528 (1) Any ~~any~~ director; or1529 (2) Any ~~by any~~ member or members having 5 percent or more of the voting power; or1530 (3) Fifty or more ~~by 50~~ members, ~~whichever is less~~ regardless of voting power.

1531 (b) A member ~~A director or members~~ may not commence or maintain a derivative  
 1532 proceeding unless the ~~director or members~~ member:

1533 (1) Was a ~~director or were members~~ a member of the corporation at the time of the act  
1534 or omission complained of (or became a member through transfer by operation of law  
1535 from one who was a member at that time); ~~or is a director or are members at the time the~~  
1536 ~~proceeding is commenced~~; and

1537 (2) Fairly and adequately represents the interests of the corporation in enforcing the right  
1538 of the corporation.

1539 14-3-742.

1540 (a) No derivative proceeding may be commenced until:

1541 (1) A written demand has been made upon the corporation to take suitable action; and

1542 (2) Ninety days have expired from the date the demand was made unless the complainant  
1543 has earlier been notified that the demand has been rejected by the corporation or unless  
1544 irreparable injury to the corporation would result by waiting for the expiration of the 90  
1545 day period.

1546 (b) In the case of charitable corporations ~~described in subsection (a) of Code Section~~  
1547 ~~14-3-1302~~, the complainant shall deliver a copy of the demand to the Attorney General  
1548 within ten days of making the demand on the corporation.

1549 14-3-743.

1550 If the corporation commences an inquiry into the allegations made in the demand or  
1551 complaint, the court may stay any derivative proceeding for such period as the court deems  
1552 appropriate.

1553 14-3-744.

1554 (a) The court may dismiss a derivative proceeding if, on motion by the corporation, the  
1555 court finds that one of the groups specified in subsection (b) of this Code section has made  
1556 a determination in good faith after conducting a reasonable investigation upon which its

1557 conclusions are based that the maintenance of the derivative suit is not in the best interests  
1558 of the corporation. The corporation shall have the burden of proving the independence and  
1559 good faith of the group making the determination and the reasonableness of the  
1560 investigation.

1561 (b) The determination in subsection (a) of this Code section shall be made by:

1562 (1) A majority vote of independent directors present at a meeting of the board of  
1563 directors if the independent directors constitute a quorum;

1564 (2) A majority vote of a committee consisting of two or more independent directors  
1565 appointed by a majority vote of independent directors present at a meeting of the board  
1566 of directors, whether or not such independent directors constitute a quorum; or

1567 (3) A panel of one or more independent persons appointed by the court upon motion by  
1568 the corporation.

1569 (c) None of the following shall by itself cause a director to be considered not independent  
1570 for purposes of subsection (b) of this Code section:

1571 (1) The nomination or election of the director by directors who are not independent;

1572 (2) The naming of the director as a defendant in the derivative proceeding; or

1573 (3) The fact that the director approved the action being challenged in the derivative  
1574 proceeding so long as the director did not receive a personal benefit as a result of the  
1575 action.

1576 14-3-745.

1577 A derivative proceeding may not be discontinued or settled without the court's approval.  
1578 If the court determines that a proposed discontinuance or settlement will substantially  
1579 affect the interests of the corporation's members or a class of members, the court shall  
1580 direct that notice be given to the members affected.



1581 14-3-746.

1582 On termination of the derivative proceeding the court may:

1583 (1) Order the corporation to pay the plaintiff's reasonable expenses (including attorneys'  
1584 attorney's fees) incurred in the proceeding if it finds that the proceeding has resulted in  
1585 a substantial benefit to the corporation; or

1586 (2) Order the plaintiff to pay any defendant's reasonable expenses (including attorneys'  
1587 attorney's fees) incurred in defending the proceeding if it finds that the proceeding was  
1588 commenced or maintained without reasonable cause or for an improper purpose.

1589 14-3-747.

1590 In any derivative proceeding in the right of a foreign corporation, the matters covered by  
1591 this part article shall be governed by the laws of the jurisdiction of incorporation of the  
1592 foreign corporation except for Code Sections 14-3-743 and 14-3-745 and paragraph (2) of  
1593 Code Section 14-3-746.

1594 ARTICLE 8

1595 Part 1

1596 14-3-801.

1597 (a) Each corporation must have a board of directors.

1598 (b) Except as provided in this chapter or subsection (c) of this Code section, all corporate  
1599 powers shall be exercised by or under the authority of, and the business and affairs of the  
1600 corporation managed under the direction of, its board.

1601 (c) No limitation upon the authority of the directors, whether contained in the articles of  
1602 incorporation or bylaws, shall be effective against persons, other than members and  
1603 directors, who are without actual knowledge of the limitation.

1604 (d) The articles may authorize a person or persons to exercise some or all of the powers  
1605 which would otherwise be exercised by a board. To the extent so authorized any such  
1606 person or persons shall have the duties and responsibilities of the directors, and the  
1607 directors shall be relieved to that extent from such duties and responsibilities.

1608 14-3-802.

1609 Directors shall be natural persons who are 18 years of age or older but need not be residents  
1610 of this state nor members of the corporation unless the articles so require. The articles or  
1611 bylaws may prescribe other qualifications for directors.

1612 14-3-803.

1613 (a) A board of directors must consist of one or more natural persons, with the number  
1614 specified in or fixed in accordance with the articles or bylaws. A corporation without  
1615 members that is not in existence prior to July 1, 2023, must have a board of directors  
1616 consisting of three or more natural persons, with the number specified in or fixed in  
1617 accordance with the articles or bylaws.

1618 (b) The articles or bylaws may authorize the members ~~of~~ or the board of directors to fix  
1619 or change the number of directors or may establish a variable range for the size of the board  
1620 of directors by fixing a minimum and maximum number of directors. If the variable range  
1621 is established, the number of directors may be fixed or changed from time to time, within  
1622 the minimum and maximum, by the members, or if the articles or bylaws so provide, by  
1623 the board of directors.

1624 14-3-804.

1625 (a) If the corporation ~~has members~~ is a membership corporation, all the directors (except  
1626 the initial directors) shall be elected at the first annual meeting of members, and at each  
1627 annual meeting thereafter, unless the articles or bylaws provide some other time or method

1628 of election, or provide that some or all of the directors are appointed by some other person  
1629 or designated in some other manner.

1630 (b) If the articles of incorporation or bylaws authorize dividing the members into classes,  
1631 the articles or bylaws may also authorize the election of all or a specified number of  
1632 directors by one or more authorized classes of members. Unless otherwise provided in the  
1633 articles or bylaws, a class or multiple classes of members entitled to elect one or more  
1634 directors is a separate voting group for purposes of the election of directors.

1635 (c) If the corporation does not have members, all the directors (except the initial directors)  
1636 shall be elected, appointed, or designated as provided in the articles or bylaws. If no  
1637 method of designation or appointment is set forth in the articles or bylaws, the directors  
1638 (other than the initial directors) shall be elected by the board.

1639 14-3-805.

1640 (a) The terms of the initial directors of a corporation expire at the first meeting of members  
1641 or directors for the election of directors or for such other period as may be specified in the  
1642 articles of incorporation or bylaws. The articles or bylaws may specify the terms of  
1643 directors. In the absence of any term specified in the articles or bylaws, the term of each  
1644 director other than initial directors shall be one year. Directors may be elected for  
1645 successive terms.

1646 (b) A decrease in the number of directors or term of office does not shorten an incumbent  
1647 director's term.

1648 (c) A director elected to fill a vacancy shall be elected for the unexpired term of the  
1649 director's predecessor in office.

1650 (d) Despite the expiration of a director's term, the director continues to serve until the  
1651 director's successor is elected, designated, or appointed and qualifies; or until there is a  
1652 decrease in the number of directors.

1653 14-3-806.

1654 The articles or bylaws may provide for staggering the terms of directors by dividing the  
1655 total number of directors into groups. The terms of office of the several groups need not  
1656 be uniform.

1657 14-3-807.

1658 (a) A director may resign at any time by delivering notice in writing or by electronic  
1659 transmission to the presiding officer of the board of directors, ~~its presiding officer~~, or to the  
1660 ~~president~~ or secretary, or the chief executive officer or in such other manner as the articles  
1661 or bylaws may provide.

1662 (b) A resignation is effective when the notice is delivered unless the notice specifies a later  
1663 effective date or an effective date determined by the happening of an event.

1664 (c) A resignation that is conditioned upon the happening of an event may provide that such  
1665 resignation is irrevocable.

1666 14-3-808.

1667 Unless the corporation's articles or bylaws provide otherwise with regard to elected  
1668 directors:

1669 (1) The members may remove, with or without cause, one or more directors elected by  
1670 them;

1671 (2) If a director is elected by a class, chapter, or other organizational unit or by region  
1672 or other geographic grouping, the director may be removed only by the members of that  
1673 class, chapter, unit, or grouping;

1674 (3) Except as provided in paragraph (9) of this Code section, a director may be removed  
1675 under paragraph (1) or (2) of this Code section only if the number of votes cast to remove  
1676 the director would be sufficient to elect the director at a meeting to elect directors;

1677 (4) If cumulative voting is authorized, a director may not be removed if the number of  
1678 votes, or if the director was elected by a class, chapter, unit, or grouping of members, the  
1679 director may not be removed if the number of votes of that class, chapter, unit, or  
1680 grouping, sufficient to elect the director under cumulative voting is voted against the  
1681 director's removal;

1682 (5) A director elected by members may be removed by the members only at a meeting  
1683 called for the purpose of removing the director and the meeting notice must state that the  
1684 purpose, or one of the purposes, of the meeting is removal of the director;

1685 (6) In computing whether a director is protected from removal under paragraphs (2)  
1686 through (4) of this Code section, it should be assumed that the votes against removal are  
1687 cast in an election for the number of directors of the class to which the director to be  
1688 removed belonged on the date of that director's election;

1689 (7) An entire board of directors may be removed under paragraphs (1) through (5) of this  
1690 Code section;

1691 (8) A director elected by the board may be removed with or without cause by the vote  
1692 of two-thirds of the directors then in office; provided, however, that a director elected by  
1693 the board to fill the vacancy of a director elected by the members may be removed  
1694 without cause by the members, but not the board; and

1695 (9) If, at the beginning of a director's term on the board, the articles or bylaws provide  
1696 that the director may be removed for missing a specified number of board meetings, the  
1697 board may remove the director for failing to attend the specified number of meetings.  
1698 The director may be removed only if a majority of the directors then in office vote for the  
1699 removal.

1700 14-3-809.

1701 (a) A designated director may be removed by an amendment to the articles or bylaws  
1702 deleting or changing the designation.

1703 (b) Except as otherwise provided in the articles or bylaws with regard to appointed  
1704 directors:

1705 (1) An appointed director may be removed without cause by the person appointing the  
1706 director;

1707 (2) The person removing the director shall do so by giving written notice of the removal  
1708 to the director and ~~either~~ to the presiding officer of the board, ~~or~~ the corporation's  
1709 ~~president~~ chief executive officer, or the corporation's secretary; and

1710 (3) A removal is effective when the notice is effective unless the notice specifies a future  
1711 effective date.

1712 14-3-810.

1713 (a) The superior court may remove any director of the corporation from office in a  
1714 proceeding commenced ~~either~~ by the corporation, its members holding at least 10 percent  
1715 of the voting power of any class, or, in the case of a charitable corporation ~~described in~~  
1716 ~~paragraph (2) of subsection (a) of Code Section 14-3-1302~~, the Attorney General, if the  
1717 court finds that:

1718 (1) The director engaged in fraudulent or dishonest conduct, or gross abuse of authority  
1719 or discretion, with respect to the corporation, or a final judgment has been entered finding  
1720 that the director has violated a duty set forth in Code Section 14-3-830 or 14-3-831, or  
1721 the director has been subjected to sanction for participation in a 'director's conflicting  
1722 interest transaction' as defined in paragraph (2) of Code Section 14-3-860; and

1723 (2) Removal is in the best interest of the corporation.

1724 (b) The court that removes a director may bar the director from serving on the board for  
1725 a period prescribed by the court.

1726 (c) If members or the Attorney General commence a proceeding under subsection (a) of  
1727 this Code section, the corporation shall be made a party defendant.

1728 14-3-811.

1729 (a) Unless the articles or bylaws provide otherwise, and except as provided in subsections  
1730 (b) and (c) of this Code section, if a vacancy occurs on a board of directors, including a  
1731 vacancy resulting from an increase in the number of directors:

1732 (1) The members, if any, may fill the vacancy; if the vacant office was held by a director  
1733 elected by a class, chapter, or other organizational unit or by region or other geographic  
1734 grouping, only members of the class, chapter, unit, or grouping are entitled to vote to fill  
1735 the vacancy if it is filled by the members;

1736 (2) The board of directors may fill the vacancy; or

1737 (3) If the directors remaining in office constitute fewer than a quorum of the board, they  
1738 may fill the vacancy by the affirmative vote of a majority of all the directors remaining  
1739 in office.

1740 (b) Unless the articles or bylaws provide otherwise, if a vacant office was held by an  
1741 appointed director, only the person who appointed the director may fill the vacancy.

1742 (c) If a vacant office was held by a designated director, the vacancy shall be filled as  
1743 provided in the articles or bylaws. In the absence of an applicable article or bylaw  
1744 provision, the vacancy may not be filled by the board.

1745 (d) A vacancy that will occur at a specific later date (by reason of a resignation effective  
1746 at a later date under subsection (b) of Code Section 14-3-807 or otherwise) may be filled  
1747 before the vacancy occurs but the new director may not take office until the vacancy  
1748 occurs.

1749 (e) If there are no directors of a corporation without members, the Attorney General or any  
1750 interested person may petition the superior court to appoint at least three directors or the  
1751 minimum number required by the articles or bylaws. If the interested person is not the  
1752 Attorney General, such interested person shall provide notice of the petition to the Attorney  
1753 General.

1754 14-3-812.

1755 Unless the articles or bylaws provide otherwise, a the board of directors may fix the  
1756 compensation of directors.

1757 14-3-813.

1758 (a) If the directors of a corporation are deadlocked in the management of the corporate  
1759 affairs and the members are unable to break the deadlock and if injury to the corporation  
1760 is being suffered or is threatened by reason thereof, the superior court may, notwithstanding  
1761 any provisions of the articles of incorporation or bylaws of the corporation to the contrary  
1762 and whether or not an action is pending for an involuntary dissolution of the corporation,  
1763 appoint a provisional director pursuant to this Code section.

1764 (b) Action for such appointment may be filed by one-half of the directors or by members  
1765 holding not less than one-third of all the votes entitled to be cast in an election of directors.  
1766 Notice of such action shall be served upon the directors, other than those who have filed  
1767 the action, and upon the corporation in the manner provided by law for service of a  
1768 summons and complaint, and a hearing shall be held not less than ten days after such  
1769 service is effected. At such hearing all interested persons shall be given an opportunity to  
1770 be heard.

1771 (c) The provisional director shall be an impartial person who is neither a member nor a  
1772 creditor of the corporation nor related by consanguinity or affinity within the third degree,  
1773 as computed according to the civil law, to any of the other directors of the corporation or  
1774 to any judge of the court by which he or she is appointed. The provisional director shall  
1775 have all the rights and powers of a director and shall be entitled to notice of the meetings  
1776 of the board of directors and to vote at such meetings until he or she is removed by order  
1777 of the court or by vote or written consent of a majority of the directors or of members  
1778 holding a majority of the votes entitled to be cast in an election of directors. He or she  
1779 shall be entitled to receive such compensation as may be agreed upon between him or her



1780 and the corporation, and, in the absence of such agreement, he or she shall be entitled to  
1781 such compensation as shall be fixed by the court.

1782 Part 2

1783 14-3-820.

1784 (a) A board of directors may hold regular or special meetings in or out of this state. If the  
1785 time and place of a directors' meeting is fixed by the bylaws or the board, the meeting shall  
1786 be a regular meeting. All other directors' meetings shall be special meetings.

1787 (b) Unless the articles of incorporation or bylaws provide otherwise, the chair of the board  
1788 or the chief executive officer, or at least 20 percent of the directors then in office, may call  
1789 and deliver notice of a special meeting of the board of directors.

1790 (c) Unless the articles or bylaws provide otherwise, a board may permit any or all directors  
1791 to participate in a regular or special meeting by, or conduct the meeting through the use of,  
1792 any means of communication by which all directors participating may simultaneously hear  
1793 each other during the meeting. A director participating in a meeting by this means is  
1794 deemed to be present in person at the meeting.

1795 14-3-821.

1796 (a) Unless the articles or bylaws provide otherwise, action required or permitted by this  
1797 chapter to be taken at a board of directors' meeting may be taken without a meeting if the  
1798 action is taken in accordance with subsection ~~(b)~~ (c) of this Code section.

1799 (b) A director's consent may be withdrawn by a revocation signed by the director and  
1800 delivered to the corporation prior to delivery to the corporation of unrevoked written  
1801 consents signed by all the directors required for an action to be taken.

1802 (c) Action taken without a meeting shall be taken by all members of the board, unless the  
1803 articles or bylaws specifically permit such action to be taken by less than all, but not less

1804 than a majority of the board. The action must be evidenced by one or more consents in  
1805 writing or by electronic transmission describing the action taken, signed by no fewer than  
1806 the required number of directors, and delivered to the corporation for inclusion in the  
1807 minutes for filing with the corporate records reflecting the action taken. Such filing shall  
1808 be in paper form if the minutes are maintained in paper form and shall be in electronic form  
1809 if the minutes are maintained in electronic form.

1810 ~~(c)~~(d) Action taken under this Code section is effective when the last ~~director signs the~~  
1811 required signed consent is delivered to the corporation, unless the consent specifies a  
1812 different effective date.

1813 ~~(d)~~(e) A consent signed and delivered by a director under this Code section has the effect  
1814 of a meeting vote and may be described as such in any document.

1815 (f) Except as otherwise provided in the articles or bylaws, whenever this chapter, the  
1816 articles, or the bylaws require the signature of a director, the signature may be manual,  
1817 facsimile, conformed, or electronic.

1818 14-3-822.

1819 (a) Unless the articles or bylaws provide otherwise, regular meetings of the board may be  
1820 held without notice of the date, time, place, ~~and~~ or purpose of the meeting.

1821 (b) Unless the articles or bylaws provide otherwise, special meetings of the board must be  
1822 preceded by at least two days' notice to each director of the date, time, and place, but not  
1823 the purpose, of the meeting.

1824 (c) Unless the articles or bylaws provide otherwise, notice shall be provided for any  
1825 meeting where an amendment to the articles or bylaws or the removal of a director shall  
1826 be considered. Such notice shall include the date, time, place, and purpose, including the  
1827 proposed amendment, of the meeting.

1828 (d) The articles of incorporation or bylaws may authorize oral notice of meetings of the  
1829 board of directors.

1830 14-3-823.

1831 (a) A director may waive any notice required by this chapter, the articles of incorporation,  
1832 or the bylaws before or after the date and time stated in the notice. Except as provided by  
1833 subsection (b) of this Code section, the waiver must be in writing or by electronic  
1834 transmission, signed by the director entitled to the notice, and delivered to the corporation  
1835 for inclusion in the minutes or filing with the corporate records.

1836 (b) A director's attendance at or participation in a meeting waives any required notice to  
1837 him or her of the meeting unless the director at the beginning of the meeting (or promptly  
1838 upon his or her arrival) objects to holding the meeting or transacting business at the  
1839 meeting and does not thereafter vote for or assent to action taken at the meeting.

1840 14-3-824.

1841 (a) Except as otherwise provided in this chapter, the articles, or the bylaws, a quorum of  
1842 a board of directors consists of:

1843 (1) A majority of the fixed number of directors if the corporation has a fixed board size;  
1844 or

1845 (2) A majority of the number of directors prescribed or, if no number is prescribed, the  
1846 number in office immediately before the meeting begins, if the corporation has a  
1847 variable-range size board.

1848 (b) The articles or bylaws may authorize a quorum of a board of directors to consist of no  
1849 fewer than one-third of the fixed or prescribed number of directors determined under  
1850 subsection (a) of this Code section.

1851 (c) If a quorum is present when a vote is taken, the affirmative vote of a majority of  
1852 directors present is the act of the board of directors unless this chapter, the articles, or the  
1853 bylaws require the vote of a greater number of directors.

1854 (d) A director who is present at a meeting of the board of directors or a committee of the  
1855 board of directors when corporate action is taken is deemed to have assented to the action  
1856 taken unless:

1857 (1) The director objects at the beginning of the meeting (or promptly upon arrival) to  
1858 holding it or transacting business at the meeting;

1859 (2) The director's dissent or abstention from the action taken is entered in the minutes of  
1860 the meeting; or

1861 (3) The director delivers written notice of the director's dissent or abstention to the  
1862 presiding officer of the meeting before its adjournment or to the corporation immediately  
1863 after adjournment of the meeting.

1864 (e) The right of dissent or abstention is not available to a director who votes in favor of the  
1865 action taken.

1866 (f) No director shall vote by proxy at a meeting of the board of directors.

1867 14-3-825.

1868 (a) Unless the articles or bylaws provide otherwise, a board of directors may create one  
1869 or more committees of the board ~~and appoint members of the board to serve on them. Each~~  
1870 ~~committee shall have one or more directors, who serve at the pleasure of the board. A~~  
1871 committee exercising the authority of the board of directors shall consist of two or more  
1872 current or former directors, at least one of whom shall be a current director. A committee  
1873 not exercising authority of the board of directors shall consist of two or more persons, at  
1874 least one of whom shall be a current director. Committee members shall be appointed by  
1875 the board of directors or as otherwise provided for in the articles or bylaws.

1876 (b) ~~If authorized by the articles or bylaws, the board or, if there are members entitled to~~  
1877 ~~elect directors, the members may appoint individuals who are not currently members of the~~  
1878 ~~board, but who formerly were members of the board of the corporation, as voting members~~

1879 ~~of committees of the board.~~ All provisions of this article applicable to directors shall apply  
 1880 equally to such individuals serving on committees.

1881 (c) Code Sections 14-3-820 through 14-3-824, which govern meetings, action without  
 1882 meetings, notice and waiver of notice, and quorum and voting requirements of the board,  
 1883 apply to committees and ~~their~~ committee members as well.

1884 ~~(d) To the extent specified by the board of directors or in the articles or bylaws, each~~  
 1885 ~~committee of the board may exercise the board's authority under Code Section 14-3-801.~~

1886 ~~(e)~~(d) A committee may not, however:

1887 (1) Authorize distributions;

1888 (2) Approve or recommend to members dissolution, merger, or the sale, pledge, or  
 1889 transfer of all or substantially all of the corporation's assets;

1890 (3) Elect, appoint, or remove directors or fill director vacancies on the board;

1891 (4) Unless the articles or bylaws provide otherwise, elect, appoint, or remove directors  
 1892 ~~or~~ on any of its committees exercising the authority of the board; or

1893 ~~(4)~~(5) Adopt, amend, or repeal the articles or bylaws.

1894 ~~(f)~~(e) The creation of, delegation of authority to, or action by a committee does not alone  
 1895 constitute compliance by a director with the standards of conduct described in Code  
 1896 Section 14-3-830.

1897 Part 3

1898 14-3-830.

1899 (a) Unless a different standard is prescribed by law, a director shall perform his or her  
 1900 duties as a director in good faith and with the degree of care an ordinarily prudent person  
 1901 in a like position would exercise under similar circumstances.

1902 (b) In performing his or her duties, a director may rely upon:

- 1903 (1) Officers, employees, or agents of the corporation whom the director reasonably  
1904 believed to be reliable and competent in the functions performed; and
- 1905 (2) Information, data, opinions, reports, or statements provided by officers, employees,  
1906 or agents of the corporation or by legal counsel, public accountants, investment bankers,  
1907 religious authorities, ministers, priests, rabbis, other similar persons in a religious  
1908 organization, or other persons as to matters involving the skills, expertise, or knowledge  
1909 reasonably believed to be reliable and within such person's professional or expert  
1910 competence.
- 1911 (c) There shall be a presumption that the process a director followed in arriving at  
1912 decisions was done in good faith and that such director exercised ordinary care; provided,  
1913 however, that this presumption may be rebutted by evidence that such process constitutes  
1914 gross negligence by being a gross deviation from the standard of care of a director in a like  
1915 position under similar circumstances.
- 1916 (d) Nothing contained in this Code section shall:
- 1917 (1) In any instance when fairness is at issue, such as consideration of the fairness of a  
1918 transaction to the corporation as evaluated under paragraph (4) of subsection (b) of Code  
1919 Section 14-3-861, alter the burden of proving the fact or lack of fairness otherwise  
1920 applicable;
- 1921 (2) Alter the fact or lack of liability of a director under the Official Code of Georgia  
1922 Annotated, including the governance of the consequences of an unlawful distribution  
1923 under Code Section 14-3-831 or a conflicting interest transaction under Code Section  
1924 14-3-861;
- 1925 (3) Affect any rights to which the corporation or its members may be entitled under  
1926 another law of this state or of the United States; ~~or~~
- 1927 (4) Deprive a director of the applicability, effect, or protection of the business judgment  
1928 rule; or
- 1929 (5) Deprive a director of the applicability, effect, or protection of Code Section 51-1-20.

