

10-33-27. Board.

1. The activities and affairs of a corporation must be managed by or under the direction of a board.
 - a. All directors are entitled to vote and have equal rights and preferences except as otherwise provided in the articles or bylaws.
 - b. The members of the first board may be named in the articles, designated or appointed pursuant to the articles, or elected by the incorporators under section 10-33-25.
2. No more than forty-nine percent of the individuals serving on the board of any corporation may be financially interested individuals.
3. For the purposes of this section, "financially interested individuals" means:
 - a. Individuals who have received or are entitled to receive compensation, directly or indirectly, from the corporation for services rendered to it within the previous twelve months, whether as full-time or part-time employees, independent contractors, consultants, or otherwise, excluding any reasonable payments made to directors for serving as directors;
 - b. Any parent, child, child of a spouse, brother, or sister of that individual; or
 - c. The spouse of any individual described in subdivision a or b.
4. Failure to comply with the provisions of this section does not affect the validity or enforceability of any transaction entered into by the corporation.

10-33-28. Number of directors.

With respect to the number of directors:

1. The board must consist of three or more directors, with the number specified in or fixed in accordance with the articles or bylaws. However, if the corporation has either one or two members with voting rights, the number of directors may be less than three but not less than the number of members with voting rights.
2. The number of directors may be increased or, subject to sections 10-33-36 and 10-33-37, decreased at any time by amendment to or in the manner provided in the articles or bylaws.
3. Notwithstanding section 10-33-38, if the power to elect or appoint directors is vested in the board of directors and if the number of directors falls below three, or such greater minimum number set forth in the articles or bylaws, then a majority of the directors in office may appoint or elect the number of additional directors necessary to increase the board to three directors or such greater minimum set forth in the articles or bylaws.

10-33-29. Qualifications and election of directors.

Directors must be individuals. The method of election and any additional qualifications for directors may be imposed by or in the manner provided in the articles or bylaws.

10-33-30. Terms of directors.

1. With respect to length of terms:
 - a. Directors are elected or appointed and hold office for fixed terms provided for in the articles or bylaws. A fixed term of a director, other than an ex officio director, may not exceed ten years. If the articles or bylaws do not provide for a fixed term, the term is one year. An ex officio director serves as long as the director holds the office or position designated in the articles or bylaws.
 - b. Unless the articles or bylaws provide otherwise, a director holds office until expiration of the term for which the director was elected or appointed and until a successor is elected and qualified, or until the earlier death, resignation, removal, or disqualification of the director.
 - c. A decrease in the number of directors or term of office does not shorten an incumbent director's term.
 - d. Except as provided in the articles or bylaws, the term of a director filling a vacancy expires at the end of the unexpired term that the director is filling.

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

10-33-31. Acts not void or voidable.

The expiration of a director's term with or without the election of a qualified successor does not make prior or subsequent acts of the officers or the board void or voidable.

10-33-32. Compensation of directors.

Subject to any limitations in the articles or bylaws, the board may fix the compensation of directors.

10-33-33. Classification of directors.

1. Except as provided in subsection 2, directors may be divided into classes.
2. Directors of a corporation described in subsection 1 of section 10-33-122 may not vote by class except when the articles or bylaws provide that only one class of directors may vote on a particular matter.

10-33-34. Cumulative voting for directors.

Unless the articles provide otherwise, there is no cumulative voting.

10-33-35. Resignation of directors.

1. A director may resign at any time by giving written notice to the corporation. The resignation is effective without acceptance when the notice is given to the corporation, unless a later effective time is specified in the notice.
2. If a resignation is made effective at a later date, the board may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

10-33-36. Nonjudicial removal of directors.

1. This section applies unless a different method of removal is provided for in the articles or bylaws.
2. With respect to an elected director:
 - a. If there is a member with voting rights:
 - (1) A director may be removed by the board at any time, with or without cause, if:
 - (a) The director was named by the board to fill a vacancy;
 - (b) The members with voting rights have not elected directors in the interval between the time of the appointment to fill the vacancy and the time of the removal; and
 - (c) A majority of the remaining directors present affirmatively vote to remove the director.
 - (2) A director may be removed at any time, with or without cause, by those members eligible to elect the director.
 - b. If there is no member with voting rights, a director may be removed at any time, with or without cause, by those directors eligible to elect the director.
3. With respect to an appointed director:
 - a. Except as otherwise provided in the articles or bylaws, an appointed director may be removed without cause by the person appointing the director.
 - b. The person removing the director shall do so by giving written notice of the removal to the director and either the presiding officer of the board or the corporation's president or secretary.
 - c. A removal is effective when the notice is effective unless the notice states a future effective date.
4. A new director may be elected at a meeting at which a director is removed.