1930 (e) A director shall not be deemed to be a trustee with respect to the corporation or with  
1931 respect to any property held or administered by the corporation, including, without limit,  
1932 property that may be subject to restrictions imposed by the donor or transferor of such  
1933 property.

1934 14-3-831.

1935 (a) Unless a director complies with the applicable standards of conduct described in Code  
1936 Section 14-3-830, a director who votes for or assents to a distribution made in violation of  
1937 this chapter is personally liable to the corporation for the amount of the distribution that  
1938 exceeds what could have been distributed without violating this chapter.

1939 (b) A director held liable for an unlawful distribution under subsection (a) of this Code  
1940 section is entitled to contribution:

1941 (1) From every other director who voted for or assented to the distribution without  
1942 complying with the applicable standards of conduct described in Code Section 14-3-830;  
1943 and

1944 (2) From each person who received an unlawful distribution for the amount of the  
1945 distribution whether or not the person receiving the distribution knew it was made in  
1946 violation of this chapter.

1947 Part 4

1948 14-3-840.

1949 (a) A corporation ~~has the~~ shall have a chief executive officer, a secretary, and a chief  
1950 financial officer, provided that the articles of incorporation or bylaws may designate other  
1951 titles in lieu of or in addition to chief executive officer or chief financial officer. The  
1952 corporation may have additional officers as described in its articles or bylaws or appointed  
1953 by the board of directors in accordance with the articles or bylaws.

1954 (b) A corporation may have an executive director. Unless the corporation's articles or  
1955 bylaws state otherwise, the executive director shall be an officer of the corporation.

1956 (c) A duly appointed officer may appoint one or more officers or assistant officers if  
1957 authorized by the articles or bylaws or the board of directors.

1958 ~~(e)~~(d) The articles, bylaws, or ~~the~~ board shall delegate to one of the officers responsibility  
1959 for preparing minutes of the directors' and members' meetings and for authenticating  
1960 records of the corporation.

1961 ~~(d)~~(e) Unless otherwise provided in the articles or bylaws, the same individual may  
1962 simultaneously hold more than one office in a corporation, except that the offices of chief  
1963 executive officer and secretary shall not be held by the same individual.

1964 ~~(e)~~(f) The officers of a corporation may be designated by such titles as may be provided  
1965 in the articles or the bylaws, and in such case any document required or permitted by any  
1966 law of this state to be signed by the ~~president~~ chief executive officer, secretary, or any other  
1967 named officer of a corporation may be signed by such officer as may be stated in such  
1968 document to correspond to the officer so required or permitted to sign.

1969 14-3-841.

1970 Each officer has the authority and shall perform the duties set forth in the articles or bylaws  
1971 or, to the extent consistent with the articles or bylaws, the duties and authority prescribed  
1972 by the board or by direction of an officer authorized by the board to prescribe the duties  
1973 and authority of other officers. Unless the articles, the bylaws, or a resolution of the board  
1974 of directors of the corporation provides otherwise, the chief executive officer ~~or the~~  
1975 ~~president if no person has been designated as chief executive officer of the corporation~~  
1976 shall have authority to conduct all ordinary business on behalf of the corporation and may  
1977 execute and deliver on behalf of the corporation any contract, conveyance, or similar  
1978 document not requiring approval by the board of directors or members as provided in this  
1979 chapter.



1980 14-3-842.

1981 (a) Unless a different standard is prescribed by law, an officer shall perform his or her  
1982 duties as an officer in good faith and with the degree of care an ordinarily prudent person  
1983 in a like position would exercise under similar circumstances.

1984 (b) In performing his or her duties, an officer may rely upon:

1985 (1) ~~Officers~~ Other officers, employees, or agents of the corporation whom the officer  
1986 reasonably believed to be reliable and competent in the functions performed; and

1987 (2) Information, data, opinions, reports, or statements provided by other officers,  
1988 employees, or agents of the corporation or by legal counsel, public accountants,  
1989 investment bankers, religious authorities, ministers, priests, rabbis, other similar persons  
1990 in a religious organization, or other persons as to matters involving the skills, expertise,  
1991 or knowledge reasonably believed to be reliable and within such person's professional or  
1992 expert competence.

1993 (c) There shall be a presumption that the process an officer followed in arriving at  
1994 decisions was done in good faith and that such officer exercised ordinary care; provided,  
1995 however, that this presumption may be rebutted by evidence that such process constitutes  
1996 gross negligence by being a gross deviation from the standard of care of an officer in a like  
1997 position under similar circumstances.

1998 (d) Nothing contained in this Code section shall:

1999 (1) In any instance when fairness is at issue, such as consideration of the fairness of a  
2000 transaction to the corporation as evaluated under paragraph (4) of subsection (c) of Code  
2001 Section 14-3-865, alter the burden of proving the fact or lack of fairness otherwise  
2002 applicable;

2003 (2) Alter the fact or lack of liability of an officer under the Official Code of Georgia  
2004 Annotated, including the governance of the consequences of a conflicting interest  
2005 transaction under Code Section 14-3-865;

2006 (3) Affect any rights to which the corporation or its members may be entitled under  
2007 another law of this state or of the United States; ~~or~~  
2008 (4) Deprive an officer of the applicability, effect, or protection of the business judgment  
2009 rule; or  
2010 (5) Deprive an officer of the applicability, effect, or protection of Code Sections 51-1-20  
2011 and 51-1-20.1.

2012 14-3-843.

2013 (a) An officer may resign at any time by delivering notice in writing or by electronic  
2014 transmission to the corporation. A resignation is effective when the notice is effective  
2015 unless the notice specifies a future effective date. If a resignation is made effective at a  
2016 future date and the corporation accepts the future effective date, its board of directors, or,  
2017 if authorized by the bylaws, an officer, may fill the pending vacancy before the effective  
2018 date if the board or such appointing officer provides that the successor does not take office  
2019 until the effective date.

2020 (b) ~~A board may remove any officer at any time with or without cause.~~ An officer may be  
2021 removed at any time with or without cause by:

2022 (1) The board of directors;

2023 (2) The officer who appointed such officer, unless the bylaws or the board of directors  
2024 provide otherwise; or

2025 (3) Any other officer if authorized by the bylaws or the board of directors.

2026 (c) Unless otherwise provided in the articles or bylaws, any vacancies in the corporation's  
2027 officers may be filled by the board.

2028 14-3-844.

2029 (a) The appointment of an officer does not itself create contract rights.

2030 (b) An officer's removal does not affect the officer's contract rights, if any, with the  
2031 corporation. An officer's resignation does not affect the corporation's contract rights, if  
2032 any, with the officer.

2033 14-3-845.

2034 Any contract or other instrument in writing executed or entered into between a corporation  
2035 and any other person is not invalidated as to the corporation by any lack of authority of the  
2036 signing officers in the absence of actual knowledge on the part of the other person that the  
2037 signing officers had no authority to execute the contract or other instrument, provided that  
2038 if it is signed by any two officers in category 1 below or by one officer in category 1 below  
2039 and one officer in category 2 below. Categories shall be as follows:

2040 (1) Category 1 shall consist of the presiding officer of the board and the ~~president~~ chief  
2041 executive officer; and

2042 (2) Category 2 shall consist of a vice president, the secretary, the ~~treasurer~~ chief financial  
2043 officer, and ~~the executive director~~ any other officer delineated in the articles or bylaws.

2044 The absence of the signature of such persons from a document shall not itself impair the  
2045 validity of the document or of any action taken in pursuance thereof or in reliance thereon.

2046 14-3-846.

2047 (a) With respect to any contract, conveyance, or similar document executed by or on  
2048 behalf of a domestic corporation or foreign corporation, the presence of the corporate seal,  
2049 or a facsimile thereof, attested by the secretary or assistant secretary of the corporation, or  
2050 other officer to whom the bylaws or the directors have delegated the responsibility for  
2051 authenticating records of the corporation, shall attest:

2052 (1) That the corporate seal or facsimile thereof affixed to the document is in fact the seal  
2053 of the corporation or a true facsimile thereof, as the case may be;

2054 (2) That any officer of the corporation executing the document does in fact occupy the  
2055 official position indicated, that one in such position is duly authorized to execute such  
2056 document on behalf of the corporation, and that the signature of such officer subscribed  
2057 thereto is genuine; and

2058 (3) That the execution of the document on behalf of the corporation has been duly  
2059 authorized.

2060 (b) With respect to any contract, conveyance, or similar document executed by or on  
2061 behalf of a domestic corporation or a foreign corporation, execution by the chief executive  
2062 officer, attested by the secretary or assistant secretary of the corporation, or other officer  
2063 to whom the bylaws or the directors have delegated the responsibility for authenticating  
2064 records of the corporation, shall attest:

2065 (1) That the person executing the document as chief executive officer does in fact occupy  
2066 the official position, that one in such position is duly authorized to execute such  
2067 document on behalf of the corporation, and that the signature of such officer subscribed  
2068 thereto is genuine; and

2069 (2) That the execution of the document on behalf of the corporation has been duly  
2070 authorized.

2071 ~~(b)~~(c) When the seal of a corporation or the facsimile thereof is affixed to any document  
2072 and is attested by the secretary or assistant secretary of a corporation, or other officer to  
2073 whom the bylaws or the directors have delegated the responsibility for authenticating  
2074 records of the corporation, a third party without knowledge or reason to know to the  
2075 contrary may rely on such document as being what it purports to be.

2076 ~~(e)~~(d) The seal of the corporation may be affixed to any document executed by the  
2077 corporation, but the absence of the seal shall not itself impair the validity of the document  
2078 or of any action taken in pursuance thereof or in reliance thereon.

2079

## Part 5

2080 14-3-850.

2081 As used in this part, the term:

2082 (1) 'Corporation' includes any domestic or foreign predecessor entity of a corporation in  
2083 a merger or other transaction in which the predecessor's existence ceased upon  
2084 consummation of the transaction.

2085 (2) 'Director' or 'officer' means an individual who is or was a director or officer,  
2086 respectively, of a corporation who, while a director or officer of the corporation, is or was  
2087 serving at the corporation's request as a director, officer, partner, trustee, employee, or  
2088 agent of another domestic or foreign business or nonprofit corporation, partnership, joint  
2089 venture, trust, employee benefit plan, or other entity. A director or officer is considered  
2090 to be serving an employee benefit plan at the corporation's request if the director's duties  
2091 to the corporation also impose duties on, or otherwise involve services by, the director  
2092 to the plan or to participants in or beneficiaries of the plan. 'Director' or 'officer' includes,  
2093 unless the context otherwise requires, the estate or personal representative of a director.

2094 (3) 'Disinterested director' means a director who at the time of a vote referred to in  
2095 paragraph (1) of subsection (c) of Code Section 14-3-853 or a vote or selection referred  
2096 to in subsection (b) or (c) of Code Section 14-3-855 or subsection (a) of Code Section  
2097 14-3-856 is not:

2098 (A) A party to the proceeding; or

2099 (B) An individual having a familial, financial, professional, or employment  
2100 relationship with the director whose indemnification or advance for expenses is the  
2101 subject of the decision being made, which relationship would, in the circumstances,  
2102 reasonably be expected to exert an influence on the director's judgment when voting on  
2103 the decision being made.

2104 (4) 'Disinterested member' means a member who, at the time of a vote referred to in  
 2105 paragraph (2) of subsection (c) of Code Section 14-3-853, a vote referred to in  
 2106 paragraph (3) of subsection (b) of Code Section 14-3-855, or a vote referred to in  
 2107 subsection (a) of Code Section 14-3-856, is not:

2108 (A) A party to the proceeding;

2109 (B) Owned by or under the control of a director who does not qualify as a disinterested  
 2110 director with respect to the proceeding; or

2111 (C) An individual having a familial, financial, professional, or employment  
 2112 relationship with the director whose indemnification or advance for expenses is the  
 2113 subject of the decision being made, which relationship would, in the circumstances,  
 2114 reasonably be expected to exert an influence on the member's judgment when voting  
 2115 on the decision being made.

2116 A director who is also member, but who does not qualify as a disinterested director with  
 2117 respect to the proceeding, cannot qualify or vote as a disinterested member on any  
 2118 matters relating to the proceeding.

2119 ~~(4)~~(5) 'Expenses' includes ~~counsel~~ attorney's fees.

2120 ~~(5)~~(6) 'Liability' means the obligation to pay a judgment, settlement, penalty, fine  
 2121 (including an excise tax assessed with respect to an employee benefit plan), or reasonable  
 2122 expenses actually incurred with respect to a proceeding.

2123 ~~(6)~~(7) 'Official capacity' means:

2124 (A) When used with respect to a director, the office of director in a corporation; and

2125 (B) When used with respect to an officer, as contemplated in Code Section ~~14-3-857~~  
 2126 14-3-858, the office in a corporation held by the officer.

2127 'Official capacity' does not include service for any other domestic or foreign corporation  
 2128 or any partnership, joint venture, trust, employee benefit plan, or other entity.

2129 ~~(7)~~(8) 'Party' means an individual who was, is, or is threatened to be made a named  
 2130 defendant or respondent in a proceeding.

2131 ~~(8)~~(9) 'Proceeding' means any threatened, pending, or completed action, suit, or  
2132 proceeding whether civil, criminal, administrative, arbitrative, or investigative and  
2133 whether formal or informal.

2134 14-3-851.

2135 (a) Except as otherwise provided in this Code section, a corporation may indemnify an  
2136 individual who is a party to a proceeding because the individual is or was a director against  
2137 liability incurred in the proceeding if:

2138 (1) He or she conducted himself or herself in good faith; and

2139 (2) He or she reasonably believed:

2140 (A) In the case of conduct in his or her official capacity, that his or her conduct was in  
2141 the best interests of the corporation;

2142 (B) In all other cases, that his or her conduct was at least not opposed to the best  
2143 interests of the corporation; and

2144 (C) In the case of any criminal proceeding, that he or she had no reasonable cause to  
2145 believe his or her conduct was unlawful.

2146 (b) A director's conduct with respect to an employee benefit plan for a purpose the director  
2147 believed in good faith to be in the interests of the participants in and beneficiaries of the  
2148 plan is conduct that satisfies the requirements of subsection (a) of this Code section.

2149 (c) The termination of a proceeding by judgment, order, settlement, or conviction or upon  
2150 a plea of nolo contendere or its equivalent is not, of itself, determinative that the director  
2151 did not meet the standard of conduct described in this Code section.

2152 (d) A corporation may not indemnify a director under this Code section:

2153 (1) In connection with a proceeding by or in the right of the corporation, except for  
2154 reasonable expenses incurred in connection with the proceeding if it is determined that  
2155 the director has met the relevant standard of conduct under this Code section; or

2156 (2) In connection with any other proceeding with respect to conduct for which the  
2157 director was adjudged liable on the basis that personal benefit was improperly received  
2158 by the director, whether or not involving action in the director's official capacity.

2159 14-3-852.

2160 A corporation shall indemnify a director who was successful, on the merits or otherwise,  
2161 in the defense of any proceeding to which the director was a party because the director was  
2162 a director of the corporation against reasonable expenses incurred by the director in  
2163 connection with the proceeding.

2164 14-3-853.

2165 (a) A corporation may, before final disposition of a proceeding, advance funds to pay for  
2166 or reimburse the reasonable expenses incurred by a director who is a party to a proceeding  
2167 because the director is a director if the director delivers to the corporation:

2168 (1) A written affirmation of the director's good faith belief that the director has met the  
2169 relevant standard of conduct described in Code Section 14-3-851 or that the proceeding  
2170 involves conduct for which liability has been eliminated under a provision of the articles  
2171 of incorporation as authorized by paragraph (4) of subsection (b) of Code Section  
2172 14-3-202; and

2173 (2) The director's written undertaking to repay any funds advanced if it is ultimately  
2174 determined that the director is not entitled to indemnification under this part.

2175 (b) The undertaking required by paragraph (2) of subsection (a) of this Code section must  
2176 be an unlimited general obligation of the director but need not be secured and may be  
2177 accepted without reference to the financial ability of the director to make repayment.

2178 (c) Authorizations under this Code section shall be made ~~by the board of directors:~~

2179 (1) By the board of directors:



2180 (A) If there are two or more disinterested directors, by a majority vote of all the  
2181 disinterested directors (a majority of whom shall for such purpose constitute a quorum)  
2182 or by a majority of the members of a committee of two or more disinterested directors  
2183 appointed by such a vote; or

2184 ~~(2)~~(B) If there are fewer than two disinterested directors, by the vote necessary for  
2185 action by the board in accordance with subsection (c) of Code Section 14-3-824, in  
2186 which authorization directors who do not qualify as disinterested directors may  
2187 participate; or

2188 (2) By the disinterested members.

2189 14-3-854.

2190 (a) A director who is a party to a proceeding because he or she is a director may apply for  
2191 indemnification or advances of expenses to the court conducting the proceeding or to  
2192 another court of competent jurisdiction. After receipt of an application, after giving any  
2193 notice it considers necessary, the court shall:

2194 (1) Order indemnification or advance for expenses if it determines that the director is  
2195 entitled to indemnification under this part; or

2196 (2) Order indemnification or advance for expenses if it determines, in view of all the  
2197 relevant circumstances, that it is fair and reasonable:

2198 (A) To indemnify the director; or

2199 (B) To advance expenses to the director,

2200 even if he or she has not met the relevant standard of conduct set forth in subsections (a)  
2201 and (b) of Code Section 14-3-851, failed to comply with Code Section 14-3-853, or was  
2202 adjudged liable in a proceeding referred to in paragraph (1) or (2) of subsection (d) of  
2203 Code Section 14-3-851, but if he or she was adjudged so liable his or her indemnification  
2204 shall be limited to reasonable expenses incurred in connection with the proceeding.

2205 ~~(b) If the court determines that the director is entitled to indemnification or advance for~~  
2206 ~~expenses under this part, it may also order the corporation to pay the director's reasonable~~  
2207 ~~expenses to obtain court ordered indemnification or advance for expenses. If the court~~  
2208 ~~determines that the director is entitled to indemnification or advance for expenses under~~  
2209 ~~paragraph (1) of subsection (a) of this Code section, it shall also order the corporation to~~  
2210 ~~pay the director's reasonable expenses to obtain court ordered indemnification or advance~~  
2211 ~~for expenses. If the court determines that the director is entitled to indemnification or~~  
2212 ~~advance for expenses under paragraph (2) of subsection (a) of this Code section, it may~~  
2213 ~~also order the corporation to pay the director's reasonable expenses to obtain court ordered~~  
2214 ~~indemnification or advance for expenses.~~  
2215 ~~(c) The court may summarily determine, without a jury, a corporation's obligation to~~  
2216 ~~indemnify or advance expenses.~~

2217 14-3-855.

2218 (a) A corporation may not indemnify a director under Code Section 14-3-851 unless  
2219 authorized thereunder and a determination has been made for a specific proceeding that  
2220 indemnification of the director is permissible in the circumstances because the director has  
2221 met the relevant standard of conduct set forth in Code Section 14-3-851.

2222 (b) The determination shall be made:

2223 (1) If there are two or more disinterested directors, by the board of directors by a  
2224 majority vote of all the disinterested directors (a majority of whom shall for such purpose  
2225 constitute a quorum), or by a majority of the members of a committee of two or more  
2226 disinterested directors appointed by such a vote;

2227 (2) By special legal counsel:

2228 (A) Selected in the manner prescribed in paragraph (1) of this subsection; or

2229 (B) If there are fewer than two disinterested directors, selected by the board of  
2230 directors, in which selection directors who do not qualify as disinterested directors may  
2231 participate; or

2232 (3) By the disinterested members, ~~but directors who do not qualify as disinterested~~  
2233 ~~directors may not vote as members on the determination.~~

2234 (c) Authorization of indemnification or an obligation to indemnify and evaluation as to  
2235 reasonableness of expenses shall be made in the same manner as the determination that  
2236 indemnification is permissible, except that if there are fewer than two disinterested  
2237 directors or if the determination is made by special legal counsel, authorization of  
2238 indemnification and evaluation as to reasonableness of expenses shall be made by those  
2239 entitled under paragraph (3) of subsection (b) of this Code section to select special legal  
2240 counsel.

2241 14-3-856.

2242 (a) If authorized by the articles of incorporation or a bylaw, contract, or resolution  
2243 approved or ratified by a majority of disinterested members unless otherwise specified in  
2244 the articles or bylaws, or, in the case of a corporation without members, by a majority of  
2245 disinterested directors unless otherwise specified in the articles or bylaws, a corporation  
2246 may indemnify or obligate itself to indemnify a director made a party to a proceeding,  
2247 including a proceeding brought by or in the right of the corporation, without regard to the  
2248 limitations in other Code sections of this part.

2249 (b) The corporation shall not indemnify a director under this Code section for any liability  
2250 incurred in a proceeding in which the director is adjudged liable to the corporation or is  
2251 subjected to injunctive relief in favor of the corporation:

2252 (1) For any appropriation, in violation of the director's duties, of any business  
2253 opportunity of the corporation;

2254 (2) For acts or omissions which involve intentional misconduct or a knowing violation  
2255 of law;

2256 (3) For the types of liability set forth in Code Sections 14-3-860 through 14-3-864; or

2257 (4) For any transaction from which the director received an improper personal benefit.

2258 (c) Where approved or authorized in the manner described in subsection (a) of this Code  
2259 section, a corporation may advance or reimburse expenses incurred in advance of final  
2260 disposition of the proceeding only if:

2261 (1) The director furnishes the corporation with a written affirmation of the director's  
2262 good faith belief that the director's conduct does not constitute behavior of the kind  
2263 described in subsection (b) of this Code section; and

2264 (2) The director furnishes the corporation with a written undertaking, executed  
2265 personally or on his or her behalf, to repay any advances for expenses if it is ultimately  
2266 determined that the director is not entitled to indemnification under this Code section.

2267 ~~14-3-856.~~ 14-3-857.

2268 (a) A corporation may indemnify and advance expenses under this part to an officer of the  
2269 corporation who is a party to a proceeding because he or she is an officer of the  
2270 corporation:

2271 (1) To the same extent as a director; and

2272 (2) If he or she is not a director, to such further extent as may be provided by the articles  
2273 of incorporation, the bylaws, a resolution of the board of directors, or contract except for  
2274 liability arising out of conduct that constitutes:

2275 (A) Appropriation, in violation of his or her duties, of any business opportunity of the  
2276 corporation;

2277 (B) Acts or omissions which involve intentional misconduct or a knowing violation of  
2278 law;

2279 (C) The types of liability set forth in Code ~~Section 14-3-831~~ Sections 14-3-860 through  
2280 14-3-865; or

2281 (D) Receipt of an improper personal benefit.

2282 (b) The provisions of paragraph (2) of subsection (a) of this Code section shall apply to  
2283 an officer who is also a director if the sole basis on which he or she is made a party to the  
2284 proceeding is an act or omission solely as an officer.

2285 (c) An officer of a corporation who is not a director is entitled to mandatory  
2286 indemnification under Code Section 14-3-852, and may apply to a court under Code  
2287 Section 14-3-854 for indemnification or advances for expenses, in each case to the same  
2288 extent to which a director may be entitled to indemnification or advances for expenses  
2289 under those provisions.

2290 (d) A corporation may also indemnify and advance expenses to an employee or agent who  
2291 is not a director to the extent, consistent with public policy, that may be provided by its  
2292 articles of incorporation, its bylaws, general or specific action of its board of directors, or  
2293 contract.

2294 ~~14-3-857.~~ 14-3-858.

2295 A corporation may purchase and maintain insurance on behalf of an individual who is a  
2296 director, officer, employee, or agent of the corporation or who, while a director, officer,  
2297 employee, or agent of the corporation, serves at the corporation's request as a director,  
2298 officer, partner, trustee, employee, or agent of another domestic or foreign business or  
2299 nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other  
2300 entity against liability asserted against or incurred by the individual in that capacity or  
2301 arising from the individual's status as a director, officer, employee, or agent, whether or not  
2302 the corporation would have power to indemnify or advance expenses to the individual  
2303 against the same liability under this part.

2304 ~~14-3-858.~~ 14-3-859.

2305 (a) A corporation may, by a provision in its articles of incorporation or bylaws or in a  
2306 resolution adopted or a contract approved by its board of directors or members, obligate  
2307 itself in advance of the act or omission giving rise to a proceeding to provide  
2308 indemnification or advance funds to pay for or reimburse expenses consistent with this  
2309 part. Any such obligatory provision ~~that obligates the corporation to provide~~  
2310 ~~indemnification to the fullest extent permitted by law~~ shall be deemed to ~~obligate the~~  
2311 ~~corporation to advance funds to pay for or reimburse expenses in accordance with~~ satisfy  
2312 the requirements for authorization referred to in subsection (c) of Code Section 14-3-853  
2313 ~~to the fullest extent permitted by law, unless the provision specifically provides otherwise~~  
2314 or subsection (c) of Code Section 14-3-855. Any such provision existing on July 1, 1991,  
2315 shall be valid to the extent it does not provide for broader indemnification than is allowed  
2316 under this part.

2317 (b) Any provision pursuant to subsection (a) of this Code section shall not obligate the  
2318 corporation to indemnify or advance expenses to a director of a predecessor of the  
2319 corporation, pertaining to conduct with respect to the predecessor, unless otherwise  
2320 specifically provided. Any provision for indemnification or advance for expenses in the  
2321 articles of incorporation, the bylaws, or a resolution of the board of directors, members,  
2322 shareholders, partners, or, in the case of limited liability companies, members or managers  
2323 of a predecessor of the corporation or other entity in a merger or in a contract to which the  
2324 predecessor is a party, existing at the time the merger takes effect, shall be governed by  
2325 paragraph (3) of Code Section 14-3-1105.

2326 (c) A corporation may, by a provision in its articles of incorporation, limit any of the rights  
2327 to indemnification or advance for expenses created by or pursuant to this part.

2328 (d) This part does not limit a corporation's power to pay or reimburse expenses incurred  
2329 by a director or an officer in connection with his or her appearance as a witness in a  
2330 proceeding at a time when he or she is not a party.

2331 (e) Except as expressly provided in Code Section ~~14-3-856~~ 14-3-857, this part does not  
2332 limit a corporation's power to indemnify, advance expenses to, or provide or maintain  
2333 insurance on behalf of an employee or agent.

2334 (f) Any provision in a corporation's articles of incorporation or bylaws or in a resolution  
2335 adopted or contract approved by its board of directors or members that obligates the  
2336 corporation to provide indemnification to the fullest extent permitted by law shall, unless  
2337 such provision or another provision in the corporation's articles of incorporation or bylaws  
2338 or in a resolution adopted or a contract approved by its board of directors or members  
2339 expressly provides otherwise, be deemed to obligate the corporation:

2340 (1) To advance funds to pay for or reimburse expenses in accordance with Code  
2341 Section 14-3-853 or subsection (c) of Code Section 14-3-856 to the fullest extent  
2342 permitted by law; and

2343 (2) To indemnify directors to the fullest extent permitted in Code Section 14-3-856,  
2344 provided that such provision is duly authorized as required in subsection (a) of Code  
2345 Section 14-3-856, and to indemnify officers to the fullest extent permitted in  
2346 paragraph (2) of subsection (a) and subsection (b) of Code Section 14-3-857.

2347 (g) The provisions of this part may be incorporated by reference into a corporation's  
2348 articles of incorporation, its bylaws, or a resolution of its members or board of directors.  
2349 In such case, any such provision shall subsequently be deemed amended to conform with  
2350 any amendments to this part, unless such provision otherwise expressly provides.

2351 Part 6

2352 14-3-860.

2353 As used in this part, the term:

2354 (1) 'Conflicting interest' with respect to a corporation means the interest a director of the  
2355 corporation has respecting a transaction effected or proposed to be effected by the

2356 corporation (or by a subsidiary of the corporation or any other entity in which the  
2357 corporation has a controlling interest) if:

2358 (A) Whether or not the transaction is brought before the board of directors of the  
2359 corporation for action, to the knowledge of the director at the time of commitment the  
2360 director or a related person is a party to the transaction or has a beneficial financial  
2361 interest in or so closely linked to the transaction and of such financial significance to  
2362 the director or a related person that it would reasonably be expected to exert an  
2363 influence on the director's judgment if the director were called upon to vote on the  
2364 transaction; or

2365 (B) The transaction is brought (or is of such character and significance to the  
2366 corporation that it would in the normal course be brought) before the board of directors  
2367 of the corporation for action, and to the knowledge of the director at the time of  
2368 commitment any of the following persons is either a party to the transaction or has a  
2369 beneficial financial interest so closely linked to the transaction and of such financial  
2370 significance to that person that it would reasonably be expected to exert an influence  
2371 on the director's judgment if the director were called upon to vote on the transaction:  
2372 (i) an entity (other than the corporation) of which the director is a director, general  
2373 partner, agent, or employee; (ii) a person that controls one or more of the entities  
2374 specified in division (i) of this subparagraph or an entity that is controlled by, or is  
2375 under common control with, one or more of the entities specified in division (i) of this  
2376 subparagraph; or (iii) an individual who is a general partner, principal, or employer of  
2377 the director.

2378 (2) 'Director's conflicting interest transaction' with respect to a corporation means a  
2379 transaction effected or proposed to be effected by the corporation (or by a subsidiary of  
2380 the corporation or any other entity in which the corporation has a controlling interest)  
2381 respecting which a director of the corporation has a conflicting interest.

2382 (3) 'Related person' of a director means:



2383 (A) The spouse (or a parent or sibling thereof) of the director or a child, grandchild,  
2384 sibling, parent (or spouse of any thereof), or an individual having the same home as the  
2385 director, or a trust or estate of which an individual specified in this subparagraph is a  
2386 substantial beneficiary; or

2387 (B) A trust, estate, incompetent, conservatee, or minor of which the director is a  
2388 fiduciary.

2389 (4) 'Required disclosure' means disclosure by the director who has a conflicting interest  
2390 of (A) the existence and nature of the director's conflicting interest, and (B) all facts  
2391 known to the director respecting the subject matter of the transaction that an ordinarily  
2392 prudent person would reasonably believe to be material to a judgment as to whether or  
2393 not to proceed with the transaction.

2394 (5) 'Time of commitment' respecting a transaction means the time when the transaction  
2395 is consummated or, if made pursuant to contract, the time when the corporation (or its  
2396 subsidiary or the entity in which it has a controlling interest) becomes contractually  
2397 obligated so that its unilateral withdrawal from the transaction would entail significant  
2398 loss, liability, or other damage.

2399 14-3-861.

2400 (a) A transaction effected or proposed to be effected by a corporation (or by a subsidiary  
2401 of the corporation or by any other entity in which the corporation has a controlling interest)  
2402 that is not a director's conflicting interest transaction may not be enjoined, set aside, or give  
2403 rise to an award of damages or other sanctions, in an action under the laws of this state by  
2404 a member or by or in the right of the corporation or any other person who otherwise has  
2405 standing, on the ground of an interest in the transaction of a director or any person with  
2406 whom or which he or she has a personal, economic, or other association.

2407 (b) A director's conflicting interest transaction may not be enjoined, set aside, or give rise  
2408 to an award of damages or other sanctions, in an action under the laws of this state by a

2409 member or by or in the right of the corporation or by any other person who otherwise has  
2410 standing, on the ground of an interest in the transaction of the director or any person with  
2411 whom or which he or she has a personal, economic, or other association, if:

2412 (1) Directors' action respecting the transaction was at any time taken in compliance with  
2413 Code Section 14-3-862;

2414 (2) Members' action respecting the transaction was at any time taken in compliance with  
2415 Code Section 14-3-863;

2416 (3) Action by the superior court respecting the transaction was at any time taken in  
2417 compliance with Code Section 14-3-864; or

2418 (4) The transaction, judged in the circumstances at the time of commitment, is  
2419 established to have been fair to the corporation.

2420 14-3-862.

2421 (a) Directors' action respecting a transaction is effective for purposes of paragraph (1) of  
2422 subsection (b) of Code Section 14-3-861 if the transaction received the affirmative vote of  
2423 a majority (but not less than two) of those qualified directors on the board of directors or  
2424 on a duly empowered committee thereof who voted on the transaction after either required  
2425 disclosure to them (to the extent the information was not known by them) or compliance  
2426 with subsection (b) of this Code section.

2427 (b) If a director has a conflicting interest respecting a transaction, but neither he or she nor  
2428 a related person of the director specified in subparagraph (A) of paragraph (3) of Code  
2429 Section 14-3-860 is a party thereto, and if the director has a duty under law or professional  
2430 canon, or a duty of confidentiality to another person, respecting information relating to the  
2431 transaction such that the director cannot, consistent with that duty, make the disclosure  
2432 contemplated by subparagraph (B) of paragraph (4) of Code Section 14-3-860, then  
2433 disclosure is sufficient for purposes of subsection (a) of this Code section if the director:

2434 (1) Discloses to the directors voting on the transaction the existence and nature of his or  
2435 her conflicting interest and informs them of the character of and limitations imposed by  
2436 that duty prior to their vote on the transaction; and

2437 (2) Plays no part, directly or indirectly, in their deliberations or vote.

2438 (c) A majority (but not less than two) of all the qualified directors on the board of  
2439 directors, or on the committee, constitutes a quorum for purposes of action that complies  
2440 with this Code section. Directors' action that otherwise complies with this Code section  
2441 is not affected by the presence or vote of a director who is not a qualified director.

2442 (d) For purposes of this Code section, 'qualified director' means, with respect to a director's  
2443 conflicting interest transaction, any director who does not have either (1) a conflicting  
2444 interest respecting the transaction or (2) a familial, financial, professional, or employment  
2445 relationship with a second director who does have a conflicting interest respecting the  
2446 transaction, which relationship would, in the circumstances, reasonably be expected to  
2447 exert an influence on the first director's judgment when voting on the transaction.

2448 14-3-863.

2449 (a) Members' action respecting a transaction is effective for purposes of paragraph (2) of  
2450 subsection (b) of Code Section 14-3-861 if a majority of the votes entitled to be cast by all  
2451 qualified members were cast in favor of the transaction after (1) notice to members  
2452 describing the director's conflicting interest transaction, (2) provision of the information  
2453 referred to in subsection (d) of this Code section, and (3) required disclosure to the  
2454 members who voted on the transaction (to the extent the information was not known by  
2455 them).

2456 (b) For purposes of this Code section, 'qualified members' means any members entitled to  
2457 vote with respect to a director's conflicting interest transaction except the director who is  
2458 a member and who has a conflicting interest respecting the transaction and members that,  
2459 to the knowledge, before the vote, of the secretary (or other officer or agent of the

2460 corporation authorized to tabulate votes) are members with a conflicting interest as  
2461 described in subparagraph (B) of paragraph (1) of Code Section 14-3-860, are beneficially  
2462 owned (or whose voting is controlled) by a director who has a conflicting interest  
2463 respecting the transaction or by a related person of the director, or both.

2464 (c) A majority of the votes entitled to be cast by all qualified members constitutes a  
2465 quorum for purposes of action that complies with this Code section. Subject to the  
2466 provisions of subsection (d) of this Code section, members' action that otherwise complies  
2467 with this Code section is not affected by the presence of, or the voting by, members that  
2468 are not qualified members.

2469 (d) For purposes of compliance with subsection (a) of this Code section, a director who  
2470 has a conflicting interest respecting the transaction shall, before the members' vote, inform  
2471 the secretary (or other officer or agent of the corporation authorized to tabulate votes) of  
2472 the identity of all members that to the knowledge of the director are members with a  
2473 conflicting interest as described in subparagraph (B) of paragraph (1) of Code Section  
2474 14-3-860, are beneficially owned (or whose voting is controlled) by the director who has  
2475 a conflicting interest respecting the transaction or by a related persons person of the  
2476 director, or both.

2477 (e) If a members' vote does not comply with subsection (a) of this Code section solely  
2478 because of a failure of a director to comply with subsection (d) of this Code section, and  
2479 if the director establishes that this failure did not determine and was not intended by him  
2480 or her to influence the outcome of the vote, the court may, with or without further  
2481 proceedings respecting paragraph (3) of subsection (b) of Code Section 14-3-861, take such  
2482 action respecting the transaction and the director, and give such effect, if any, to the  
2483 members' vote, as it considers appropriate in the circumstances.

2484 14-3-864.

2485 In a case involving a charitable corporation ~~described in paragraph (2) of subsection (a) of~~  
2486 ~~Code Section 14-3-1302~~, a transaction that was not the subject of either directors' action  
2487 under Code Section 14-3-862 or members' action under Code Section 14-3-863 is effective  
2488 for purposes of paragraph (3) subsection (b) of Code Section 14-3-861 if the transaction  
2489 is approved by the superior court, in an action in which the Attorney General is joined as  
2490 a party.

2491 14-3-865.

2492 (a) As used in this Code section, the term:

2493 (1) 'Officer' means a person who is not a director and who is holding an office described  
2494 in the bylaws of the corporation or appointed by the board of directors in accordance with  
2495 the bylaws of the corporation.

2496 (2) 'Officer's conflicting interest transaction' means any transaction, other than a  
2497 director's conflicting interest transaction as defined in paragraph (2) of Code Section  
2498 14-3-860, between a corporation (or a subsidiary of the corporation or any other entity  
2499 in which the corporation has a controlling interest) and one or more of its officers or  
2500 between a corporation and a related person of an officer.

2501 (3) 'Related person' of an officer shall have the same meaning with respect to an officer  
2502 that this term has with respect to a director in paragraph (3) of Code Section 14-3-860.

2503 (4) 'Required disclosure' with respect to an officer shall have the same meaning as this  
2504 term has with respect to a director in paragraph (4) of Code Section 14-3-860.

2505 (5) 'Time of commitment' shall have the same meaning as in paragraph (5) of Code  
2506 Section 14-3-860.

2507 (b) No officer's conflicting interest transaction shall be void or voidable solely because the  
2508 officer is present at or participates in the meeting of the board of directors or committee  
2509 thereof which authorizes the contract or transaction.

2510 (c) An officer's conflicting interest transaction may not be enjoined, set aside, or give rise  
2511 to an award of damages or other sanctions, in an action under the laws of this state by a  
2512 member or by or in the right of the corporation or by any other person who otherwise has  
2513 standing, on the ground of an interest in the transaction of the officer or any person with  
2514 whom or which he or she has a personal, economic, or other association, if:

- 2515 (1) The transaction was approved by the board of directors after required disclosure;
- 2516 (2) The transaction was approved by the members after required disclosure;
- 2517 (3) The action was approved by the superior court in an action to which the Attorney  
2518 General was a party; or
- 2519 (4) The transaction, judged in the circumstances at the time of commitment, is  
2520 established to have been fair to the corporation.

2521 Part 7

2522 14-3-870.

2523 (a) A corporation may disclaim, in its articles of incorporation or bylaws or by action of  
2524 its members or board of directors, any interest of the corporation in, or in being offered, or  
2525 in excluding directors or officers from taking advantage of or participating in, specific  
2526 business opportunities or classes or categories of business opportunities that are, have been,  
2527 or may be in the future presented to the corporation or to one or more of its directors or  
2528 officers. For purposes of this part, the terms 'director' and 'directors' include a person or  
2529 persons other than directors to the extent discretion or powers of the board of directors are  
2530 vested in such person or persons pursuant to Code Section 14-3-801.

2531 (b) A director's or officer's taking advantage of, or participating in, directly or indirectly,  
2532 a specific business opportunity shall not be the subject of equitable relief, or give rise to  
2533 an award of damages or other sanctions against such director or officer, in a proceeding by  
2534 a member or by or in the right of the corporation or by any other person who otherwise has

2535 standing, on the ground that such opportunity should have been first offered to the  
2536 corporation or that the corporation had an interest in, or in being offered, or in excluding  
2537 the director or officer from taking advantage of or participating in, such opportunity, to the  
2538 extent that the corporation has disclaimed any such interest with respect to such business  
2539 opportunity pursuant to subsection (a) of this Code section, either with respect to the  
2540 specific business opportunity or with respect to a class or category of business  
2541 opportunities that includes such opportunity.

2542 (c) Action by the members or board of directors of the corporation approving a disclaimer  
2543 pursuant to subsection (a) of this Code section that applies to a director with respect to a  
2544 specific past, present, or future business opportunity shall be effective for all purposes if  
2545 the director brings such opportunity to the attention of the corporation (if such opportunity  
2546 is not known to the corporation) and:

2547 (1) Such disclaimer is approved by qualified directors in compliance with the procedures  
2548 set forth in Code Section 14-3-862, as if the decision being made concerned a director's  
2549 conflicting interest transaction;

2550 (2) Such disclaimer is approved by members' action taken in compliance with the  
2551 procedures set forth in Code Section 14-3-863, as if the decision being made concerned  
2552 a director's conflicting interest transaction; or

2553 (3) Such disclaimer is approved by an action by the superior court respecting the  
2554 transaction taken in compliance with Code Section 14-3-864; except that, rather than  
2555 making the required disclosure as defined in Code Section 14-3-860, in each case the  
2556 director shall have made prior disclosure to those approving such disclaimer on behalf  
2557 of the corporation of all material facts concerning the business opportunity that are then  
2558 known to the director, subject to subsection (e) of this Code section, and that a 'qualified  
2559 director' is a director who, at the time action is to be taken under paragraph (1) of this  
2560 subsection, would be a qualified director under subsection (d) of Code Section 14-3-862  
2561 if the business opportunity were a director's conflicting interest transaction.

2562 (d) Action by the board of directors or members of the corporation approving a disclaimer  
2563 pursuant to subsection (a) of this Code section that applies to an officer with respect to a  
2564 specific past, present, or future business opportunity shall be effective for all purposes if  
2565 the officer brings such opportunity to the attention of the corporation (if such opportunity  
2566 is not known to the corporation) and such disclaimer is approved by the board of directors  
2567 or members in compliance with the procedures set forth in Code Section 14-3-865, as if the  
2568 decision being made concerned an officer's conflicting interest transaction, except that,  
2569 rather than making the required disclosure as defined in Code Section 14-3-865, in each  
2570 case the officer shall have made prior disclosure to those approving such disclaimer on  
2571 behalf of the corporation of all material facts concerning the business opportunity that are  
2572 then known to the officer, subject to subsection (e) of this Code section.

2573 (e) Notwithstanding subsection (c) or (d) of this Code section, a director or officer is not  
2574 obligated to make prior disclosure to those approving a disclaimer on behalf of the  
2575 corporation pursuant to subsection (c) or (d) of this Code section of all material facts  
2576 concerning the business opportunity subject to such disclaimer that are then known to the  
2577 director or officer to the extent that the director or officer reasonably believes that doing  
2578 so would violate a duty imposed under law, a legally enforceable obligation of  
2579 confidentiality, or a professional ethics rule, provided that such director or officer discloses  
2580 to those acting on behalf of the corporation:

2581 (1) All information required to be disclosed that is not so violative; and

2582 (2) The nature of the director's or officer's duty not to disclose the confidential  
2583 information.

2584 (f) In any proceeding seeking equitable relief or other remedies based upon an alleged  
2585 improper taking advantage of or participation in a business opportunity by a director or  
2586 officer, directly or indirectly, the fact that the director or officer did not employ the  
2587 procedures described in this Code section before taking advantage of the opportunity shall  
2588 not:



2589 (1) Create an inference that the opportunity should have been first presented to the  
 2590 corporation; that the corporation had an interest in, or in being offered, or in excluding  
 2591 the director or officer from taking advantage of or participating in, such opportunity; or  
 2592 that the director or officer has or will have appropriated the opportunity in violation of  
 2593 his or her duties by taking advantage of or participating in the opportunity; or  
 2594 (2) Alter the burden of proof otherwise applicable to establish that the director or officer  
 2595 breached a duty to the corporation in the circumstances.

2596 ARTICLE 9  
 2597 RESERVED

2598 ARTICLE 10  
 2599 Part 1

2600 14-3-1001.

2601 (a) A corporation may amend its articles of incorporation at any time to add or change a  
 2602 provision that is required or permitted in the articles or to delete a provision not required  
 2603 in the articles. Whether a provision is required or permitted in the articles is determined  
 2604 as of the effective date of the amendment.

2605 (b) Except as provided in the articles of incorporation, a member of a corporation does not  
 2606 have a vested property right resulting from any provision in the articles, including  
 2607 provisions relating to management, control, purpose, or duration of the corporation.

2608 (c) Subsection (b) of this Code section shall not apply to vested real property rights of  
 2609 members of a corporation, including a property owners' association, established pursuant  
 2610 to a recorded declaration of covenants or any other recorded agreement between the  
 2611 corporation and all of its members.

2612 14-3-1002.

2613 If a corporation has no members or no members entitled to vote thereon, its incorporators  
2614 until directors have been chosen and thereafter its board of directors may adopt one or more  
2615 amendments to the corporation's articles subject to any approval required pursuant to Code  
2616 Sections 14-3-1030 and 14-3-1041.

2617 14-3-1003.

2618 If the articles or bylaws require a vote of the members:

2619 (1) Unless the articles provide otherwise, a corporation's board of directors may adopt  
2620 one or more of the following amendments to the corporation's articles without member  
2621 action:

2622 (A) To extend the duration of the corporation if it was incorporated at a time when  
2623 limited duration was required by law;

2624 (B) To delete the names and addresses of the initial directors;

2625 (C) To delete the name and address of the initial registered agent or registered office,  
2626 if an annual registration is on file with the Secretary of State;

2627 (D) To change the corporate name; or

2628 (E) To make any other change expressly permitted by this chapter to be made without  
2629 member action;

2630 (2) If there are members required to vote thereon, to adopt an amendment to a  
2631 corporation's articles:

2632 (A) The board of directors must recommend the amendment to the members unless the  
2633 board of directors elects, because of a conflict of interest or other special circumstances,  
2634 to make no recommendation and communicates the basis for its election to the members  
2635 with the amendment;

2636 (B) Unless this chapter, the articles, the bylaws, the members (acting pursuant to  
2637 paragraph (3) of this Code section), or the board of directors (acting pursuant to

2638 paragraph (4) of this Code section) require a greater vote or voting by class, the  
2639 members entitled to vote on the amendment must approve the amendment by two-thirds  
2640 of the votes cast or a majority of the voting power, whichever is less; and

2641 (C) Any person or persons whose approval is required by a provision of the articles or  
2642 bylaws authorized by Code Section 14-3-1030 or 14-3-1041 must approve the  
2643 amendment in writing;

2644 (3) The members may condition the amendment's adoption on any basis;

2645 (4) The board may condition its submission of the proposed amendment on any basis;

2646 (5) The corporation shall give notice to its members of the proposed membership  
2647 meeting in writing in accordance with Code Section ~~14-3-705~~ 14-3-704. The notice must  
2648 state that the purpose, or one of the purposes, of the meeting is to consider the proposed  
2649 amendment and contain or be accompanied by a copy or summary of the amendment; and

2650 (6) If the amendment is submitted to the members for approval by written consent or  
2651 written ballot, the material soliciting the approval shall contain or be accompanied by a  
2652 copy or summary of the amendment.

2653 14-3-1004.

2654 If the articles or bylaws provide for voting by classes of members, then unless the articles  
2655 or bylaws provide otherwise:

2656 (1) The members of a class are entitled to vote as a class on a proposed amendment to  
2657 the articles if the amendment would change the rights of that class as to voting in a  
2658 different manner than such amendment would affect another class or members of another  
2659 class;

2660 (2) If a class is to be divided into two or more classes as a result of an amendment to the  
2661 articles, the amendment must be approved by the members of each class that would be  
2662 created by the amendment; and

2663 (3) If a class vote is required to approve an amendment to the articles, the amendment  
2664 must be approved by the members of the class by two-thirds of the votes cast by the class  
2665 or a majority of the voting power of the class, whichever is less.

2666 14-3-1005.