10-33-37. Removal of directors by judicial proceeding.

1. The district court of the county in which the principal executive office of a corporation is located may remove any director of the corporation from office in a proceeding commenced either by the corporation, its members holding at least ten percent of the voting power of any class of shares, or the attorney general, if the court finds:
 - a. The director engaged in fraudulent or dishonest conduct, or gross abuse of authority or discretion, with respect to the corporation;
 - b. That the provisions of subsection 2 of section 10-33-27 have been violated; or
 - c. Final judgment has been entered finding the director has violated section 10-33-45.
2. The court that removes a director may bar the director from serving on the board for a period prescribed by the court.
3. If members or the attorney general commence a proceeding under subdivision a of subsection 1, then the corporation must be made a party defendant.
4. If a corporation or its members commence a proceeding under subsection 1, they must give the attorney general written notice of the proceeding.

10-33-38. Board vacancies.

1. Unless the articles or bylaws provide otherwise, and except as provided in this section, if a vacancy occurs on the board, including a vacancy resulting from an increase in the number of directors:
 - a. The members with voting rights, if any, may fill the vacancy; or
 - b. The remaining members of the board, though less than a quorum, may fill the vacancy.
2. If a vacant office was held by a director elected by a class, chapter, or other organizational unit or by region or other geographic grouping, only members with voting rights of the class, chapter, unit, or grouping are entitled to vote to fill the vacancy.
3. If a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.
4. A vacancy that will occur at a specific later date may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

10-33-39. Board meetings.

1. Meetings of the board may be held from time to time as provided in the articles or bylaws at any place within or without the state that the board may select or by any means described in subsection 2.
 - a. Unless the articles or bylaws provide otherwise, a meeting of the board must be held at least once per year.
 - b. If the articles, bylaws, or board fails to select a place or method for selecting a place for a meeting, the meeting must be held at the principal executive office.
 - c. Participation in a meeting by a means set forth in subsection 2 constitutes presence in person at the meeting.
2. Any meeting among directors may be conducted:
 - a. Solely by one or more means of remote communication through which all of the directors may participate in the meeting:
 - (1) If the notice required by subsection 3 is given for the meeting; and
 - (2) If the number of directors participating in the meeting is sufficient to constitute a quorum at a meeting.
 - b. By means of conference telephone or, if authorized by the board, by such other means of remote communication, in each case through which that director, other directors so participating, and all directors physically present at the meeting participate with each other during the meeting.
3. Unless the articles or bylaws provide for a different time period, a director may call a board meeting by giving at least ten days' notice or, in the case of organizational

meetings pursuant to subsection 2 of section 10-33-25, at least three days' notice, to all directors of the date, time, and place of the meeting.

- a. The notice must contain the substance of any proposed amendment to the articles but otherwise need not state the purpose of the meeting unless the articles or bylaws require it.
 - b. Any notice to a director given under any provision of this chapter, the articles, or the bylaws by a form of electronic communication consented to by the director to whom the notice is given is effective when given.
 - c. Consent by a director to notice given by electronic communication may be given in writing or by authenticated electronic communication. Any consent so given may be relied upon until revoked by the director, provided that no revocation affects the validity of any notice given before receipt of revocation of the consent.
4. If the date, time, and place of a board meeting have been provided in the articles or bylaws, or announced at a previous meeting of the board, no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.
 5. A director may waive notice of a meeting of the board. A waiver of notice by a director entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, by authenticated electronic communication, or by attendance. Attendance by a director at a meeting is a waiver of notice of that meeting, except when the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

10-33-40. Absent directors.

If the articles or bylaws so provide, a director may give advance written consent or opposition to a proposal to be acted on at a board meeting. If the director is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition must be counted as the vote of a director present at the meeting in favor of or against the proposal and must be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

10-33-41. Quorum of directors.

A majority, or a larger or smaller proportion or number provided in the articles or bylaws, of the directors currently holding office is a quorum for the transaction of business. In the absence of a quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of a number of directors originally present leaves less than the proportion or number otherwise required for a quorum.

10-33-42. Act of the board.

The board shall take action by the affirmative vote of a majority of directors with voting rights present and entitled to vote at a duly held meeting, unless this chapter or the articles or bylaws require the affirmative vote of a larger proportion or number.