2667 A corporation amending its articles shall deliver to the Secretary of State for filing articles  
2668 of amendment setting forth:

2669 (1) The name of the corporation;

2670 (2) The text of each amendment adopted;

2671 (3) The date of each amendment's adoption;

2672 (4) If approval of members was not required, a statement to that effect and a statement  
2673 that the amendment was approved by a sufficient vote of the board of directors or  
2674 incorporators;

2675 (5) If approval by members was required, a statement that the amendment was duly  
2676 approved by the members in accordance with the provisions of Code Section 14-3-1003;  
2677 and

2678 (6) If approval of the amendment by some person or persons other than the members, the  
2679 board, or the incorporators is required pursuant to Code Section 14-3-1030 or 14-3-1041,  
2680 a statement that the approval was obtained.

2681 14-3-1005.1.

2682 (a) Together with the articles of amendment which change the name of the corporation,  
2683 the corporation shall deliver to the Secretary of State an undertaking, which may appear  
2684 in the articles of amendment or be set forth in a letter or other instrument executed by an  
2685 incorporator or any person authorized to act on behalf of the corporation, to publish a  
2686 notice of the filing of the articles of amendment as required by subsection (b) of this Code  
2687 section.

2688 (b) No later than the next business day following the delivery of the articles of amendment  
2689 and certificate as provided in subsection (a) of this Code section, the corporation shall mail  
2690 or deliver to the publisher of a newspaper which is the official organ of the county where  
2691 the registered office of the corporation is located or which is the newspaper of general  
2692 circulation published within such county whose most recently published annual statement  
2693 of ownership and circulation reflects a minimum of 60 percent paid circulation a request  
2694 to publish a notice in substantially the following form:

2695 'NOTICE OF CHANGE OF CORPORATE NAME

2696 Notice is given that articles of amendment which will change the name of  
2697 \_\_\_\_\_ (present corporate name) to \_\_\_\_\_  
2698 (proposed corporate name) have been delivered to the Secretary of State for filing in  
2699 accordance with the Georgia Nonprofit Corporation Code. The registered office of the  
2700 corporation is located at \_\_\_\_\_ (address of registered office).'

2701 The request for publication of the notice shall be accompanied by a check, draft, or money  
2702 order in the amount of \$40.00 in payment for the cost of publication. The notice shall be  
2703 published once a week for two consecutive weeks commencing within ten days after  
2704 receipt of the notice by the newspaper. Failure on the part of the corporation to mail or  
2705 deliver the notice or payment therefor or failure on the part of the newspaper to publish the  
2706 notice in compliance with this subsection shall not invalidate the articles of amendment or  
2707 the change of the name of the corporation.

2708 14-3-1006.

2709 (a) A corporation's board of directors may restate its articles of incorporation at any time  
2710 with or without approval by members or any other person.

2711 (b) The restatement may include one or more amendments to the articles. If the  
2712 restatement includes an amendment requiring approval by the members or any other

2713 person, it must be adopted as provided in Code Section 14-3-1003, 14-3-1030, or  
2714 14-3-1041.

2715 (c) If the board seeks to have the restatement approved by the members at a membership  
2716 meeting, the corporation shall notify each of its members of the proposed membership  
2717 meeting in writing in accordance with Code Section ~~14-3-705~~ 14-3-704. The notice must  
2718 also state that the purpose, or one of the purposes, of the meeting is to consider the  
2719 proposed restatement and contain or be accompanied by a copy of the restatement that  
2720 identifies any amendments or other change it would make in the articles or contain or be  
2721 accompanied by a full and complete summary of any such amendment or other change.

2722 (d) If the board seeks to have the restatement approved by the members by written consent  
2723 or written ballot, the material soliciting the approval shall contain or be accompanied by  
2724 a copy of the restatement that identifies any amendments or other change it would make  
2725 in the articles or contain or be accompanied by a full and complete summary of any such  
2726 amendment or other change.

2727 (e) A corporation restating its articles of incorporation shall deliver to the Secretary of  
2728 State for filing articles of restatement setting forth the name of the corporation and the text  
2729 of the restated articles of incorporation, including or accompanied by a certificate setting  
2730 forth the following information:

2731 (1) Whether the restatement contains an amendment to the articles requiring approval by  
2732 the members or any other person other than the board of directors and, if it does not, that  
2733 the board of directors adopted the restatement; or

2734 (2) If the restatement contains an amendment to the articles requiring approval by the  
2735 members, the information required by Code Section 14-3-1005; and

2736 (3) If the restatement contains an amendment to the articles requiring approval by a  
2737 person whose approval is required pursuant to Code Sections 14-3-1030 and 14-3-1041,  
2738 a statement that such approval was obtained.

2739 (f) Duly adopted restated articles of incorporation supersede the original articles of  
2740 incorporation and all amendments to them.

2741 (g) The Secretary of State may certify restated articles of incorporation, as the articles of  
2742 incorporation currently in effect, without including any certificate filed pursuant to  
2743 subsection (e) of this Code section.

2744 14-3-1007.

2745 (a) A corporation's articles may be amended without board approval or approval by the  
2746 members or approval required pursuant to Code Section 14-3-1030 or 14-3-1041 to carry  
2747 out a plan of reorganization ordered or decreed by a court of competent jurisdiction under  
2748 federal statute if the articles after amendment contain only provisions required or permitted  
2749 by Code Section 14-3-202.

2750 (b) The individual or individuals designated by the court shall deliver to the Secretary of  
2751 State articles of amendment setting forth:

2752 (1) The name of the corporation;

2753 (2) The text of each amendment approved by the court;

2754 (3) The date of the court's order or decree approving the articles of amendment;

2755 (4) The title of the reorganization proceeding in which the order or decree was entered;

2756 and

2757 (5) A statement that the court had jurisdiction of the proceeding under federal statute.

2758 (c) This Code section does not apply after entry of a final decree in the reorganization  
2759 proceeding even though the court retains jurisdiction of the proceeding for limited purposes  
2760 unrelated to consummation of the reorganization plan.

2761 14-3-1008.

2762 An amendment to the articles of incorporation does not affect a cause of action existing  
2763 against or in favor of the corporation, a proceeding to which the corporation is a party, any

2764 requirement or limitation imposed upon the corporation or any property held by it by virtue  
2765 of any trust upon which such property is held by the corporation, or the existing rights of  
2766 persons other than members of the corporation. An amendment changing a corporation's  
2767 name does not abate a proceeding brought by or against the corporation in its former name.

2768 Part 2

2769 14-3-1020.

2770 If a corporation has no members or no members entitled to vote thereon, its incorporators  
2771 until the organizational meeting of directors and thereafter its board of directors may adopt  
2772 one or more amendments to the corporation's bylaws subject to any approval required  
2773 pursuant to Code Sections 14-3-1030 and 14-3-1041. The corporation shall require notice  
2774 of any meeting of directors at which an amendment is to be approved. Such notice shall  
2775 be provided in accordance with Code Section 14-3-822.

2776 14-3-1021.

2777 (a) To adopt an amendment to a corporation's bylaws if there are members required to vote  
2778 thereon:

2779 (1) The board of directors must recommend the amendment to the members unless the  
2780 board of directors elects, because of a conflict of interest or other special circumstances,  
2781 to make no recommendation and communicates the basis for its election to the members  
2782 with the amendment;

2783 (2) Unless this chapter, the articles, the bylaws, the members (acting pursuant to  
2784 subsection (b) of this Code section), or the board of directors (acting pursuant to  
2785 subsection (c) of this Code section) require a greater vote or voting by class, the members  
2786 entitled to vote on the amendment must approve the amendment by two-thirds of the  
2787 votes cast or a majority of the voting power, whichever is less; and



2788 (3) Any person or persons whose approval is required by a provision of the articles or  
2789 bylaws authorized by Code Section 14-3-1030 or 14-3-1041 must approve the  
2790 amendment in writing.

2791 (b) The members may condition the amendment's adoption on any basis.

2792 (c) The board may condition its submission of the proposed amendment on any basis.

2793 (d) The corporation shall give notice to its members of the proposed membership meeting  
2794 in writing in accordance with Code Section ~~14-3-705~~ 14-3-704. The notice must also state  
2795 that the purpose, or one of the purposes, of the meeting is to consider the proposed  
2796 amendment and contain or be accompanied by a copy or summary of the amendment.

2797 (e) If the amendment is submitted to the members for approval by written consent or  
2798 written ballot, the material soliciting the approval shall contain or be accompanied by a  
2799 copy or summary of the amendment.

2800 14-3-1022.

2801 If the articles or bylaws provide for voting by classes of members, then unless the articles  
2802 or bylaws provide otherwise:

2803 (1) The members of a class are entitled to vote as a class on a proposed amendment to  
2804 the bylaws if the amendment would change the rights of that class as to voting in a  
2805 different manner than such amendment would affect another class or members of another  
2806 class;

2807 (2) If a class is to be divided into two or more classes as a result of an amendment to the  
2808 bylaws, the amendment must be approved by the members of each class that would be  
2809 created by the amendment; and

2810 (3) If a class vote is required to approve an amendment to the bylaws, the amendment  
2811 must be approved by the members of the class by two-thirds of the votes cast by the class  
2812 or a majority of the voting power of the class, whichever is less.

2813 Part 3

2814 14-3-1030.

2815 The articles or the bylaws may require an amendment to the articles or bylaws to be  
2816 approved in writing by a specified person or persons other than the board. Such an article  
2817 or bylaw provision may only be amended with the approval in writing of such person or  
2818 persons.

2819 Part 4

2820 14-3-1040.

2821 A corporation organized under this chapter may amend its articles of incorporation to  
2822 provide that the corporation shall operate as a for profit business corporation.

2823 14-3-1041.

2824 (a) A charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
2825 ~~14-3-1302~~ may amend its articles of incorporation as provided in Code Section 14-3-1040  
2826 only:

2827 (1) Upon the prior approval of the superior court in a proceeding in which the Attorney  
2828 General has been given notice; or

2829 (2) If on or before the effective date of the amendment:

2830 (A) Assets with a value equal to the greater of the fair market value of the net tangible  
2831 and intangible assets (including good will) of the corporation, or the fair market value  
2832 of the corporation if it were to be operated as a business concern, are transferred or  
2833 conveyed to one or more persons who would have received its assets under subsection

2834 (b) of Code Section 14-3-1403 had it dissolved;

2835 (B) It shall return, transfer, or convey any assets held by it upon condition requiring  
2836 return, transfer, or conveyance, which condition occurs by reason of the amendment,  
2837 in accordance with such condition; and

2838 (C) The amendment is approved by a majority of the directors of the corporation who  
2839 are not and will not become shareholders in, or officers, employees, agents, or  
2840 consultants of, the corporation following the effective date of the amendment.

2841 (b) At least 30 days before the filing of any amendment described in Code Section  
2842 14-3-1040 by a corporation described in subsection (a) of this Code section, notice of the  
2843 proposed amendment shall be delivered to the Attorney General.

2844 (c) Without the prior written consent of the superior court in a proceeding of which the  
2845 Attorney General has been given notice, no member, director, or officer of a corporation  
2846 described in subsection (a) of this Code section may receive or keep anything as a result  
2847 of an amendment described in Code Section 14-3-1040. The court shall approve the  
2848 transaction if it is in the public interest.

2849 14-3-1042.

2850 From and after the effective date of any amendment described in Code Section 14-3-1040,  
2851 the corporation shall be subject to and governed by the provisions of Chapter 2 of this title,  
2852 the 'Georgia Business Corporation Code.'

2853 ARTICLE 11

2854 14-3-1101.

2855 (a) ~~Subject to the limitations set forth in Code Section 14-3-1102, one~~ One or more  
2856 corporations may merge into another ~~corporation if the plan of merger is approved as~~  
2857 ~~provided in Code Section 14-3-1103~~ entity or entities, whether foreign or domestic, if the  
2858 plan of merger is approved for the corporation or corporations as provided in Code Section

2859 14-3-1103 and the merger complies with the applicable approvals, notices, limitations, and  
2860 restrictions set forth in this article. In addition:

2861 (1) If one or more of the corporations is a charitable corporation, each corporation must  
2862 comply with Code Section 14-3-1102;

2863 (2) If a foreign corporation or foreign business corporation is a party to a merger  
2864 authorized by this article, each corporation and each foreign corporation and foreign  
2865 business corporation must comply with Code Section 14-3-1106; and

2866 (3) If an entity other than a foreign corporation or foreign business corporation is a party  
2867 to a merger authorized by this article, each corporation and each other entity must comply  
2868 with Code Section 14-3-1108.

2869 (b) The plan of merger for any merger authorized by this article must set forth:

2870 (1) The name of each corporation planning to merge and the name of the surviving  
2871 corporation into which each plans to merge;

2872 (2) The terms and conditions of the planned merger; and

2873 (3) The manner and basis, if any, of converting the memberships of each corporation and  
2874 the obligations, memberships, or other securities of each other entity into obligations,  
2875 memberships, or other securities of the surviving ~~or any other corporation or entity~~ or into  
2876 cash or other property in whole or in part.

2877 (c) The plan of merger may set forth:

2878 (1) Amendments to the articles of incorporation of the surviving corporation; and

2879 (2) Other provisions relating to the merger.

2880 (d) Any of the terms of the plan of merger may be made dependent upon facts  
2881 ascertainable outside of the plan of merger, provided that the manner in which such facts  
2882 shall operate upon the terms of the merger is clearly and expressly set forth in the plan of  
2883 merger. As used in this subsection, the term 'facts' includes, but is not limited to, the  
2884 occurrence of any event, including a determination or action by any person or body,  
2885 including the corporation.

2886 14-3-1102.

2887 (a) ~~Without the prior approval of the superior court in a proceeding of which the Attorney~~  
2888 ~~General has been given written notice, a~~ A charitable corporation described in paragraph  
2889 ~~(2) of subsection (a) of Code Section 14-3-1302~~ may merge with a corporation or foreign  
2890 corporation or other entity, provided that without the prior approval of the superior court  
2891 so long as notice is provided to the Attorney General pursuant to subsection (b) of this  
2892 Code section and:

2893 (1) The corporation or entity which is the surviving corporation or entity is a charitable  
2894 ~~corporation or entity described in paragraph (2) of subsection (a) in Code Section~~  
2895 ~~14-3-1302~~ after the merger; or

2896 (2)(A) On or prior to the effective date of the merger, assets with a value equal to the  
2897 greater of the fair market value of the net tangible and intangible assets including good  
2898 will of the corporation or the fair market value of the corporation if it were to be  
2899 operated as a business concern are transferred or conveyed to one or more persons who  
2900 would have received its assets under subsection (b) of Code Section 14-3-1403 had it  
2901 dissolved;

2902 (B) It shall return, transfer, or convey any assets held by it upon condition requiring  
2903 return, transfer, or conveyance, which condition occurs by reason of the merger, in  
2904 accordance with such condition; and

2905 (C) The merger is approved by a majority of directors of the corporation who are not  
2906 and will not become members or shareholders in or officers, employees, agents, or  
2907 consultants of the surviving corporation or entity.

2908 (b) At least 30 days before consummation of any merger of a corporation pursuant to  
2909 ~~paragraph (2) of subsection (a) of this Code section,~~ notice, including a copy of the  
2910 proposed plan of merger, must be delivered to the Attorney General.

2911 (c) ~~Without the prior approval of the superior court in a proceeding in which the Attorney~~  
2912 ~~General has been given notice, no~~ No member of a charitable corporation described in

2913 ~~paragraph (2) of subsection (a) of Code Section 14-3-1302~~ may receive or keep anything  
2914 as a result of a merger other than membership in the surviving corporation or entity without  
2915 the prior approval of the superior court in a proceeding in which the Attorney General is  
2916 provided notice. The court shall approve the transaction if it is in the public interest.  
2917 ~~(d) For purposes of this Code section, the definitions contained in Code Section 14-3-1108~~  
2918 ~~shall be applicable.~~

2919 14-3-1103.

2920 (a) Unless this chapter, the articles, the bylaws, or the board of directors or members acting  
2921 pursuant to subsection (c) of this Code section require a greater vote or voting by class, a  
2922 plan of merger to be authorized must be approved:

2923 (1) By the board;

2924 (2) By the members, if any, by two-thirds of the votes cast or a majority of the voting  
2925 power, whichever is less; and

2926 (3) In writing by any person or persons whose approval is required by a provision of the  
2927 articles authorized by Code Section 14-3-1030 for an amendment to the articles or  
2928 bylaws.

2929 (b) If the corporation does not have members, the merger must be approved by a majority  
2930 of the directors in office at the time the merger is approved. In addition, the corporation  
2931 shall provide notice of any directors' meeting at which such approval is to be obtained in  
2932 accordance with subsection (b) of Code Section 14-3-822. The notice must also state that  
2933 the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

2934 (c) The board may condition its submission of the proposed merger, and the members may  
2935 condition their approval of the merger, on receipt of a higher percentage of affirmative  
2936 votes or on any other basis.

2937 (d) If the board seeks to have the plan approved by the members at a membership meeting,  
2938 the corporation shall give notice to its members of the proposed membership meeting in

2939 accordance with Code Section ~~14-3-705~~ 14-3-704. The notice must also state that the  
2940 purpose, or one of the purposes, of the meeting is to consider the plan of merger and  
2941 contain or be accompanied by a copy or summary of the plan. The copy or summary of the  
2942 plan for members of the surviving corporation shall include any provision that, if contained  
2943 in a proposed amendment to the articles of incorporation or bylaws, would entitle members  
2944 to vote on the provision. The copy or summary of the plan for members of the  
2945 ~~disappearing~~ nonsurviving corporation shall include a copy or summary of the articles and  
2946 bylaws that will be in effect immediately after the merger takes effect.

2947 (e) If the board seeks to have the plan approved by the members by consent or ballot in  
2948 writing or electronic transmission, the material soliciting the approval shall contain or be  
2949 accompanied by a copy or summary of the plan. The copy or summary of the plan for  
2950 members of the surviving corporation shall include any provision that, if contained in a  
2951 proposed amendment to the articles of incorporation or bylaws, would entitle members to  
2952 vote on the provision. The copy or summary of the plan for members of the ~~disappearing~~  
2953 nonsurviving corporation shall include a copy or summary of the articles and bylaws that  
2954 will be in effect immediately after the merger takes effect.

2955 (f) Voting by a class of members is required on a plan of merger if the plan contains a  
2956 provision that, if contained in a proposed amendment to articles of incorporation or bylaws,  
2957 would entitle the class of members to vote as a class on the proposed amendment under  
2958 Code Section 14-3-1004 or 14-3-1022. The plan is approved by a class of members by  
2959 two-thirds of the votes cast by the class or a majority of the voting power of the class,  
2960 whichever is less.

2961 (g) After a merger is adopted, and at any time before articles of merger are filed, the  
2962 planned merger may be abandoned (subject to any contractual rights) without further action  
2963 by members or other persons who approved the plan in accordance with the procedure set  
2964 forth in the plan of merger or, if none is set forth, in the manner determined by the board  
2965 of directors.

2966 14-3-1104.

2967 (a) After a plan of merger is approved by the board of directors, and, if required by Code  
2968 Section 14-3-1103, by the members and any other persons, and notices have been provided  
2969 and approvals obtained in accordance with this article, the surviving corporation or entity  
2970 shall deliver to the Secretary of State for filing articles of merger setting forth:

2971 (1) The plan of merger;

2972 (2) If approval of members was not required, a statement to that effect and a statement  
2973 that the plan was approved by a sufficient vote of the board of directors;

2974 (3) If approval by members was required:

2975 (A) The designation, number of memberships outstanding, number of votes entitled to  
2976 be cast by each class entitled to vote separately on the plan, and number of votes of  
2977 each class indisputably voting on the plan; and

2978 (B) Either the total number of votes cast for and against the plan by each class entitled  
2979 to vote separately on the plan or the total number of undisputed votes cast for the plan  
2980 by each class and a statement that the number cast for the plan by each class was  
2981 sufficient for approval by that class;

2982 (4) If approval of the plan by some person or persons other than the members or the  
2983 board is required pursuant to paragraph (3) of subsection (a) of Code Section 14-3-1103,  
2984 a statement that the approval was obtained; and

2985 (5) If approval of the shareholders of one or more corporations or entities party to the  
2986 merger was required, a statement that the merger was duly approved by the shareholders.

2987 (b) In lieu of filing articles of merger that set forth the plan of merger, the surviving  
2988 corporation or entity may deliver to the Secretary of State for filing a certificate of merger  
2989 which sets forth:

2990 (1) The name and state of incorporation of each corporation or entity which is merging  
2991 and the name of the surviving corporation or entity into which each other corporation or  
2992 entity is merging;



- 2993 (2) Any amendments to the articles of incorporation or governing agreements of the  
2994 surviving corporation or entity;
- 2995 (3) That the executed plan of merger is on file at the principal place of business of the  
2996 surviving corporation or entity, stating the address thereof;
- 2997 (4) That a copy of the plan of merger will be furnished by the surviving corporation or  
2998 entity, on request and without cost, to any member or shareholder of any corporation or  
2999 entity that is a party to the merger;
- 3000 (5) If approval of members was not required, a statement to that effect and a statement  
3001 that the plan was approved by a sufficient vote of the board of directors;
- 3002 (6) If approval by members was required:
- 3003 (A) The designation, number of memberships outstanding, number of votes entitled to  
3004 be cast by each class entitled to vote separately on the plan, and number of votes of  
3005 each class indisputably voting on the plan; and
- 3006 (B) Either the total number of votes cast for and against the plan by each class entitled  
3007 to vote separately on the plan or the total number of undisputed votes cast for the plan  
3008 by each class and a statement that the number cast for the plan by each class was  
3009 sufficient for approval by that class;
- 3010 (7) If approval of the plan by some person or persons other than the members or the  
3011 board is required pursuant to paragraph (3) of subsection (a) of Code Section 14-3-1103,  
3012 a statement that the approval was obtained; and
- 3013 (8) If approval of the shareholders of one or more corporations or entities party to the  
3014 merger was required, a statement that the merger was duly approved by the shareholders.
- 3015 (c) Unless a delayed effective date is specified, a merger takes effect when the articles or  
3016 certificate of merger is filed.
- 3017 ~~(d) For purposes of this Code section, the definitions contained in Code Section 14-3-1108~~  
3018 ~~shall be applicable.~~

3019 14-3-1104.1.

3020 (a) Together with the articles or certificate of merger, the surviving corporation or entity  
3021 shall deliver to the Secretary of State an undertaking which may appear in the articles or  
3022 certificate of merger or be set forth in a letter or other instrument executed by an officer or  
3023 any person authorized to act on behalf of such corporation or entity that the request for  
3024 publication of a notice of filing the articles or certificate of merger and payment therefor  
3025 will be made as required by subsection (b) of this Code section.

3026 (b) No later than the next business day after filing the articles or certificate of merger, the  
3027 surviving corporation or entity shall mail or deliver to the publisher of a newspaper which  
3028 is the official organ of the county where the registered office of the surviving corporation  
3029 or entity is to be located, if the surviving corporation or entity will be required to maintain  
3030 a registered office in Georgia, or where the registered office of the merging corporation or  
3031 entity was located prior to the merger in any other case, or which is a newspaper of general  
3032 circulation published within such county whose most recently published annual statement  
3033 of ownership and circulation reflects a minimum of 60 percent paid circulation a request  
3034 to publish a notice in substantially the following form:

3035 **'NOTICE OF MERGER**

3036 Notice is given that articles or a certificate of merger which will effect a merger by and  
3037 between (or among) \_\_\_\_\_ (name and state of incorporation or organization of each  
3038 constituent corporation or entity) will be delivered to the Secretary of State for filing in  
3039 accordance with the Georgia Nonprofit Corporation Code. The name of the surviving  
3040 corporation (or other entity) in the merger will be \_\_\_\_\_, a corporation (or other  
3041 entity) incorporated (organized pursuant to the laws of) in the State of \_\_\_\_\_. The  
3042 registered office of such corporation (name of type of entity) (is) (will be) located at  
3043 \_\_\_\_\_ (address of registered office) and its registered (agent) (agents) at such  
3044 address (is) (are) \_\_\_\_\_ (name or names of agent or agents).'

3045 The request for publication of the notice shall be accompanied by a check, draft, or money  
3046 order in the amount of \$40.00 in payment of the cost of publication. The notice shall be  
3047 published once a week for two consecutive weeks commencing within ten days after  
3048 receipt of the notice by the newspaper. Failure on the part of the surviving corporation or  
3049 entity to mail or deliver the notice or payment therefor or failure on the part of the  
3050 newspaper to publish the notice in compliance with this subsection shall not invalidate the  
3051 merger.

3052 ~~(c) For purposes of this Code section, the definitions contained in Code Section 14-3-1108~~  
3053 ~~shall be applicable.~~

3054 14-3-1105.

3055 (a) When a merger governed by this chapter takes effect:

3056 (1) Every other corporation or entity party to the merger merges into the surviving  
3057 corporation or entity and the separate existence of every corporation except the surviving  
3058 corporation or entity ceases;

3059 (2) The title to all real estate and other property owned by, and every contract right  
3060 possessed by, each corporation or entity party to the merger is vested in the surviving  
3061 corporation or entity without reversion or impairment, without further act or deed, and  
3062 without any conveyance, transfer, or assignment having occurred, subject to any and all  
3063 conditions to which the property was subject prior to the merger;

3064 (3) The surviving corporation or entity has all liabilities and obligations of each  
3065 corporation or entity party to the merger;

3066 (4) A proceeding pending against any corporation or entity party to the merger may be  
3067 continued as if the merger did not occur or the surviving corporation or entity may be  
3068 substituted in the proceeding for the corporation or entity whose existence ceased; and

3069 (5) The articles of incorporation and bylaws or governing agreements of the surviving  
3070 corporation or entity are amended to the extent provided in the plan of merger.

3071 ~~(b) For purposes of this Code section, the definitions contained in Code Section 14-3-1108~~  
3072 ~~shall be applicable.~~

3073 14-3-1106.

3074 (a) ~~Except as provided in Code Section 14-3-1102, one~~ One or more foreign corporations  
3075 or foreign business corporations may merge with one or more corporations if:

3076 (1) The merger is permitted by the law of the state or country under whose law each  
3077 foreign corporation or foreign business corporation is incorporated and each foreign  
3078 corporation or foreign business corporation complies with that law in effecting the  
3079 merger;

3080 (2) The foreign corporation or foreign business corporation complies with Code Sections  
3081 14-3-1104 and 14-3-1104.1 if it is the surviving corporation of the merger; and

3082 (3) Each corporation complies with the applicable provisions of Code Sections  
3083 14-3-1101 through 14-3-1103 and, if it is the surviving corporation of the merger, with  
3084 Code Sections 14-3-1104 and 14-3-1104.1.

3085 (b) Upon the merger taking effect, the surviving foreign corporation or foreign business  
3086 corporation, if it does not have a registered agent in this state, shall be deemed to have  
3087 appointed the Secretary of State as its registered agent for service of process in a  
3088 proceeding to enforce any obligation of a domestic corporation party to the merger, until  
3089 such time as it appoints a registered agent in this state.

3090 14-3-1107.

3091 Any bequest, devise, gift, grant, or promise contained in a will or other instrument of  
3092 donation, subscription, or conveyance, that is made to a constituent corporation or entity  
3093 and that takes effect or remains payable after the merger, inures to the surviving  
3094 corporation or entity unless the will or other instrument otherwise specifically provides.

3095 14-3-1108.

3096 ~~(a) As used in this Code section and in Code Section 14-3-1107, the term:~~

3097 ~~(1) 'Entity' includes any business corporation or foreign business corporation, domestic~~  
3098 ~~or foreign limited liability company, domestic or foreign joint-stock association, or~~  
3099 ~~domestic or foreign limited partnership.~~

3100 ~~(2) 'Governing agreements' includes the articles of incorporation and bylaws of a~~  
3101 ~~business corporation, foreign business corporation, corporation or foreign corporation,~~  
3102 ~~articles of association or trust agreement or indenture and bylaws of a joint-stock~~  
3103 ~~association, articles of organization and operating agreement of a limited liability~~  
3104 ~~company, and the certificate of limited partnership and limited partnership agreement of~~  
3105 ~~a limited partnership, and agreements serving comparable purposes under the laws of~~  
3106 ~~other states or jurisdictions.~~

3107 ~~(3) 'Joint-stock association' includes any association of the kind commonly known as a~~  
3108 ~~joint-stock association or joint-stock company and any unincorporated association, trust,~~  
3109 ~~or enterprise having members or having outstanding shares of stock or other evidences~~  
3110 ~~of financial and beneficial interest therein, whether formed by agreement or under~~  
3111 ~~statutory authority or otherwise, but shall not include a corporation, partnership, limited~~  
3112 ~~liability partnership, limited liability company, or nonprofit organization. A joint-stock~~  
3113 ~~association as defined in this paragraph may be one formed under the laws of this state,~~  
3114 ~~including a trust created pursuant to Article 2 of Chapter 12 of Title 53, or one formed~~  
3115 ~~under or pursuant to the laws of any other state or jurisdiction.~~

3116 ~~(4) 'Limited liability company' includes limited liability companies formed under the~~  
3117 ~~laws of this state or of any other state or territory or the District of Columbia, unless the~~  
3118 ~~laws of such other state or jurisdiction forbid the merger of a limited liability company~~  
3119 ~~with a corporation.~~

3120 ~~(5) 'Limited partnership' includes limited partnerships formed under the laws of this state~~  
3121 ~~or of any other state or territory or the District of Columbia, unless the laws of such other~~  
3122 ~~state or jurisdiction forbid the merger of a limited partnership with a corporation.~~

3123 ~~(6) 'Share' includes shares, memberships, financial or beneficial interests, units, or~~  
3124 ~~proprietary or partnership interests in a business corporation or a foreign business~~  
3125 ~~corporation, limited liability company, joint-stock association, or a limited partnership~~  
3126 ~~but does not include debt obligations of any entity.~~

3127 ~~(7) 'Shareholder' includes every member of a limited liability company or a joint-stock~~  
3128 ~~association that is a party to a merger or holder of a share or other evidence of financial~~  
3129 ~~or beneficial interest therein.~~

3130 ~~(b)(a)~~ Subject to the limitations set forth in Code ~~Section~~ Sections 14-3-1101 and  
3131 14-3-1102, one or more corporations may merge with one or more entities, except an entity  
3132 formed under the laws of a state or jurisdiction which forbids a merger with a corporation.  
3133 The corporation or corporations and one or more entities may merge into a single  
3134 corporation or other entity, which may be any one of the constituent corporations or  
3135 entities.

3136 ~~(c)(b)~~ The board of directors of each merging corporation and the appropriate body of each  
3137 entity, in accordance with its governing agreements and the laws of the state or jurisdiction  
3138 under which it was formed, shall adopt a plan of merger in accordance with each  
3139 corporation's and entity's governing agreements and the laws of the state or jurisdiction  
3140 under which it was formed, as the case may be.

3141 ~~(d) The plan of merger:~~

3142 ~~(1) Must set forth:~~

3143 ~~(A) The name of each corporation and entity planning to merge and the name of the~~  
3144 ~~surviving corporation or entity into which each other corporation and entity plans to~~  
3145 ~~merge;~~

3146 ~~(B) The terms and conditions of the merger; and~~

3147 ~~(C) The manner and basis of converting the shares of each corporation and the shares,~~  
3148 ~~memberships, or financial or beneficial interests or units in each of the entities into~~  
3149 ~~shares, obligations, or other securities of the surviving or any other corporation or entity~~  
3150 ~~or into cash or other property in whole or in part; and~~  
3151 ~~(2) May set forth:~~  
3152 ~~(A) Amendments to the articles of incorporation or governing agreements of the~~  
3153 ~~surviving corporation or entity; and~~  
3154 ~~(B) Other provisions relating to the merger.~~  
3155 ~~(e) Any of the terms of the plan of merger may be made dependent upon facts~~  
3156 ~~ascertainable outside of the plan of merger, provided that the manner in which such facts~~  
3157 ~~shall operate upon the terms of the merger is clearly and expressly set forth in the plan of~~  
3158 ~~merger. As used in this subsection, the term 'facts' includes, but is not limited to, the~~  
3159 ~~occurrence of any event, including a determination or action by any person or body,~~  
3160 ~~including the corporation.~~  
3161 ~~(f)(c)~~ In the case of any entity, the plan of merger shall be approved in the manner required  
3162 by its governing agreements and in compliance with any applicable laws of the state or  
3163 jurisdiction under which it was formed. In addition, each of the corporations shall comply  
3164 with all other provisions of this chapter which relate to the merger of corporation. Each  
3165 other entity shall comply with all other provisions of its governing agreements and all  
3166 provisions of the laws, if any, of the state or jurisdiction in which it was formed which  
3167 relate to the merger.  
3168 ~~(g)(d)~~ Each merging corporation shall comply with the requirements of Code Section  
3169 ~~14-3-1104~~ entity must comply with Code Sections 14-3-1104 and 14-3-1104.1 if such  
3170 merging entity is the surviving entity of the merger.

3171

## ARTICLE 11A

3172 14-3-1120.

3173 (a) By complying with this Code section, a foreign corporation may become a corporation  
3174 if the law of the foreign jurisdiction authorizes domestication, redomestication,  
3175 reincorporation, conversion, or a similar statutory procedure to become a corporation.

3176 (b) To become a corporation, a foreign corporation shall elect to become a corporation.  
3177 Such election shall require such approval as may be sufficient under applicable law or the  
3178 governing documents of the electing foreign corporation to authorize such election.

3179 (c) The election provided for under subsection (b) of this Code section shall be made by  
3180 delivering to the Secretary of State for filing a certificate of conversion and accompanying  
3181 articles of incorporation that comply with Code Section 14-3-202. Such certificate shall  
3182 set forth:

3183 (1) The name and jurisdiction of the converting foreign corporation; provided, however,  
3184 that the name of the converting foreign corporation shall meet the requirements of Code  
3185 Section 14-3-401, including, but not limited to, situations when the name of the  
3186 converting foreign corporation is unavailable for use in Georgia or the converting foreign  
3187 corporation desires to change its name in connection with the conversion;

3188 (2) A statement that the converting foreign corporation elects to become a corporation;

3189 (3) If later than the date and time the certificate of conversion is filed, the effective date,  
3190 or the effective date and time, of the conversion;

3191 (4) A statement that the election has been approved as required by subsection (b) of this  
3192 Code section; and

3193 (5) A statement that the articles of incorporation accompanying the certificate:

3194 (A) Are in the form required by Code Section 14-3-202;

3195 (B) Set forth the name of the corporation that satisfies the requirements of Code  
3196 Section 14-3-401; and



3197 (C) Are the articles of incorporation of the corporation formed pursuant to such  
3198 election unless and until modified in accordance with this chapter.

3199 (d) Upon the conversion provided for in this Code section becoming effective:

3200 (1) The converting foreign corporation shall become a corporation formed under this  
3201 chapter, provided that the existence of the corporation so formed shall be deemed to have  
3202 commenced on the date the converting foreign corporation commenced its existence in  
3203 the jurisdiction in which such foreign corporation was first created, formed, or  
3204 incorporated or otherwise came into being;

3205 (2) The articles of incorporation filed with the certificate of conversion shall be the  
3206 articles of incorporation of the corporation formed pursuant to such conversion unless and  
3207 until amended in accordance with this chapter;

3208 (3) The governing documents of the converting foreign corporation shall be of no further  
3209 force or effect;

3210 (4) The resulting corporation formed by such conversion shall retain all of the rights,  
3211 privileges, immunities, franchises, and powers of the converting foreign corporation; all  
3212 property, real, personal, and mixed; all contract rights; and all debts due to such  
3213 converting foreign corporation, as well as all other choses in action; and each and every  
3214 other interest of or belonging to or due to the converting foreign corporation shall be  
3215 taken and deemed to be vested in the resulting corporation without further act or deed.  
3216 The title to any real estate, or any interest therein, vested in the converting foreign  
3217 corporation shall not revert or be in any way impaired, and none of such items shall be  
3218 deemed to have been conveyed, transferred, or assigned for any purpose; and

3219 (5) The resulting corporation shall thereupon and thereafter be responsible and liable for  
3220 all the liabilities and obligations of the converting foreign corporation. Any claim  
3221 existing or action or proceeding pending by or against such converting foreign  
3222 corporation may be prosecuted as if such conversion had not become effective, and

3223 neither the rights of creditors nor any liens upon the property of the converting foreign  
3224 corporation shall be impaired.

3225 (e) A conversion pursuant to this Code section shall not be deemed to constitute a  
3226 dissolution of the converting foreign corporation and shall constitute a continuation of the  
3227 existence of the converting foreign corporation in the form of a corporation. A corporation  
3228 formed by a conversion pursuant to this Code section shall for all purposes be deemed to  
3229 be the same entity as the converting foreign corporation.

3230 (f) A corporation formed pursuant to this Code section shall file a copy of its certificate  
3231 of conversion, certified by the Secretary of State, in the office of the clerk of the superior  
3232 court of the county where any real property owned by such corporation is located and  
3233 record such certified copy of the certificate of conversion in the books kept by such clerk  
3234 for recordation of deeds in such county with the converting foreign corporation indexed as  
3235 the grantor and the resulting corporation indexed as the grantee. No real estate transfer tax  
3236 under Code Section 48-6-1 shall be due with respect to the recordation of such certificate  
3237 of conversion.

3238 14-3-1121.

3239 (a) By complying with this Code section, a corporation may become a foreign corporation  
3240 if the law of the foreign jurisdiction authorizes domestication, redomestication,  
3241 reincorporation, conversion, or a similar statutory procedure to become a foreign  
3242 corporation.

3243 (b) To become a foreign corporation, a corporation shall convert to a foreign corporation,  
3244 and to effect such conversion, the corporation shall adopt and file with the Secretary of  
3245 State a certificate of conversion as required by subsection (n) of this Code section.

3246 (c) To be adopted by a corporation, the certificate of conversion provided for in subsection  
3247 (b) of this Code section must be approved:

3248 (1) By the board;

3249 (2) By the members, if any, but only if and to the extent that members are entitled to vote  
3250 on the conversion under the corporation's articles or bylaws, except as provided for under  
3251 subsection (h) of this Code section; and

3252 (3) In writing by any person or persons whose approval is required by a provision of the  
3253 articles authorized by Code Section 14-3-1030 for an amendment to the articles or  
3254 bylaws.

3255 (d) If the corporation does not have members or if the members are not entitled to vote on  
3256 the conversion, then, unless otherwise provided for in the corporation's articles or bylaws,  
3257 the certificate of conversion shall be approved by a majority of the directors in office at the  
3258 time the certificate of conversion is adopted. The corporation shall provide notice as  
3259 provided for in subsection (b) of Code Section 14-3-822 of any directors' meeting at which  
3260 adoption of the certificate of conversion will be considered. Such notice shall also state  
3261 that the purpose, or one of the purposes, of such meeting is for consideration of the  
3262 adoption of the certificate of conversion.

3263 (e) The board may condition its adoption of the certificate of conversion, and the members  
3264 may condition their approval of the adoption of the certificate of conversion, on the receipt  
3265 of a higher percentage of affirmative votes or on any other basis.

3266 (f) If the corporation is required or seeks to have adoption of the certificate of conversion  
3267 approved by the members at a membership meeting, the corporation shall give notice to its  
3268 members of the membership meeting in accordance with Code Section ~~14-3-705~~ 14-3-704.  
3269 Such notice shall state that the purpose, or one of the purposes, of the meeting is to  
3270 consider the adoption of the certificate of conversion pursuant to which the corporation will  
3271 convert into a foreign corporation and shall contain or be accompanied by a copy of the  
3272 certificate of conversion. Such notice shall conspicuously identify any adverse change to  
3273 the rights of members that would result from the conversion, including, but not limited to,  
3274 any adverse change to the rights of members under the law of the foreign jurisdiction  
3275 applicable to the proposed foreign corporation. Such notice shall also include a copy or

3276 summary of the articles of incorporation, the bylaws, and any other similar governing  
3277 documents of the proposed foreign corporation that will become effective upon the  
3278 conversion.

3279 (g) If the certificate of conversion may be approved by the members by written consent  
3280 or written ballot, including consent or ballot by electronic transmission, any material  
3281 soliciting such approval shall contain or be accompanied by a copy of the certificate of  
3282 conversion. Such material shall conspicuously identify any adverse change to the rights  
3283 of members that would result from the conversion, including, but not limited to, any  
3284 adverse change to the rights of members under the law of the foreign jurisdiction applicable  
3285 to the proposed foreign corporation. Such material shall also include a copy or summary  
3286 of the articles of incorporation, the bylaws, and any other similar governing documents of  
3287 the proposed foreign corporation that will become effective upon the conversion.

3288 (h) Voting by members or classes of members is required to approve the adoption of a  
3289 certificate of conversion if the conversion will implement any provision that, if contained  
3290 in a proposed amendment to the articles of incorporation or bylaws of the corporation,  
3291 would entitle the members or classes of members to vote on such proposed amendment  
3292 under Code ~~Sections~~ Section 14-3-1003, 14-3-1004, 14-3-1021, or 14-3-1022. In such  
3293 circumstances, the corporation shall comply with subsection (f) or (g) of this Code section,  
3294 as applicable, with respect to the members or classes of members entitled to vote.  
3295 Furthermore, the certificate of conversion may be adopted if it is approved by the members  
3296 or classes of members entitled to vote in the same manner as would be required to approve  
3297 such proposed amendment or, if the articles or bylaws do not specify how the members or  
3298 classes of members vote to approve such proposed amendment, by two-thirds of the votes  
3299 cast or a majority of the voting power, whichever is less.

3300 (i) A charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
3301 ~~14-3-1302~~ must give written notice to the Attorney General, including a copy of the  
3302 proposed certificate of conversion and a copy or summary of the articles of incorporation

3303 and bylaws, or similar governing documents, of the proposed foreign corporation that will  
3304 become effective upon the conversion at least 30 days before the certificate of conversion  
3305 is filed in accordance with subsection (n) of this Code section.

3306 (j) Any of the terms of the certificate of conversion may be made dependent upon facts  
3307 ascertainable outside of the certificate of conversion, provided that the manner in which  
3308 such facts shall operate upon the terms of the conversion is clearly and expressly set forth  
3309 in the certificate of conversion. As used in this subsection, the term 'facts' includes, but is  
3310 not limited to, the occurrence of any event, including a determination or action by any  
3311 person or body, including the corporation.

3312 (k) After a certificate of conversion has been adopted, unless the certificate of conversion  
3313 provides otherwise, and at any time before the conversion has become effective, the  
3314 conversion may be abandoned, subject to any contractual rights, in accordance with the  
3315 procedure set forth in the certificate of conversion or, if none is set forth, in the manner  
3316 determined by the board of directors.

3317 (l) The conversion shall be effected as provided in, and shall have the effects provided by,  
3318 the law of the state or jurisdiction under whose law the resulting foreign corporation is  
3319 formed and, to the extent not inconsistent with such law, by the terms of the certificate of  
3320 conversion.

3321 (m) If the resulting foreign corporation is required to obtain a certificate of authority to  
3322 transact business in this state by the provisions of this title governing foreign corporations,  
3323 such resulting foreign corporation shall do so pursuant to Code Section 14-3-1501.

3324 (n) After a certificate of conversion is adopted in accordance with this Code section, unless  
3325 the conversion subsequently is abandoned, the corporation shall deliver to the Secretary of  
3326 State for filing the certificate of conversion which shall set forth:

3327 (1) The name of the corporation;

3328 (2) The name and jurisdiction of the proposed foreign corporation to which the  
3329 corporation shall be converted;

- 3330 (3) A statement that the certificate of conversion has been adopted as required by  
3331 subsection (c) of this Code section;
- 3332 (4) A statement that the authority of the corporation's registered agent to accept service  
3333 on its behalf is revoked as of the effective date of such conversion and that the Secretary  
3334 of State is irrevocably appointed as the agent for service of process on the resulting  
3335 foreign corporation in any proceeding to enforce an obligation of the resulting foreign  
3336 corporation arising prior to the effective date of such conversion;
- 3337 (5) A mailing address to which a copy of any process served on the Secretary of State  
3338 under paragraph (4) of this subsection may be mailed as provided in subsection (o) of this  
3339 Code section; and
- 3340 (6) A statement that the Secretary of State shall be notified of any change in the resulting  
3341 foreign corporation's mailing address.
- 3342 (o) Upon the conversion becoming effective, the resulting foreign corporation is deemed  
3343 to appoint the Secretary of State as its agent for service of process in any proceeding to  
3344 enforce any of its obligations arising prior to the effective date of such conversion. Any  
3345 party that serves process upon the Secretary of State in accordance with this subsection  
3346 shall also mail a copy of the process to the chief executive officer, chief financial officer,  
3347 or secretary of the resulting foreign corporation, ~~or a person holding a comparable position,~~  
3348 at the mailing address provided pursuant to paragraph (5) of subsection (n) of this Code  
3349 section.
- 3350 (p) A converting corporation provided for in this Code section shall file a copy of its  
3351 certificate of conversion, certified by the Secretary of State, in the office of the clerk of the  
3352 superior court of the county where any real property owned by such converting corporation  
3353 is located and record such certified copy of the certificate of conversion in the books kept  
3354 by such clerk for recordation of deeds in such county with the converting corporation  
3355 indexed as the grantor and the resulting foreign corporation indexed as the grantee. No real

3356 estate transfer tax otherwise required by Code Section 48-6-1 shall be due with respect to  
3357 the recordation of such certificate of conversion.

3358 (q) Upon the conversion provided for in this Code section becoming effective:

3359 (1) The resulting foreign corporation shall retain all of the rights, privileges, immunities,  
3360 franchises, and powers of the converting corporation;

3361 (2) All property, real, personal, and mixed; all contract rights; and all debts due to such  
3362 converting corporation, as well as all other choses in action, and each and every other  
3363 interest of or belonging to or due to the converting corporation shall be taken and deemed  
3364 to be vested in the resulting foreign corporation without further act or deed;

3365 (3) Title to any real estate, or any interest therein, vested in the converting corporation  
3366 shall not revert or be in any way impaired by reason of the conversion;

3367 (4) None of the items described in paragraphs (1) through (3) of this subsection shall be  
3368 deemed to have been conveyed, transferred, or assigned by reason of the conversion for  
3369 any purpose; and

3370 (5) The resulting foreign corporation shall thereupon and thereafter be responsible and  
3371 liable for all the liabilities and obligations of the converting corporation. Any claim  
3372 existing or action or proceeding pending by or against such converting corporation may  
3373 be prosecuted as if such conversion had not become effective, and neither the rights of  
3374 creditors nor any liens upon the property of the converting corporation shall be impaired  
3375 by such conversion.

3376 ARTICLE 12

3377 14-3-1201.

3378 Unless otherwise provided by this chapter, the articles, or the bylaws, a corporation may,  
3379 on the terms and conditions; and for the consideration determined by the board of directors,  
3380 and without the approval of the members or any other person:

- 3381 (1) Sell, lease, exchange, or otherwise dispose of any, all, or substantially all, of its  
3382 property in the usual and regular course of its activities; ~~or~~  
3383 (2) Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or  
3384 without recourse), or otherwise encumber any or all of its property whether or not in the  
3385 usual and regular course of its activities; or  
3386 (3) Transfer any or all of such corporation's assets to one or more other corporations or  
3387 other entities, of which all of the memberships or interests are owned or controlled by  
3388 such corporation.

3389 14-3-1202.

3390 (a) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially  
3391 all, of its property (with or without the good will) other than in the usual and regular course  
3392 of its activities on the terms and conditions and for the consideration determined by the  
3393 corporation's board if the proposed transaction is authorized by subsection (b) of this Code  
3394 section.

3395 (b) Unless this chapter, the articles, the bylaws, or the board of directors or members  
3396 (acting pursuant to subsection (d) of this Code section) require a greater vote or voting by  
3397 class, the proposed transaction to be authorized must be approved:

- 3398 (1) By the board;  
3399 (2) By the members by two-thirds of the votes cast or a majority of the voting power,  
3400 whichever is less; and  
3401 (3) In writing by any person or persons whose approval is required by a provision of the  
3402 articles authorized by Code Section 14-3-1030 for an amendment to the articles or  
3403 bylaws.

3404 (c) If the corporation does not have members, the transaction must be approved by a vote  
3405 of a majority of the directors in office at the time the transaction is approved. In addition,  
3406 the corporation shall provide notice of any directors' meeting at which such approval is to



3407 be obtained in accordance with subsection (b) of Code Section 14-3-822. The notice must  
3408 also state that the purpose, or one of the purposes, of the meeting is to consider the sale,  
3409 lease, exchange, or other disposition of all, or substantially all, of the property or assets of  
3410 the corporation and contain or be accompanied by a copy or summary of a description of  
3411 the transaction.

3412 (d) The board may condition its submission of the proposed transaction, and the members  
3413 may condition their approval of the transaction, on receipt of a higher percentage of  
3414 affirmative votes or on any other basis.

3415 (e) If the corporation seeks to have the transaction approved by the members at a  
3416 membership meeting, the corporation shall give notice to its members of the proposed  
3417 membership meeting in accordance with Code Section ~~14-3-705~~ 14-3-704. The notice  
3418 must also state that the purpose, or one of the purposes, of the meeting is to consider the  
3419 sale, lease, exchange, or other disposition of all, or substantially all, of the property or  
3420 assets of the corporation and contain or be accompanied by a copy or summary of a  
3421 description of the transaction.

3422 (f) If the board needs to have the transaction approved by the members by written consent  
3423 or written ballot, the material soliciting the approval shall contain or be accompanied by  
3424 a copy or summary of a description of the transaction.

3425 (g) A charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
3426 ~~14-3-1302~~ must give written notice to the Attorney General 30 days before it sells, leases,  
3427 exchanges, or otherwise disposes of all, or substantially all, of its property if the transaction  
3428 is not in the usual and regular course of its activities, unless said transaction is with another  
3429 charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
3430 ~~14-3-1302~~.

3431 (h) After a sale, lease, exchange, or other disposition of property is authorized, the  
3432 transaction may be abandoned, subject to any contractual rights, without further action by  
3433 the members or any other person who approved the transaction in accordance with the

3434 procedure set forth in the resolution proposing the transaction or, if none is set forth, in the  
3435 manner determined by the board of directors.

3436 ARTICLE 13

3437 14-3-1301.

3438 Except as provided in Code Section 14-3-1302 and Article 14 of this chapter, a corporation  
3439 shall not pay dividends to or make any distributions of any part of its assets, income, or  
3440 profits to its members, directors, or officers.

3441 14-3-1302.

3442 (a) ~~A corporation may make distributions to the following~~ Payments to any of the  
3443 following are not unlawful distributions:

3444 (1) Organizations whether or not incorporated that are organized and operated for the  
3445 same or similar purposes as the distributing corporation;

3446 (2) Organizations whether or not incorporated that are organized and operated  
3447 exclusively for religious, charitable, scientific, testing for public safety, literary, or  
3448 educational purposes, or to foster national or international amateur sports competition,  
3449 or for the prevention of cruelty to children or animals, no part of the net earnings of  
3450 which inures to the benefit of any private shareholder, member, or individual; or

3451 (3) A state or possession of the United States, or any political subdivision of any of the  
3452 foregoing, or the United States or the District of Columbia.

3453 (b) Except for charitable corporations ~~described in paragraph (2) of subsection (a) of this~~  
3454 ~~Code section~~, a corporation may repurchase a membership for the consideration that the  
3455 member paid for his or her membership or return a portion of a membership fee to a  
3456 withdrawing member if, after the purchase or return is completed:

- 3457 (1) The corporation would be able to pay its debts as they become due in the normal  
3458 course of business; and
- 3459 (2) The corporation's total assets would at least equal the sum of its liabilities.
- 3460 (c) Payments of indemnification or reasonable compensation, fees, or expenses incurred  
3461 in the performance of duties on behalf of the corporation are not unlawful distributions.

3462 ARTICLE 14

3463 Part 1

3464 14-3-1401.

3465 A majority of the incorporators or initial directors of a corporation that has not admitted  
3466 members entitled to vote on dissolution, has not commenced activities other than routine  
3467 formation related activities, and has no net assets may dissolve the corporation by  
3468 delivering to the Secretary of State for filing articles of dissolution that set forth:

- 3469 (1) The name of the corporation;
- 3470 (2) The date of its incorporation;
- 3471 (3) That:
- 3472 (A) The corporation has not admitted members entitled to vote on dissolution;
- 3473 (B) The corporation has not commenced activities; and
- 3474 (C) The corporation has no net assets;
- 3475 (4) That no debt of the corporation remains unpaid; and
- 3476 (5) That a majority of the incorporators or initial directors authorized the dissolution.

3477 14-3-1402.

3478 (a) A corporation's board of directors may propose dissolution for submission to the  
3479 members, if there are members entitled to vote thereon as follows:

- 3480 (1) For a proposal to dissolve to be adopted:

3481 (A) The board of directors must recommend dissolution to the members unless the  
3482 board of directors elects, because of a conflict of interest or other special circumstances,  
3483 to make no recommendation and communicates the basis for its determination to the  
3484 members; and

3485 (B) The members entitled to vote must approve the proposal to dissolve as provided  
3486 in paragraph (4) of this subsection;

3487 (2) The board of directors may condition its submission of the proposal for dissolution  
3488 on any basis;

3489 (3) The corporation shall notify each member entitled to vote of the proposed members'  
3490 meeting in accordance with Code Section ~~14-3-705~~ 14-3-704. The notice must also state  
3491 that the purpose, or one of the purposes, of the meeting is to consider dissolving the  
3492 corporation;

3493 (4) Unless the articles of incorporation, the bylaws, or the board of directors acting  
3494 pursuant to paragraph (2) of this subsection requires a greater vote or vote by classes, the  
3495 proposal to dissolve to be adopted must be approved by a majority of all the votes entitled  
3496 to be cast on that proposal; and

3497 (5) If the board seeks to have dissolution approved by the members by written consent  
3498 or written ballot, the material soliciting the approval shall contain or be accompanied by  
3499 a copy or summary of the plan of dissolution.

3500 (b) Unless the articles of incorporation or bylaws ~~requires~~ require a greater vote, if the  
3501 corporation does not have members entitled to vote on dissolution, dissolution must be  
3502 approved by a vote of a majority of the directors in office at the time the transaction is  
3503 approved. In addition, the corporation shall provide notice of any directors' meeting at  
3504 which such approval is to be obtained in accordance with Code Section 14-3-822. The  
3505 notice must also state that the purpose, or one of the purposes, of the meeting is to consider  
3506 dissolution of the corporation and contain or be accompanied by a copy or summary of the  
3507 plan of dissolution.

3508 (c) The plan of dissolution shall conform to the requirements of Code Section 14-3-1403  
3509 and shall indicate to whom the assets owned or held by the corporation will be distributed  
3510 after all creditors have been paid.

3511 14-3-1403.

3512 (a) A plan of dissolution providing for the distribution of assets shall be adopted by a  
3513 corporation in the process of dissolution. Subject to subsections (b) and (c) of this Code  
3514 section, such plan of dissolution may provide for the transfer (whether in-kind or  
3515 otherwise) of any of the assets, business, and affairs of the corporation to one or more  
3516 persons who may continue the business and affairs of the dissolving corporation.

3517 (b) The plan of dissolution shall provide for distribution of assets as follows:

3518 (1) All liabilities and obligations of the corporation shall be paid and discharged, or  
3519 adequate provisions shall be made therefor;

3520 (2) Assets held by the corporation upon condition requiring return, transfer, or  
3521 conveyance, which condition occurs by reason of the dissolution, shall be returned,  
3522 transferred, or conveyed in accordance with such requirements;

3523 (3) Assets received and held by the corporation subject to limitations permitting their use  
3524 only for specific charitable, religious, eleemosynary, benevolent, educational, or similar  
3525 purposes, but not held upon a condition requiring return, transfer, or conveyance by  
3526 reason of the dissolution, shall be transferred or conveyed, to the extent reasonably  
3527 feasible, to one or more domestic corporations or foreign corporations, trusts, societies,  
3528 or organizations ~~engaged in activities substantially~~ that are organized and operated for the  
3529 same or similar to purposes as those of the dissolving corporation, and if not reasonably  
3530 feasible, to any organization or recipient described in subsection (a) of Code Section  
3531 14-3-1302;

3532 (4) Assets held by a charitable corporation shall be distributed to any organization or  
3533 recipient described in subsection (a) of Code Section 14-3-1302;

3534 ~~(4)~~(5) Other assets, if any, shall be distributed in accordance with the articles of  
3535 incorporation and bylaws to the extent that the articles of incorporation or bylaws  
3536 determine the distributive rights of members, or any class or classes of members, or  
3537 provide for distribution to others; and

3538 ~~(5)~~(6) Any remaining assets may be distributed to such persons, trusts, societies,  
3539 organizations, or domestic corporations or foreign corporations as may be provided in the  
3540 plan of dissolution.

3541 (c) A charitable corporation ~~described in paragraph (2) of subsection (a) of Code Section~~  
3542 ~~14-3-1302~~ shall comply with the following additional requirements:

3543 (1) It shall give the Attorney General written notice of its intent to dissolve at or before  
3544 the time it delivers ~~articles of dissolution~~ its notice of intent to dissolve to the Secretary  
3545 of State, and such notice to the Attorney General shall include:

3546 (A) The plan of dissolution;

3547 (B) The net value of the corporation's assets at the time the notice of intent to dissolve  
3548 is filed with the Secretary of State; and

3549 (C) To the extent not already included in the plan of dissolution, a list of those persons  
3550 (other than creditors) to whom the corporation intends to transfer or convey its assets,  
3551 including the last known mailing address of the intended recipient or recipients;

3552 (2) Unless otherwise notified by the Attorney General, it ~~It~~ shall not transfer or convey  
3553 any assets as part of the dissolution process until 30 days after it has given the written  
3554 notice to the Attorney General required by paragraph (1) of this subsection; and

3555 (3) When all or substantially all of the assets of the corporation have been transferred or  
3556 conveyed, it shall deliver to the Attorney General a list showing those persons (other than  
3557 creditors) to whom the assets were transferred or conveyed. The list shall indicate the  
3558 address of each person (other than creditors) who received assets and indicate what assets  
3559 each received.

3560 14-3-1404.

3561 Upon approval of a proposal for dissolution pursuant to Code Section 14-3-1402, the  
3562 corporation shall begin dissolution by delivering to the Secretary of State for filing a notice  
3563 of intent to dissolve setting forth:

3564 (1) The name of the corporation;

3565 (2) The date dissolution was authorized; and

3566 (3) If member approval was required for dissolution, a statement that dissolution was  
3567 duly approved by the members in accordance with subsection (a) of Code Section  
3568 14-3-1402.

3569 14-3-1404.1.

3570 (a) Together with the notice of intent to dissolve provided for in Code Section 14-3-1404,  
3571 the corporation shall deliver to the Secretary of State a certificate executed by an officer  
3572 or director of such corporation, or any person undertaking such request on behalf of the  
3573 corporation, verifying that the request for publication of a notice of intent to voluntarily  
3574 dissolve the corporation and payment therefor have been made as required by subsection  
3575 (b) of this Code section.

3576 (b) No later than the next business day after ~~Prior to~~ filing the notice of intent to dissolve  
3577 provided for in Code Section 14-3-1404, the corporation shall mail or deliver to the  
3578 publisher of a newspaper which is the official organ of the county where the registered  
3579 office of the corporation is located or which is a newspaper of general circulation published  
3580 within such county whose most recently published annual statement of ownership and  
3581 circulation reflects a minimum of 60 percent paid circulation a request to publish a notice  
3582 in substantially the following form:

3583 **NOTICE OF INTENT TO VOLUNTARILY DISSOLVE A CORPORATION**

3584 Notice is given that a notice of intent to dissolve \_\_\_\_\_ (name of  
3585 corporation), a Georgia nonprofit corporation with its registered office at

3586 \_\_\_\_\_ (address of registered office), will be delivered to the  
3587 Secretary of State for filing in accordance with the Georgia Nonprofit Corporation Code.'  
3588 The notice may also include the information specified in Code Section 14-3-1408. The  
3589 request for publication of the notice shall be accompanied by a check, draft, or money order  
3590 in the amount of \$40.00 in payment of the cost of publication. The notice shall be  
3591 published once a week for two consecutive weeks commencing within ten days after  
3592 receipt of the notice by the newspaper. Failure on the part of the corporation to mail or  
3593 deliver the notice or payment therefor or failure on the part of the newspaper to publish the  
3594 notice in compliance with this subsection shall not invalidate the dissolution of the  
3595 corporation.

3596 14-3-1405.

3597 (a) A corporation may revoke its dissolution proceedings at any time prior to the filing of  
3598 articles of dissolution.

3599 (b) Revocation of dissolution proceedings must be authorized in the same manner as the  
3600 dissolution was authorized unless that authorization permitted revocation by action by the  
3601 board of directors alone, in which event the board of directors may revoke the dissolution  
3602 without member action.

3603 (c) After the revocation of dissolution proceedings is authorized, the corporation may  
3604 revoke the dissolution proceedings by delivering to the Secretary of State for filing a notice  
3605 of revocation of intent to dissolve, together with a copy of its notice of intent to dissolve,  
3606 that sets forth:

3607 (1) The name of the corporation;

3608 (2) The date that the revocation of dissolution proceedings was authorized;

3609 (3) If the corporation's board of directors or incorporators revoked the dissolution  
3610 proceedings, a statement to that effect;



3611 (4) If the corporation's board of directors revoked the dissolution proceedings authorized  
3612 by the members, a statement that revocation was permitted by action by the board of  
3613 directors alone pursuant to that authorization; and

3614 (5) If member action was required to revoke the dissolution proceedings, the information  
3615 required by paragraph (3) of Code Section 14-3-1404.

3616 (d) Revocation of dissolution proceedings is effective when a notice of revocation of intent  
3617 to dissolve is filed.

3618 (e) When the revocation of dissolution proceedings is effective, it relates back to and takes  
3619 effect as of the effective date of the filing of the notice of intent to dissolve and the  
3620 corporation resumes carrying on its business as if dissolution proceedings had never  
3621 occurred.

3622 14-3-1406.

3623 A corporation that has filed a notice of intent to dissolve continues its corporate existence  
3624 but may not carry on any business except that appropriate to wind up and liquidate its  
3625 business and affairs, including:

3626 (1) Collecting its assets;

3627 (2) Disposing of its properties that will not be distributed in kind in accordance with the  
3628 plan of dissolution;

3629 (3) Discharging or making provision for discharging its liabilities;

3630 (4) Distributing its remaining property ~~among its members~~ in accordance with the plan  
3631 of dissolution; and

3632 (5) Doing every other act necessary to wind up and liquidate its business and affairs.

3633 14-3-1407.

3634 (a) A corporation that has filed a notice of intent to dissolve may dispose of the known  
3635 claims against it by following the procedure described in this Code section.

3636 (b) The corporation in dissolution shall notify its known claimants in writing of the  
3637 dissolution proceedings at any time after the filing of the notice of intent to dissolve. The  
3638 written notice must:

3639 (1) Describe information that must be included in a claim;

3640 (2) Provide a mailing address where a claim may be sent;

3641 (3) State the deadline, which may not be less than six months from the effective date of  
3642 the written notice, by which the dissolved corporation must receive the claim;

3643 (4) State that the claim will be barred if not received by the deadline; and

3644 (5) State that the corporation will give notice of acceptance or rejection of all claims that  
3645 are received in timely fashion within six months of the deadline for receipt of claims.

3646 (c) A claim against a corporation in dissolution is barred:

3647 (1) If a claimant who was given written notice under subsection (b) of this Code section  
3648 does not deliver the claim to the dissolved corporation by the deadline; or

3649 (2) If a claimant whose claim was rejected by the dissolved corporation does not  
3650 commence a proceeding to enforce the claim within one year from the effective date of  
3651 the rejection notice.

3652 (d) For purposes of this Code section, the term 'claim' does not include a contingent  
3653 liability or a claim based on an event occurring after the filing of the notice of intent to  
3654 dissolve.

3655 14-3-1408.

3656 (a) A corporation that has filed a notice of intent to dissolve may include in the notice of  
3657 its intent to dissolve published under Code Section 14-3-1404.1 a request that persons with  
3658 claims against the corporation present them in accordance with subsection (b) of this Code  
3659 section.

3660 (b) The request must:

- 3661 (1) Describe the information that must be included in a claim and provide a mailing  
3662 address where the claim may be sent; and
- 3663 (2) State that, except for claims that are contingent at the time of the filing of the notice  
3664 of intent to dissolve or that arise after the filing of the notice of intent to dissolve, a claim  
3665 against the corporation not otherwise barred will be barred unless a proceeding to enforce  
3666 the claim is commenced within two years after publication of the notice.
- 3667 (c) If a corporation that has filed a notice of intent to dissolve publishes a newspaper notice  
3668 containing the information specified in subsection (b) of this Code section, all claims not  
3669 otherwise barred will be barred unless the claimant commences a proceeding to enforce the  
3670 claim against the dissolved corporation within two years after the publication date of the  
3671 newspaper notice except:
- 3672 (1) Claims that are contingent at the time of the filing of the notice of intent to dissolve;  
3673 and
- 3674 (2) Claims that arise after the filing of the notice of intent to dissolve.
- 3675 (d) If a corporation in dissolution publishes a newspaper notice containing the information  
3676 specified in subsection (b) of this Code section, a claim against the corporation not  
3677 otherwise barred of a claimant whose claim is contingent or based on an event occurring  
3678 after the filing of the notice of intent to dissolve is barred against the corporation, its  
3679 members, officers, directors, and distributees unless the claimant commences a proceeding  
3680 to enforce the claim against the dissolved corporation within two years after the date of  
3681 filing of articles of dissolution or five years after the date of publication in accordance with  
3682 subsection (b) of this Code section, whichever is later.
- 3683 (e) Subject to the provisions of this Code section, a claim against a corporation in  
3684 dissolution or against a dissolved corporation may be enforced under this Code section:
- 3685 (1) Against the corporation, to the extent of its undistributed assets; or  
3686 (2) If the assets have been distributed in liquidation, against a distributee of the  
3687 corporation to the extent of such distributee's pro rata share of the claim or the corporate

3688 assets distributed to him or her in liquidation, whichever is less, but a distributee's total  
3689 liability for all claims under this Code section may not exceed the total amount of assets  
3690 distributed to him or her.

3691 14-3-1409.

3692 (a) If a notice of intent to dissolve under Code Section 14-3-1404 has not been revoked,  
3693 and for charitable corporations after providing the Attorney General 30 days' notice in  
3694 accordance with subsection (c) of Code Section 14-3-1403, when all known debts,  
3695 liabilities, and obligations of the corporation have been paid and discharged, or adequate  
3696 provision made therefor, the corporation may dissolve by delivering to the Secretary of  
3697 State for filing articles of dissolution setting forth:

3698 (1) The name of the corporation;

3699 (2) The date on which a notice of intent to dissolve was filed and a statement that it has  
3700 not been revoked;

3701 (3) A statement that all known debts, liabilities, and obligations of the corporation have  
3702 been paid and discharged, or that adequate provision has been made therefor;

3703 (4) A statement that all remaining property and assets of the corporation have been  
3704 distributed in accordance with the plan of dissolution, or that such property and assets  
3705 have been deposited with the Office of the State Treasurer as provided in Code Section  
3706 14-3-1440;

3707 (5) A statement that there are no actions pending against the corporation in any court, or  
3708 that adequate provision has been made for the satisfaction of any judgment, order, or  
3709 decree which may be entered against it in any pending action; and

3710 (6) A statement that, if required, it notified the Attorney General of its intent to dissolve  
3711 and has given the Attorney General time to respond in accordance with subsection (c) of  
3712 Code Section 14-3-1403.

3713 (b) Upon filing of articles of dissolution the corporation shall cease to exist, except for the  
3714 purpose of actions or other proceedings, which may be brought against the corporation by  
3715 service upon any of its last executive officers named in its last annual registration, and  
3716 except for such actions as the members, directors, and officers take to protect any remedy,  
3717 right, or claim on behalf of the corporation, or to defend, compromise, or settle any claim  
3718 against the corporation, all of which may proceed in the corporate name.

3719 (c) Deeds or other transfer instruments requiring execution after the dissolution of a  
3720 corporation may be signed by any two of the last officers or directors of the corporation  
3721 and shall operate to convey the interest of the corporation in the real estate or other  
3722 property described.

3723 ~~14-3-1409.1.~~ 14-3-1410.

3724 The dissolution of a corporation in any manner, except by a decree of the superior court  
3725 when the court has supervised the liquidation of the assets and business of the corporation  
3726 as provided in Code Sections 14-3-1430 and 14-3-1433, shall not take away or impair any  
3727 remedy available to such corporation; or its directors, officers, or members for any right  
3728 or claim existing prior to such dissolution if an action or other proceeding thereon is  
3729 pending on the date of such dissolution or is commenced within two years after the date of  
3730 such dissolution. Any such action or proceeding by the corporation may be prosecuted by  
3731 the corporation in its corporate name. The members, directors, and officers shall have the  
3732 power to take such corporate or other action as shall be appropriate to protect such remedy,  
3733 right, or claim.

3734 ~~14-3-1410.~~ 14-3-1411.

3735 (a) A corporation that has been dissolved by the expiration of its period of duration but  
3736 which has continued in business notwithstanding the expiration may revive its corporate  
3737 existence by amending its articles of incorporation at any time during a period of ten years

3738 immediately following the expiration date fixed by the articles of incorporation, so as to  
3739 extend its period of duration.

3740 (b) If a corporation whose period of duration has expired has failed to revive its corporate  
3741 existence within ten years of the expiration date fixed by its articles of incorporation as  
3742 provided in subsection (a) of this Code section, the corporation may thereafter revive its  
3743 corporate existence by amending its articles of incorporation so as to extend its period of  
3744 duration at any time during the period beginning ten years and ending 20 years  
3745 immediately following the expiration date fixed by its articles of incorporation and filing  
3746 with the Secretary of State an affidavit attested by one or more of its officers or directors,  
3747 stating as follows:

3748 (1) That the corporation has continued in business, notwithstanding the expiration of its  
3749 period of duration, at all times since the expiration date fixed by its articles of  
3750 incorporation; and

3751 (2) That the revival will not injure the corporation's members, the corporation's creditors,  
3752 or the public.

3753 (c) As of the effective date of the amendment of articles of incorporation pursuant to  
3754 subsection (a) or (b) of this Code section, the corporate existence shall be deemed to have  
3755 continued without interruption from the former expiration date. If, during the period  
3756 between expiration and revival, the name of the corporation has been assumed, reserved,  
3757 or registered by any other person or corporation, the revived corporation shall not engage  
3758 in business until it has amended its articles of incorporation to change its name.

3759 Part 2

3760 14-3-1420.

3761 The Secretary of State may commence a proceeding under Code Section 14-3-1421 to  
3762 dissolve a corporation administratively if:

3763 (1) The state revenue commissioner has certified to the Secretary of State that the  
3764 corporation has failed to file a license or occupation tax return and that a period of one  
3765 year has expired since the last day permitted for timely filing without the filing and  
3766 payment of all required license and occupation taxes and penalties by the corporation;  
3767 provided, however, that dissolution proceedings shall be stayed so long as the corporation  
3768 is contesting, in good faith, in any appropriate proceeding, the alleged grounds for  
3769 dissolution;

3770 (2) The corporation does not deliver its annual registration to the Secretary of State,  
3771 together with all required fees and penalties, within 60 days after it is due;

3772 (3) The corporation is without a registered agent or registered office in this state for 60  
3773 days or more;

3774 (4) The corporation does not notify the Secretary of State within 60 days that its  
3775 registered agent or registered office has been changed, that its registered agent has  
3776 resigned, or that its registered office has been discontinued; or

3777 (5) The corporation pays a fee as required to be collected by the Secretary of State  
3778 pursuant to ~~the Code~~ this chapter by a check or some other form of payment which is  
3779 dishonored and the corporation or its incorporator or its agent does not submit payment  
3780 for said dishonored payment within 60 days from notice of nonpayment issued by the  
3781 Secretary of State.

3782 14-3-1421.

3783 (a) If the Secretary of State determines that one or more grounds exist under Code Section  
3784 14-3-1420 for dissolving a corporation, ~~he~~ the Secretary of State shall provide the  
3785 corporation with written notice of ~~his~~ the Secretary's determination by mailing a copy of  
3786 the notice, first-class mail, to the corporation at the last known address of its principal  
3787 office or to the registered agent.

3788 (b) If the corporation does not correct each ground for dissolution or demonstrate to the  
3789 reasonable satisfaction of the Secretary of State that each ground determined by the  
3790 Secretary of State does not exist within 60 days after notice is provided to the corporation,  
3791 the Secretary of State shall administratively dissolve the corporation by signing a certificate  
3792 of dissolution that recites the ground or grounds for dissolution and its effective date. The  
3793 Secretary of State shall file the original of the certificate.

3794 (c) A corporation administratively dissolved continues its corporate existence but may not  
3795 carry on any business except that necessary to wind up and liquidate its business and affairs  
3796 under Code Section 14-3-1406. Winding up the business of a corporation that has been  
3797 administratively dissolved may include the corporation's proceeding, at any time after the  
3798 effective date of the administrative dissolution, (1) in accordance with Code Section  
3799 14-3-1407 to notify known claimants, and (2) to mail or deliver, with accompanying  
3800 payment of the cost of publication, a notice containing the information specified in  
3801 subsection (b) of Code Section 14-3-1408 for publication. Upon such notice, claims  
3802 against the administratively dissolved corporation will be limited as specified in Code  
3803 Sections 14-3-1407 and 14-3-1408, respectively.

3804 (d) The administrative dissolution of a corporation does not terminate the authority of its  
3805 registered agent.

3806 14-3-1422.

3807 (a) A corporation administratively dissolved under Code Section 14-3-1421 may apply to  
3808 the Secretary of State for reinstatement within five years after the effective date of such  
3809 dissolution. The application shall:

3810 (1) Recite the name of the corporation and the effective date of its administrative  
3811 dissolution;

3812 (2) State that the ground or grounds for dissolution either did not exist or have been  
3813 eliminated;



- 3814 (3) Either be executed by the registered agent or an officer, ~~director, or shareholder~~ of  
3815 the corporation, in each case as set forth in the most recent annual registration of the  
3816 corporation filed with the Secretary of State, or be accompanied by a notarized statement,  
3817 executed by a person who was an officer, director, or ~~shareholder~~ member, or an heir,  
3818 successor, or assign of a person who was an officer, director, or ~~shareholder~~ member, of  
3819 the corporation at the time that the corporation was administratively dissolved, stating  
3820 that such person or decedent was an officer, director, or ~~shareholder~~ member of the  
3821 corporation at the time of administrative dissolution and such person has knowledge of  
3822 and assents to the application for reinstatement;
- 3823 (4) Contain a statement by the corporation reciting that all taxes owed by the corporation  
3824 have been paid; and
- 3825 (5) Be accompanied by the fee required for the application for reinstatement contained  
3826 in Code Section 14-3-122.
- 3827 (b) The Secretary of State shall reserve the name of a corporation administratively  
3828 dissolved under Code Section ~~14-2-1421~~ 14-3-1421 for such corporation's specific use for  
3829 a period of five years after the effective date of the dissolution or until the corporation is  
3830 reinstated, whichever is sooner.
- 3831 (c) If the Secretary of State determines that the application contains the information  
3832 required by subsection (a) of this Code section and that the information is correct, the  
3833 Secretary of State shall prepare a certificate of reinstatement that recites his or her  
3834 determination and the effective date of reinstatement, file the original of the certificate, and  
3835 ~~serve~~ deliver a copy ~~on~~ to the corporation under Code Section ~~14-3-504~~ 14-3-125.
- 3836 (d) When the reinstatement is effective, it relates back to and takes effect as of the  
3837 effective date of the administrative dissolution and the corporation resumes carrying on its  
3838 business as if the administrative dissolution had never occurred.
- 3839 (e) This Code section shall apply to all corporations administratively dissolved under Code  
3840 Section 14-3-1421 or any similar former statute, regardless of the date of dissolution.

3841 14-3-1423.

3842 (a) If the Secretary of State denies a corporation's application for reinstatement following  
 3843 administrative dissolution, ~~he~~ the Secretary of State shall serve deliver to the corporation  
 3844 under Code Section ~~14-3-504 with~~ 14-3-125 a written notice that explains the reason or  
 3845 reasons for denial.

3846 (b) The corporation may appeal the denial of reinstatement to the superior court of the  
 3847 county where the corporation's registered office is or was located within 30 days after  
 3848 service of the notice of denial is perfected. The corporation appeals by petitioning the  
 3849 court to set aside the dissolution and attaching to the petition copies of the Secretary of  
 3850 State's certificate of dissolution, the corporation's application for reinstatement, and the  
 3851 Secretary of State's notice of denial.

3852 (c) The court's final decision may be appealed as in other civil proceedings.

3853 Part 3

3854 14-3-1430.

3855 The superior court may dissolve a corporation:

3856 (1) In a proceeding by the Attorney General if it is established that:

3857 (A) The corporation obtained its articles of incorporation through fraud or was  
 3858 reinstated under Code Section 14-3-1422 through fraud; or

3859 (B) The corporation has ~~continued~~ exceeded or abused, and is continuing to exceed or  
 3860 abuse, the authority conferred upon it by law;

3861 (2) In a proceeding by ~~a member~~ 50 members or members holding at least 5 percent of  
 3862 the voting power, whichever is less, if it is established that:

3863 (A) The directors are deadlocked in the management of the corporate affairs, the  
 3864 members are unable to break the deadlock, and irreparable injury to the corporation is

3865 threatened or being suffered or the business and affairs of the corporation can no longer  
3866 be conducted to the advantage of the members generally, because of the deadlock;  
3867 (B) The directors or those in control of the corporation have acted, are acting, or will  
3868 act in a manner that is illegal or fraudulent in connection with the operation or  
3869 management of the business and affairs of the corporation;  
3870 (C) The members are deadlocked in voting power and have failed, for a period that  
3871 includes at least two consecutive annual meeting dates, to elect successors to directors  
3872 whose terms have expired or would have expired; or  
3873 (D) The corporate assets are being misapplied or wasted;  
3874 (3) In a proceeding by a creditor if it is established that:  
3875 (A) The creditor's claim has been reduced to judgment, the execution on the judgment  
3876 has been returned unsatisfied, and the corporation is insolvent; or  
3877 (B) The corporation has admitted in writing that the creditor's claim is due and owing  
3878 and the corporation is insolvent; or  
3879 (4) In a proceeding by the corporation to have its voluntary dissolution continued under  
3880 court supervision;  
3881 provided, however, that all of the actions described in paragraphs (1) through (3) of this  
3882 Code section shall be stayed so long as the corporation is contesting, in good faith, in any  
3883 appropriate proceeding, the alleged grounds for dissolution.

3884 14-3-1431.

3885 (a) Venue for a proceeding by the Attorney General to dissolve a corporation and for a  
3886 proceeding brought by any other party named in Code Section 14-3-1430 lies in the county  
3887 where a corporation's registered office is or was last located.

3888 (b) It is not necessary to make members or directors parties to a proceeding to dissolve a  
3889 corporation unless relief is sought against them individually.

3890 (c) A court in a proceeding brought to dissolve a corporation may issue injunctions,  
3891 appoint a receiver or custodian pendente lite with all powers and duties the court directs,  
3892 take other action required to preserve the corporate assets wherever located, and carry on  
3893 the business of the corporation until a full hearing can be held.

3894 14-3-1432.

3895 (a) A court in a judicial proceeding brought to dissolve a corporation may appoint one or  
3896 more receivers to wind up and liquidate, or one or more custodians to manage, the business  
3897 and affairs of the corporation. The court shall hold a hearing, after notifying all parties to  
3898 the proceeding and any interested persons designated by the court, before appointing a  
3899 receiver or custodian. The court appointing a receiver or custodian has exclusive  
3900 jurisdiction over the corporation and all its property wherever located.

3901 (b) The court may appoint an individual or a domestic corporation or foreign corporation  
3902 (authorized to transact business in this state) as a receiver or custodian. The court may  
3903 require the receiver or custodian to post bond, with or without sureties, in an amount the  
3904 court directs.

3905 (c) The court shall describe the powers and duties of the receiver or custodian in its  
3906 appointing order, which may be amended from time to time. Among other powers:

3907 (1) The receiver:

3908 (A) May dispose of all or any part of the assets of the corporation wherever located,  
3909 at a public or private sale, if authorized by the court; and

3910 (B) May sue and defend in ~~his~~ the receiver's own name as receiver of the corporation  
3911 in all courts of this state; or

3912 (2) The custodian may exercise all of the powers of the corporation, through or in place  
3913 of its board of directors or officers, to the extent necessary to manage the affairs of the  
3914 corporation in the best interests of its members and creditors.

3915 (d) The court, during a receivership, may redesignate the receiver a custodian and, during  
3916 a custodianship, may redesignate the custodian a receiver, if doing so is in the best interests  
3917 of the corporation, its members, and its creditors.

3918 (e) The court from time to time during the receivership or custodianship may order  
3919 compensation paid and expense disbursements or reimbursements made to the receiver or  
3920 custodian and ~~his~~ the receiver's attorney from the assets of the corporation or proceeds from  
3921 the sale of the assets.

3922 14-3-1433.

3923 (a) If after a hearing the court determines that one or more grounds for judicial dissolution  
3924 described in Code Section 14-3-1430 exist, it may enter a decree ordering the corporation  
3925 dissolved, and the clerk of the court shall deliver a certified copy of the decree to the  
3926 Secretary of State, who shall file it, with the same effect as a notice of intent to dissolve.

3927 (b) After entering the order of dissolution, the court shall direct the winding up and  
3928 liquidation of the corporation's business and affairs in accordance with Code Section  
3929 14-3-1406. Winding up the business of a corporation judicially dissolved may include the  
3930 corporation's proceeding, after the date of the order of dissolution, (1) in accordance with  
3931 Code Section 14-3-1407 to notify known claimants, and (2) to mail or deliver, with  
3932 accompanying payment of the cost of publication, a notice containing the information  
3933 specified in subsection (b) of Code Section 14-3-1408 for publication. Upon such notice,  
3934 claims against the dissolved corporation will be limited as specified in Code Sections  
3935 14-3-1407 and 14-3-1408 respectively.

3936 (c) When the costs and expenses of dissolution proceedings and all debts, obligations, and  
3937 liabilities of the corporation have been paid and discharged or provided for and all of its  
3938 remaining assets distributed or provided for, whether to its members or, ~~provided~~ for  
3939 charitable corporations, to another entity described under subsection (a) of Code Section  
3940 14-3-1302, or such assets have been deposited with the Office of the State Treasurer as

3941 provided in Code Section 14-3-1440, the court shall enter a decree of dissolution, and upon  
3942 filing of the decree with the Secretary of State, it shall have the same effect as articles of  
3943 dissolution.

3944 Part 4

3945 14-3-1440.

3946 Assets of a dissolved corporation that should be transferred to a creditor, claimant, or  
3947 member of the corporation who cannot be found or who is not competent to receive them  
3948 shall be reduced to cash and deposited with the Office of the State Treasurer for  
3949 safekeeping. When the creditor, claimant, or member furnishes satisfactory proof of  
3950 entitlement to the amount deposited, the Office of the State Treasurer shall pay him or her  
3951 or his or her representative that amount. After the Office of the State Treasurer has held  
3952 the unclaimed cash for six months, the Office of the State Treasurer shall pay such cash to  
3953 the Board of Regents of the University System of Georgia, to be held without liability for  
3954 profit or interest until a claim for such cash shall be filed with the Office of the State  
3955 Treasurer by the parties entitled thereto. No such claim shall be made more than six years  
3956 after such cash is deposited with the Office of the State Treasurer.

3957 ARTICLE 15

3958 Part 1

3959 14-3-1501.

3960 (a) A foreign corporation may not transact business in this state until it obtains a certificate  
3961 of authority from the Secretary of State.

3962 (b) The following activities, among others, do not constitute transacting business within  
3963 the meaning of subsection (a) of this Code section:

- 3964 (1) Maintaining or defending any action or any administrative or arbitration proceeding  
3965 or effecting the settlement thereof or the settlement of claims or disputes;
- 3966 (2) Holding meetings of its directors or members or carrying on other activities  
3967 concerning its internal affairs;
- 3968 (3) Maintaining bank accounts, share accounts in savings and loan associations,  
3969 custodian or agency arrangements with a bank or trust company, or stock or bond  
3970 brokerage accounts;
- 3971 (4) Maintaining offices or agencies for the transfer, exchange, and registration of  
3972 memberships or securities or maintaining trustees or depositaries with respect to those  
3973 securities;
- 3974 (5) Effecting sales through independent contractors;
- 3975 (6) Soliciting or procuring orders, whether by mail or through employees or agents or  
3976 otherwise, where the orders require acceptance outside this state before becoming binding  
3977 contracts and where the contracts do not involve any local performance other than  
3978 delivery and installation;
- 3979 (7) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real  
3980 or personal property, or recording same;
- 3981 (8) Securing or collecting debts or enforcing any rights in property securing the same;
- 3982 (9) Owning, without more, real or personal property;
- 3983 (10) Conducting an isolated transaction not in the course of a number of repeated  
3984 transactions of a like nature;
- 3985 (11) Effecting transactions in interstate or foreign commerce;
- 3986 (12) Serving as trustee, executor, administrator, or guardian, or in like fiduciary capacity,  
3987 where permitted so to serve by the laws of this state;
- 3988 (13) Owning directly or indirectly an interest in or controlling directly or indirectly  
3989 another entity organized under the laws of or transacting business within this state; or

3990 (14) Serving as a manager of a limited liability company organized under the laws of or  
3991 transacting business within this state.

3992 (c) The list of activities in subsection (b) of this Code section is not exhaustive.

3993 (d) This chapter shall not be deemed to establish a standard for activities which either may  
3994 or may not subject a foreign corporation to taxation, ~~or to~~ service of process, registration  
3995 relating to charitable solicitations under Code Section 43-17-5, or regulation under any of  
3996 ~~the~~ laws of this state.

3997 14-3-1502.

3998 (a) A foreign corporation transacting business in this state without a certificate of authority  
3999 may not maintain a proceeding in any court in this state until it obtains a certificate of  
4000 authority.

4001 (b) The successor to a foreign corporation that transacted business in this state without a  
4002 certificate of authority and the assignee of a cause of action arising out of that business may  
4003 not maintain a proceeding based on that cause of action in any court in this state unless  
4004 before the commencement of the proceeding the foreign corporation or its successor  
4005 obtains a certificate of authority.

4006 (c) Notwithstanding subsections (a) and (b) of this Code section, the failure of a foreign  
4007 corporation to obtain a certificate of authority does not impair the validity of its corporate  
4008 acts or prevent it from defending any proceeding in this state.

4009 14-3-1503.

4010 (a) A foreign corporation may apply for a certificate of authority to transact business in  
4011 this state by delivering an application to the Secretary of State for filing. The application  
4012 must set forth:

4013 (1) The name of the foreign corporation or, if its name is unavailable for use in this state,  
4014 a corporate name that satisfies the requirements of Code Section 14-3-1506;



- 4015 (2) The name of the state or country under whose law it is incorporated;  
4016 (3) Its date of incorporation;  
4017 (4) The mailing address of its principal office;  
4018 (5) The address of its registered office in this state and the name of its registered agent  
4019 at that office; and  
4020 (6) The names and respective business addresses of its chief executive officer, chief  
4021 financial officer, and secretary, ~~or individuals holding similar positions.~~  
4022 (b) The foreign corporation shall deliver with the completed application a certificate of  
4023 existence (or a document of similar import) duly authenticated by the secretary of state or  
4024 other official having custody of corporate records in the state or country under whose law  
4025 it is incorporated.

4026 14-3-1504.

4027 (a) A foreign corporation authorized to transact business in this state must obtain an  
4028 amended certificate of authority from the Secretary of State if it changes:

- 4029 (1) Its corporate name;  
4030 (2) The period of its duration; or  
4031 (3) The state or country of its incorporation.

4032 (b) If a foreign corporation authorized to transact business in this state converts into a  
4033 foreign limited partnership or a foreign limited liability company:

4034 (1) Such foreign corporation shall notify the Secretary of State that such conversion has  
4035 occurred no later than 30 days after the conversion, using such form as the Secretary of  
4036 State shall specify, which form may require such information and statements required to  
4037 be submitted by such type of foreign limited partnership or foreign limited liability  
4038 company initially applying for a certificate of authority to transact business in this state;  
4039 and

4040 (2) If such notice is timely given and such foreign corporation, foreign limited  
4041 partnership, or foreign limited liability company is required to obtain a certificate of  
4042 authority to transact business in this state:

4043 (A) The authorization of such converted foreign corporation to transact business in this  
4044 state shall continue without interruption; and

4045 (B) The certificate of authority issued to such converted foreign corporation under this  
4046 article shall constitute an amended certificate of authority that otherwise would be  
4047 issued under the laws of this state to such type of foreign limited partnership or foreign  
4048 limited liability company.

4049 ~~(b)~~(c) The requirements of Code Section 14-3-1503 for obtaining an original certificate  
4050 of authority apply to obtaining an amended certificate under this Code section.

4051 14-3-1505.

4052 (a) A certificate of authority authorizes the foreign corporation to which it is issued to  
4053 transact business in this state subject, however, to the right of the state to revoke the  
4054 certificate as provided in this chapter.

4055 (b) A foreign corporation with a valid certificate of authority has the same but no greater  
4056 rights under this chapter and has the same but no greater privileges under this chapter as,  
4057 and except as otherwise provided by this chapter is subject to the same duties, restrictions,  
4058 penalties, and liabilities now or later imposed on, a domestic corporation of like character.

4059 (c) This chapter does not authorize this state to regulate the organization or internal affairs  
4060 of a foreign corporation authorized to transact business in this state.

4061 14-3-1506.

4062 (a) If the corporate name of a foreign corporation does not satisfy the requirements of  
4063 Code Section 14-3-401, the foreign corporation to obtain or maintain a certificate of  
4064 authority to transact business in this state:

- 4065 (1) May add the word 'corporation,' 'incorporated,' 'company,' or 'limited,' or the  
4066 abbreviation 'corp.,' 'inc.,' 'co.,' or 'ltd.,' or the name of its state of incorporation to its  
4067 corporate name for use in this state; or
- 4068 (2) May use a fictitious or trade name to transact business in this state if its real name is  
4069 unavailable and it delivers to the Secretary of State for filing a copy of the resolution of  
4070 its board of directors, certified by its secretary, adopting the fictitious or trade name.
- 4071 (b) Except as authorized by subsections (c) and (d) of this Code section, a corporate name  
4072 (including a fictitious name) of a foreign corporation must be distinguishable upon the  
4073 records of the Secretary of State from:
- 4074 (1) The corporate name of a corporation, whether for profit or not for profit, incorporated  
4075 or authorized to transact business in this state;
- 4076 (2) A ~~corporate~~ name reserved or registered under ~~this chapter or Chapter 2~~ of this title;
- 4077 (3) The fictitious name adopted by a foreign corporation authorized to transact business  
4078 in this state because its real name is unavailable; ~~and~~
- 4079 (4) The name of a limited partnership or professional association reserved or filed with  
4080 the Secretary of State under this title; and
- 4081 (5) The name of a limited liability company formed or authorized to transact business  
4082 in this state.
- 4083 (c) A foreign corporation may apply to the Secretary of State for authorization to use in  
4084 this state the name of another corporation (incorporated or authorized to transact business  
4085 in this state) that is not distinguishable upon his or her records from the name applied for.  
4086 The Secretary of State shall authorize use of the name applied for if the other corporation  
4087 files with the Secretary of State articles of amendment to its articles of incorporation  
4088 changing its name to a name that is distinguishable upon the records of the Secretary of  
4089 State from the name of the applying corporation.
- 4090 (d) A foreign corporation may use the name (including the fictitious name) of another  
4091 domestic corporation or foreign corporation whether for profit or not for profit that is used

4092 in this state if the other corporation is incorporated or authorized to transact business in this  
4093 state and:

4094 (1) The foreign corporation has merged with the other corporation;

4095 (2) The foreign corporation has been formed by reorganization of the other corporation;

4096 or

4097 (3) The other domestic corporation or foreign corporation has taken the steps required  
4098 by this chapter to change its name to a name that is distinguishable upon the records of  
4099 the Secretary of State from the name of the foreign corporation applying to use its former  
4100 name.

4101 (e) If a foreign corporation authorized to transact business in this state changes its  
4102 corporate name to one that does not satisfy the requirements of Code Section 14-3-401, it  
4103 may not transact business in this state under the changed name until it adopts a name  
4104 satisfying the requirements of Code Section 14-3-401 and obtains an amended certificate  
4105 of authority under Code Section 14-3-1504.

4106 14-3-1507.

4107 Each foreign corporation authorized to transact business in this state must continuously  
4108 maintain in this state:

4109 (1) A registered office that may be the same as any of its places of business; and

4110 (2) A registered agent, who may be:

4111 (A) An individual who resides in this state and whose business office is identical with  
4112 the registered office;

4113 (B) A domestic corporation, domestic business corporation, or domestic limited  
4114 liability company whose business office is identical with the registered office; or

4115 (C) A foreign corporation, foreign business corporation, or foreign limited liability  
4116 company authorized to transact business in this state whose business office is identical  
4117 with the registered office.

4118 14-3-1508.

4119 (a) A foreign corporation authorized to transact business in this state may change its  
4120 registered office or registered agent by delivering to the Secretary of State for filing an  
4121 amendment to its annual registration that sets forth:

4122 (1) Its name;

4123 (2) The street address of its current registered office;

4124 (3) If the current registered office is to be changed, the street address of its new  
4125 registered office;

4126 (4) The name of its current registered agent; and

4127 (5) That after the change or changes are made, the street addresses of its registered office  
4128 and the business office of its registered agent will be identical.

4129 (b) If a registered agent changes the street address of his or her business office, he or she  
4130 may change the street address of the registered office of any foreign corporation for which  
4131 he or she is the registered agent by notifying the corporation in writing of the change and  
4132 signing (either manually or in facsimile) and delivering to the Secretary of State for filing  
4133 an amendment to the annual registration that complies with the requirements of subsection  
4134 (a) of this Code section.

4135 14-3-1509.

4136 (a) The registered agent of a foreign corporation may resign his or her agency appointment  
4137 by signing and delivering to the Secretary of State for filing a statement of resignation. The  
4138 statement may include a statement that the registered office is also discontinued.

4139 (b) On or before the date of filing of the statement of resignation, the registered agent shall  
4140 deliver or mail a written notice of the agent's intention to resign to the chief executive  
4141 officer, chief financial officer, or secretary of the corporation, ~~or a person holding a~~  
4142 ~~position comparable to any of the foregoing~~, as named, and at the address as shown in the

4143 annual registration; or in the articles of incorporation if no annual registration has been  
4144 filed.

4145 (c) The agency appointment is terminated, and the registered office discontinued if so  
4146 provided, on the earlier of the filing by the corporation of an amendment to its annual  
4147 registration designating a new registered agent and registered office if also discontinued  
4148 or the thirty-first day after the date on which the statement was filed.

4149 14-3-1510.

4150 (a) The registered agent of a foreign corporation authorized to transact business in this  
4151 state is the corporation's agent for service of any process, notice, or demand required or  
4152 permitted by law to be served on the foreign corporation.

4153 (b) If a foreign corporation has no registered agent or its registered agent cannot with  
4154 reasonable diligence be served, the corporation may be served by registered or certified  
4155 mail or statutory overnight delivery, return receipt requested, addressed to the chief  
4156 executive officer, chief financial officer, or secretary of the foreign corporation, ~~or a person~~  
4157 ~~holding a position comparable to any of the foregoing~~, at its principal office shown in the  
4158 later of its application for a certificate of authority or its most recent annual registration.  
4159 Any party that serves a foreign corporation in accordance with this subsection shall also  
4160 serve a copy of the process upon the Secretary of State and shall pay a \$10.00 filing fee.

4161 (c) Service is perfected under subsection (b) of this Code section at the earliest of:

4162 (1) The date the foreign corporation receives the mail;

4163 (2) The date shown on the return receipt, if signed on behalf of the foreign corporation;

4164 or

4165 (3) Five days after its deposit in the United States mail, as evidenced by the postmark,  
4166 if mailed postpaid and correctly addressed.

4167 (d) This Code section does not prescribe the only means, or necessarily the required  
4168 means, of serving a foreign corporation.

4169 (e) For service in a proceeding to enforce any obligation of a domestic corporation party  
4170 to a merger, see subsection (b) of Code Section 14-3-1106.

4171 Part 2

4172 14-3-1520.

4173 (a) A foreign corporation authorized to transact business in this state may not withdraw  
4174 from this state until it obtains a certificate of withdrawal from the Secretary of State. A  
4175 foreign corporation authorized to transact business in this state that merges with and into  
4176 a domestic corporation pursuant to Code Section 14-3-1106 and is not the surviving  
4177 corporation in such merger need not obtain a certificate of withdrawal from the Secretary  
4178 of State.

4179 (b) A foreign corporation authorized to transact business in this state may apply for a  
4180 certificate of withdrawal by delivering an application to the Secretary of State for filing.

4181 The application must set forth:

4182 (1) The name of the foreign corporation and the name of the state or country under  
4183 whose law it is incorporated;

4184 (2) That it is not transacting business in this state and that it surrenders its authority to  
4185 transact business in this state;

4186 (3) That it revokes the authority of its registered agent to accept service on its behalf and  
4187 appoints the Secretary of State as its agent for service of process in any proceeding based  
4188 on a cause of action arising during the time it was authorized to transact business in this  
4189 state;

4190 (4) A mailing address to which a copy of any process served on the Secretary of State  
4191 under paragraph (3) of this subsection may be mailed under subsection (c) of this Code  
4192 section; and

4193 (5) A commitment to notify the Secretary of State in the future of any change in its  
4194 mailing address.

4195 (c) After the withdrawal of the corporation is effective, service of process on the Secretary  
4196 of State under this Code section is service on the foreign corporation. Any party that serves  
4197 process upon the Secretary of State in accordance with this subsection shall also mail a  
4198 copy of the process to the chief executive officer, chief financial officer, or the secretary  
4199 of the foreign corporation, ~~or a person holding a comparable position,~~ at the mailing  
4200 address set forth under subsection (b) of this Code section.

4201 Part 3

4202 14-3-1530.

4203 The Secretary of State may commence a proceeding under Code Section 14-3-1531 to  
4204 revoke the certificate of authority of a foreign corporation authorized to transact business  
4205 in this state if:

4206 (1) The foreign corporation does not deliver its annual registration to the Secretary of  
4207 State within 60 days after it is due;

4208 (2) The foreign corporation does not pay within 60 days after they are due any fees,  
4209 taxes, or penalties imposed by this chapter or other law;

4210 (3) The foreign corporation is without a registered agent or registered office in this state  
4211 for 60 days or more;

4212 (4) The foreign corporation does not inform the Secretary of State under Code Section  
4213 14-3-1508 or 14-3-1509 that its registered agent or registered office has changed, that its  
4214 registered agent has resigned, or that its registered office has been discontinued within  
4215 60 days of the change, resignation, or discontinuance;



4216 (5) An incorporator, director, officer, or agent of the foreign corporation signed a  
4217 document he or she knew was false in any material respect with intent that the document  
4218 be delivered to the Secretary of State for filing; or

4219 (6) The Secretary of State receives a duly authenticated certificate from the secretary of  
4220 state or other official having custody of corporate records in the state or country under  
4221 whose law the foreign corporation is incorporated stating that it has been dissolved or  
4222 disappeared as the result of a merger.

4223 14-3-1531.

4224 (a) If the Secretary of State determines that one or more grounds exist under Code Section  
4225 14-3-1530 for revocation of a certificate of authority, he or she shall provide the foreign  
4226 corporation with written notice of his or her determination by mailing a copy of the notice,  
4227 by first-class mail, to the foreign corporation at the last known address of its principal  
4228 office or to the registered agent.

4229 (b) If the foreign corporation does not correct each ground for revocation or demonstrate  
4230 to the reasonable satisfaction of the Secretary of State that each ground determined by the  
4231 Secretary of State does not exist within 60 days after notice is provided to the corporation,  
4232 the Secretary of State may revoke the foreign corporation's certificate of authority by  
4233 signing a certificate of revocation that recites the ground or grounds for revocation and its  
4234 effective date.

4235 (c) The authority of a foreign corporation to transact business in this state ceases on the  
4236 date shown on the certificate revoking its certificate of authority.

4237 (d) The Secretary of State's revocation of a foreign corporation's certificate of authority  
4238 appoints the Secretary of State as the foreign corporation's agent for service of process in  
4239 any proceeding based on a cause of action which arose during the time the foreign  
4240 corporation was authorized to transact business in this state. Service of process on the  
4241 Secretary of State under this subsection is service on the foreign corporation. Any party

4242 that serves process upon the Secretary of State shall also mail a copy of the process to the  
4243 chief executive officer, chief financial officer, or the secretary of the foreign corporation,  
4244 ~~or a person holding a comparable position,~~ at its principal office shown in its most recent  
4245 annual registration or in any subsequent communication received by the Secretary of State  
4246 from the corporation stating the current mailing address of its principal office, or, if none  
4247 is on file, in its application for a certificate of authority.

4248 (e) Revocation of a foreign corporation's certificate of authority does not terminate the  
4249 authority of the registered agent of the corporation.

4250 14-3-1532.

4251 (a) A foreign corporation may appeal the Secretary of State's revocation of its certificate  
4252 of authority to the Superior Court of Fulton County within 30 days after service of the  
4253 certificate of revocation is perfected under Code Section 14-3-1510. The foreign  
4254 corporation appeals by petitioning the court to set aside the revocation and attaching to the  
4255 petition copies of its certificate of authority and the Secretary of State's certificate of  
4256 revocation.

4257 (b) The court may summarily order the Secretary of State to reinstate the certificate of  
4258 authority or may take any other action the court considers appropriate.

4259 (c) The court's final decision may be appealed as in other civil proceedings.

4260 Part 4

4261 14-3-1540.

4262 (a) A foreign corporation which prior to April 1, 1969, has domesticated in this state under  
4263 the procedure available prior to that date and which is a domesticated foreign corporation  
4264 on that date shall have perpetual duration as a domesticated foreign corporation of this state  
4265 unless its existence is terminated in its jurisdiction of incorporation or its domesticated

4266 status is dissolved in accordance with the provisions of this chapter relating to involuntary  
4267 dissolution or until such time as it withdraws from this state in the manner provided in this  
4268 chapter. Such domesticated foreign corporations and the members thereof shall have all the  
4269 rights, privileges, and immunities and be subject to all the duties, liabilities, and disabilities  
4270 applicable to similar corporations organized under the laws of this state and applicable to  
4271 the members thereof, except as may be provided with respect to such domesticated foreign  
4272 corporations by any of the laws of this state existing on April 1, 1969, or coming into  
4273 existence thereafter.

4274 (b) Whenever the term 'foreign corporation authorized to transact business in this state' is  
4275 used in this chapter, it shall be deemed to include domesticated foreign corporations, except  
4276 where the context or this chapter otherwise requires.

## 4277 ARTICLE 16

### 4278 Part 1

4279 14-3-1601.

4280 (a) A corporation shall keep as permanent records minutes of all meetings of its members  
4281 and board of directors, executed consents evidencing all actions taken by the members or  
4282 board of directors without a meeting, a record of all actions taken by a committee of the  
4283 board of directors in place of the board of directors on behalf of the corporation, and  
4284 waivers of notice of all meetings of the board of directors and its committees.

4285 (b) A corporation shall maintain appropriate accounting records.

4286 (c) A corporation or its agent shall maintain a record of its members in a form that permits  
4287 preparation of a list of the name and address of all members, in alphabetical order by class,  
4288 showing the number of votes each member is entitled to cast.

4289 (d) A corporation shall maintain its records in written form or in another form capable of  
4290 conversion into written form within a reasonable time.

4291 14-3-1602.

4292 (a) A corporation shall keep a copy of the following records:

4293 (1) Its articles or restated articles of incorporation and all amendments to them currently  
4294 in effect;

4295 (2) Its bylaws or restated bylaws and all amendments to them currently in effect;

4296 (3) Resolutions adopted by either its members or board of directors increasing or  
4297 decreasing the number of directors or the classification of directors, or relating to the  
4298 characteristics, qualifications, rights, limitations, and obligations of members or any class  
4299 or category of members;

4300 (4) Resolutions adopted by either its members or board of directors relating to the  
4301 characteristics, qualifications, rights, limitations, and obligations of members or any class  
4302 or category of members;

4303 (5) The minutes of all meetings of members, executed waivers of notice of meetings, and  
4304 executed consents, delivered in writing or by electronic transmission, evidencing all  
4305 actions taken or approved by the members without a meeting, for the past three years;

4306 (6) All communications in writing or by electronic transmission to members generally  
4307 within the past three years, including the financial statements furnished for the past three  
4308 years under Code Section 14-3-1620;

4309 (7) A list of the names and business or home addresses of its current directors and  
4310 officers; and

4311 (8) Its most recent annual registration delivered to the Secretary of State under Code  
4312 Section 14-3-1622.

4313 (b) A member is entitled to inspect and copy, at a reasonable time and location specified  
4314 by the corporation, any of the records of the corporation described in subsection (a) of this  
4315 Code section if the member gives the corporation written notice or a written demand at  
4316 least five business days before the date on which the member wishes to inspect and copy.

4317 (c) A member is entitled to inspect and copy, at a reasonable time and reasonable location  
4318 specified by the corporation, any of the following records of the corporation if the member  
4319 meets the requirements of subsection (d) of this Code section and gives the corporation  
4320 written notice at least five business days before the date on which the member wishes to  
4321 inspect and copy:

4322 (1) Excerpts from minutes of any meeting of the board of directors, records of any action  
4323 of a committee of the board of directors while acting in place of the board of directors on  
4324 behalf of the corporation, minutes of any meeting of the members, and records of action  
4325 taken by the members or the board of directors without a meeting, to the extent not  
4326 subject to inspection under subsection (a) of this Code section;

4327 (2) Accounting records of the corporation; and

4328 (3) Subject to Code Section 14-3-1605, the membership list.

4329 (d) A member may inspect and copy the records identified in subsection (c) of this Code  
4330 section only if:

4331 (1) The member's demand is made in good faith and for a proper purpose that is  
4332 reasonably relevant to the member's legitimate interest as a member;

4333 (2) The member describes with reasonable particularity the purpose and the records the  
4334 member desires to inspect;

4335 (3) The records are directly connected with this purpose; and

4336 (4) The records are to be used only for the stated purpose.

4337 (e) The corporation may impose reasonable restrictions on the confidentiality, use, or  
4338 distribution of the records described in subsection (c) of this Code section.

4339 (f) This Code section does not affect:

4340 (1) The right of a member to inspect records under Code Section 14-3-720 or, if the  
4341 member is in litigation with the corporation, to the same extent as any other litigant; or

4342 (2) The power of a court, independently of this chapter, to compel the production of  
4343 corporate records for examination.

4344 14-3-1603.

4345 (a) A member's agent or attorney has the same inspection and copying rights as the  
4346 member the agent or attorney represents.

4347 (b) The right to copy records under Code Section 14-3-1602 includes, if reasonable, the  
4348 right to receive copies made by photographic, ~~xerographic~~ electronic, or other means.

4349 (c) The corporation may impose a reasonable charge, covering the costs of labor and  
4350 material, for copies of any documents provided to the member. The charge may not exceed  
4351 the estimated cost of production or reproduction of the records.

4352 (d) A corporation shall convert into written form without charge any record not in written  
4353 form, upon written request of a person entitled to inspect it.

4354 (e) The corporation may comply with a member's demand to inspect the record of  
4355 members under paragraph (3) of subsection (c) of Code Section 14-3-1602 by providing  
4356 the member with a list of its members that was compiled no earlier than the date of the  
4357 member's demand.

4358 14-3-1604.

4359 (a) If a corporation does not allow a member who complies with subsection (b) of Code  
4360 Section 14-3-1602 to inspect and copy any records required by that subsection to be  
4361 available for inspection, the superior court may summarily order inspection and copying  
4362 of the records demanded at the corporation's expense upon application of the member.

4363 (b) If a corporation does not within a reasonable time allow a member to inspect and copy  
4364 any other record, the member who complies with subsections (b) and (c) of Code Section  
4365 14-3-1602 may apply to the superior court for an order to permit inspection and copying  
4366 of the records demanded. The court shall dispose of an application under this subsection  
4367 on an expedited basis.

4368 (c) If the court orders inspection and copying of the records demanded, it shall also order  
4369 the corporation to pay the member's costs (including reasonable ~~attorneys'~~ attorney's fees)

4370 incurred to obtain the order unless the corporation proves that it refused inspection in good  
4371 faith because it had a reasonable basis for doubt about the right of the member to inspect  
4372 the records demanded.

4373 (d) If the court orders inspection and copying of the records demanded, it may impose  
4374 reasonable restrictions on the use or distribution of the records by the demanding member.

4375 14-3-1605.

4376 Without consent of the board, a membership list or any part thereof may not be obtained  
4377 or used by any person for any purpose unrelated to a member's interest as a member.

4378 Without limiting the generality of the foregoing, without the consent of the board a  
4379 membership list or any part thereof may not be:

4380 (1) Used to solicit money or property unless such money or property will be used solely  
4381 to solicit the votes of the members in an election to be held by the corporation;

4382 (2) Used for any commercial purpose; or

4383 (3) Sold to or purchased by any person.

4384 14-3-1606.

4385 (a) A director of a corporation is entitled to inspect and copy the books, records, and  
4386 documents of the corporation at any reasonable time to the extent reasonably related to the  
4387 performance of the director's duties as a director, including duties as a member of a board  
4388 committee, but not for any other purpose or in any manner that would violate any duty to  
4389 the corporation or any law.

4390 (b) Upon application of a director who has been refused such inspection and copying  
4391 rights, the superior court shall order inspection and copying of the books, records, and  
4392 documents at the corporation's expense, unless the corporation establishes that the director  
4393 is not entitled to such inspection and copying rights. The court shall dispose of an  
4394 application under this Code section on an expedited basis.

4395 (c) If an order is issued, the court may include provisions protecting the corporation from  
4396 undue burden or expense, and prohibiting the director from using information obtained  
4397 upon exercise of the inspection and copying rights in a manner that would violate a duty  
4398 to the corporation or any law, and may also order the corporation to reimburse the director  
4399 for the director's expenses (including attorney's fees) incurred in connection with the  
4400 application.

4401 Part 2

4402 14-3-1620.

4403 (a) A corporation upon request in writing or by electronic transmission from a member  
4404 shall furnish that member its latest prepared annual financial statements, which may be  
4405 consolidated or combined statements of the corporation and one or more of its subsidiaries  
4406 or affiliates, in reasonable detail as appropriate, that include a balance sheet as of the end  
4407 of the fiscal year and statement of operations for that year. If financial statements are  
4408 prepared for the corporation on the basis of generally accepted accounting principles, the  
4409 annual financial statements must also be prepared on that basis.

4410 (b) If annual financial statements are reported upon by a public accountant, the  
4411 accountant's report must accompany them. If not, the statements must be accompanied by  
4412 the statement of the ~~president~~ chief executive officer or the person responsible for the  
4413 corporation's financial accounting records:

4414 (1) Stating the ~~president's~~ chief executive officer's or other person's reasonable belief as  
4415 to whether the statements were prepared on the basis of generally accepted accounting  
4416 principles and, if not, describing the basis of preparation; and

4417 (2) Describing any respects in which the statements were not prepared on a basis of  
4418 accounting consistent with the statements prepared for the preceding year.



4419 14-3-1621.

4420 If a corporation indemnifies or advances expenses to a director under Code Section  
4421 14-3-851, 14-3-852, 14-3-853, or 14-3-854 in connection with a proceeding by or in the  
4422 right of the corporation, the corporation shall report the indemnification or advance in  
4423 writing to the members with or before the notice of the next meeting of members.

4424 14-3-1622.

4425 (a) Each domestic corporation and each foreign corporation authorized to transact business  
4426 in this state shall deliver to the Secretary of State for filing an annual registration that sets  
4427 forth:

4428 (1) The name of the corporation and the state or country under whose law it is  
4429 incorporated;

4430 (2) The street address and county of its registered office and the name of its registered  
4431 agent at that office in this state;

4432 (3) The mailing address of its principal office, if any; and

4433 (4) The names and respective addresses of its chief executive officer, chief financial  
4434 officer, and secretary, ~~or individuals holding similar positions.~~

4435 (b) Information in the annual registration must be current as of the date the annual  
4436 registration is executed on behalf of the corporation.

4437 (c) The first annual registration must be delivered to the Secretary of State between  
4438 January 1 and April 1, or such other date as the Secretary of State may specify by rules or  
4439 regulations, of the year following the calendar year in which a domestic corporation was  
4440 incorporated or a foreign corporation was authorized to transact business. Subsequent  
4441 annual registrations must be delivered to the Secretary of State between January 1 and  
4442 April 1, or such other date as the Secretary of State may specify by rules or regulations, of  
4443 the following calendar years.

4444 (d) The initial annual registration of a domestic corporation shall be filed within 90 days  
4445 after the day its articles of incorporation are delivered to the Secretary of State for filing.  
4446 However, the initial annual registration of a domestic corporation whose articles of  
4447 incorporation are delivered to the Secretary of State for filing subsequent to October 1 shall  
4448 be filed between January 1 and April 1 of the year next succeeding the calendar year in  
4449 which its certificate of incorporation is issued by the Secretary of State.

4450 (e) If an annual registration does not contain the information required by this Code section,  
4451 the Secretary of State shall promptly notify the reporting domestic corporation or foreign  
4452 corporation in writing and return the report to it for correction. If the report is corrected  
4453 to contain the information required by this Code section and delivered to the Secretary of  
4454 State within 30 days after the effective date of notice, it is deemed to be timely filed.

4455 ARTICLE 17

4456 14-3-1701.

4457 (a) Subject to the limitations of subsection (b) of this Code section, this chapter shall  
4458 apply:

4459 (1) To all nonprofit corporations, existing on or formed after July 1, 1991, including  
4460 nonprofit corporations organized under any prior general corporation law of this state or  
4461 under Chapter 3 of Title 14 of the Official Code of Georgia Annotated in effect prior to  
4462 July 1, 1991, that is repealed by this chapter;

4463 (2) To all nonprofit corporations created by special Act of the General Assembly as to  
4464 which power has been reserved to withdraw the franchise;

4465 (3) To any nonprofit corporation, organization, or association, to the extent that the  
4466 former general corporation law of this state or any of its provisions or this chapter or any  
4467 of its provisions specifically have been or shall be made applicable to such corporation,  
4468 organization, or association; and

4469 (4) To any corporation organized under any statute of this state or if it were originally  
4470 created by special Act of the General Assembly without reservation of power to withdraw  
4471 the franchise, if under any prior general corporation law of this state applicable to  
4472 nonprofit corporations such corporation either has amended its charter or has been a party  
4473 to a merger or a consolidation, and also to any such corporation which after July 1, 1991,  
4474 in an amendment to its articles of incorporation or restatement of the articles of  
4475 incorporation or in a merger or a consolidation, elects to be subject to this chapter. Any  
4476 such corporation shall have all the rights, privileges, franchises, immunities, and powers  
4477 and shall be subject to all the duties, liabilities, and disabilities of a corporation to which  
4478 this chapter applies as well as of the statute or special Act by which such corporation was  
4479 originally created; but in the event of a conflict between such statute or special Act and  
4480 this chapter, such statute or special Act shall govern.

4481 (b) This chapter shall not apply:

4482 (1) To corporations organized under a statute of this state other than either this chapter  
4483 or any prior general corporation law, except to the extent that the former general  
4484 corporation law of this state applicable to nonprofit corporations or any of its provisions  
4485 or this chapter or any of its provisions specifically have been or shall be made applicable  
4486 to such corporations;

4487 (2) To any corporation originally created by special Act of the General Assembly as to  
4488 which power has not been reserved to withdraw the franchise, except as otherwise  
4489 provided in subsection (a) of this Code section;

4490 (3) To any corporation originally created by special Act of the General Assembly as to  
4491 which power has been reserved to withdraw the franchise, if the purpose of the  
4492 corporation would require its organization to take place under a statute other than this  
4493 chapter, if it were being organized after July 1, 1991, except to the extent that the former  
4494 general corporation law of this state or any of its provisions or this chapter or any of its

4495 provisions specifically have been or shall be made applicable to corporations organized  
4496 for that purpose;

4497 (4) To any public authority created by special Act of the General Assembly, except to  
4498 the extent that the former general corporation law of this state or any of its provisions or  
4499 this chapter or any of its provisions specifically have been or shall be made applicable to  
4500 such public authority; or

4501 (5) To corporations of any class to the extent that such class is specifically exempted  
4502 from this chapter or any of its provisions.

4503 (c) This chapter shall not impair the existence of any nonprofit corporation existing on July  
4504 1, 1991. Subject to Code Section 14-3-610, any such existing corporation to which this  
4505 chapter is applicable and its members, directors, and officers shall have the same rights and  
4506 be subject to the same limitations, restrictions, liabilities, and penalties as a corporation  
4507 formed under this chapter and its members, directors, and officers.

4508 (d) If the articles of incorporation, charter, or bylaws of a corporation in existence on July  
4509 1, 1991, contain any provisions that were not authorized or permitted by the prior general  
4510 corporation law of this state but which are authorized or permitted by this chapter, the  
4511 provisions of the articles of incorporation, charter, or bylaws shall be valid on and from that  
4512 date, and action may be taken on and from that date in reliance on those provisions. If the  
4513 articles of incorporation, charter, or bylaws of a corporation in existence on July 1, 1991,  
4514 contain any provisions that were authorized or permitted by the prior nonprofit corporation  
4515 law of this state, that were validly adopted under the law in effect at the time of their  
4516 adoption, and that are authorized or permitted by this chapter, the provisions of the articles  
4517 of incorporation, charter, or bylaws shall continue to be valid on and from that date,  
4518 whether or not this chapter imposes requirements for the adoption of such provisions that  
4519 are different from those in effect at the time the provisions were adopted.

4520 (e) This chapter shall apply to commerce with foreign nations and among the several states  
4521 only insofar as the application may be permitted under the Constitution and laws of the  
4522 United States.

4523 14-3-1702.

4524 A foreign corporation transacting business in this state on or after July 1, 1991, is subject  
4525 to this chapter. A foreign corporation that is authorized to transact business or conduct  
4526 affairs in this state on July 1, 1991, is not required to obtain a new certificate of authority.

4527 14-3-1703.

4528 (a) Except as provided in subsection (b) of this Code section, the repeal of a statute by this  
4529 chapter does not affect:

4530 (1) The operation of the statute or any action taken under it before its repeal;

4531 (2) Any ratification, right, remedy, privilege, obligation, ~~or~~ cause of action, liability,  
4532 penalty, or action or special proceeding acquired, accrued, or incurred under the statute  
4533 before its repeal; but the same, as well as actions that are pending on July 1, 1991, may  
4534 be asserted, enforced, prosecuted, or defended as if the prior statute has not been  
4535 repealed;

4536 (3) Any violation of the statute, or any penalty, forfeiture, or punishment incurred  
4537 because of the violation, before its repeal;

4538 (4) Transactions validly entered into before July 1, 1991, and the rights, duties, and  
4539 interests flowing from them shall remain valid thereafter and may be terminated,  
4540 completed, consummated, or enforced as required or permitted by any statute repealed  
4541 by this chapter as though the repeal had not occurred;

4542 (5) Any proceeding, reorganization, or dissolution commenced under the statute before  
4543 its repeal, and the proceeding, reorganization, or dissolution may be completed in  
4544 accordance with the statute as if it had not been repealed;

4545 (6) Any provision of the articles of incorporation, charter, or bylaws of a corporation in  
4546 existence on July 1, 1991, that was authorized or permitted by the prior nonprofit  
4547 corporation law of this state, that was validly adopted under the law in effect at the time  
4548 of its adoption, and that is authorized or permitted by this chapter; or

4549 (7) Any meeting of members or directors or action by written consent noticed or any  
4550 action taken before its repeal as a result of a meeting of members or directors or action  
4551 by written consent.

4552 (b) If a penalty or punishment imposed for violation of a statute repealed by this chapter  
4553 is reduced by this chapter, the penalty or punishment if not already imposed shall be  
4554 imposed in accordance with this chapter."

4555

## PART II

4556

### SECTION 2-1.

4557 Code Section 8-2-42 of the Official Code of Georgia Annotated, relating to bribery of  
4558 property or association managers regarding claims for damages arising out of construction  
4559 defects prohibited and procedure for bringing action to remedy construction defects, is  
4560 amended by revising paragraph (1) of subsection (e) as follows:

4561 "(1) The members of the association have voted to approve commencement of an action  
4562 by two-thirds of the votes cast, by statutory written ballot as provided in Code Section  
4563 ~~14-3-708~~ 14-3-707 or have approved commencement of an action by the affirmative vote  
4564 of at least two-thirds of the total membership at a meeting of the members at which a  
4565 quorum is present;"

4566

### SECTION 2-2.

4567 Code Section 14-5-40 of the Official Code of Georgia Annotated, relating to applicability of  
4568 Chapter 3 of Title 14, is amended as follows:

4569 "14-5-40.

4570 Chapter 3 of this title shall be fully applicable to all nonprofit corporations organized for  
4571 religious, fraternal, or educational purposes, including incorporated churches, religious and  
4572 fraternal societies, schools, academies, colleges, or universities which are 'corporations' as  
4573 that term is defined in ~~paragraph (6)~~ of Code Section 14-3-140."

4574

**PART III**

4575

**SECTION 3-1.**

4576 All laws and parts of laws in conflict with this Act are repealed.