10-33-43. Action without meeting by directors.

1. An action required or permitted to be taken at a board meeting may be taken by written action signed, or consented to by authenticated electronic communication, by all of the directors. If the articles so provide, any action, other than an action requiring approval of members with voting rights, may be taken by written action signed, or consented to by authenticated electronic communication, by the number of directors

that would be required to take the same action at a meeting of the board at which all directors were present.

2. The written action is effective when signed, or consented to by authenticated electronic communication, by the required number of directors, unless a different effective time is provided in the written action.
3. When written action is permitted to be taken by less than all directors, all directors must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A director who does not sign or consent to the written action has no liability for the action or actions taken thereby.

10-33-44. Board committees.

1. A resolution approved by the affirmative vote of a majority of the directors currently holding office may establish committees having the authority of the board in the management of the activities of the corporation to the extent provided in the resolution. Committees may include a special litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the corporation and whether those rights or remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control of the board.
2. Committee members must be individuals. Unless the articles or bylaws provide for a different membership or manner of appointment, a committee must consist of one or more persons, who need not be directors, appointed by the affirmative vote of a majority of the directors present.
3. Sections 10-33-39 through 10-33-43 apply to committees and members of committees to the same extent as those sections apply to the board and directors.
4. Minutes, if any, of committee meetings must be made available upon request to members of the committee and to any director.
5. The establishment of, delegation of authority to, and action by a committee does not alone constitute compliance by a director with the standard of conduct set forth in section 10-33-45.
6. Committee members are deemed to be directors for purposes of sections 10-33-45, 10-33-46, and 10-33-84.
7. Unless otherwise provided in the articles, the bylaws, or the resolution of the board establishing the committee, a committee may create one or more subcommittees, each consisting of one or more members of the committee, and may delegate to a subcommittee any or all of the authority of the committee. In this chapter, unless the language or context clearly indicates that a different meaning is intended:
 - a. Any reference to a committee is deemed to include a subcommittee; and
 - b. Any reference to a committee member is deemed to include any reference to a subcommittee member.

10-33-45. Standard of conduct for directors.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the corporation.
2. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:
 - a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
 - b. Counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence; or
 - c. A committee of the board upon which the director does not serve, duly established in accordance with section 10-33-44 as to matters within its

designated authority, if the director reasonably believes the committee to merit confidence.

3. Subsection 2 does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by subsection 2 unwarranted.
4. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless the director:
 - a. Objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting, in which case the director may not be considered to be present at the meeting for any purpose of this chapter;
 - b. Votes against the action at the meeting; or
 - c. Is prohibited from voting on the action:
 - (1) By the articles;
 - (2) By the bylaws;
 - (3) As the result of the decision to approve, ratify, or authorize a transaction pursuant to section 10-33-46; or
 - (4) By a conflict of interest policy adopted by the board.
5. A director, regardless of how identified, is not considered to be a trustee with respect to the corporation or with respect to property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

10-33-46. Director conflicts of interest.

1. A contract or other transaction between a corporation and its director or a member of the family of its director; a director of a related organization, or a member of the family of a director of a related organization; or an organization in or of which the corporation's director, or a member of the family of its director, is a director, officer, or legal representative or has a material financial interest, is not void or voidable because the director or the other individual or organization are parties or because the director is present at the meeting of the members or the board or a committee at which the contract or transaction is authorized, approved, or ratified, if at least one of the requirements of subsection 2 is satisfied.
2. A contract or transaction described in subsection 1 is not void or voidable if:
 - a. The contract or transaction was, and the person asserting the validity of the contract or transaction has the burden of establishing that the contract or transaction was, fair and reasonable as to the corporation when it was authorized, approved, or ratified;
 - b. The material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the members and the contract or transaction is approved in good faith by two-thirds of the members entitled to vote, not counting any vote that the interested director might otherwise have, or the unanimous affirmative vote of all members, whether or not entitled to vote;
 - c. The material facts as to the contract or transaction and as to the director's interest are fully disclosed or known to the board or a committee, and the board or committee authorizes, approves, or ratifies the contract or transaction in good faith by a majority of directors or committee members currently holding office. However, the interested director or directors may not vote and are not considered for purposes of a quorum. If as a result the number of remaining directors is not sufficient to reach a quorum, then a quorum for the purpose of considering the contract or transaction is the number of remaining directors or committee members, not counting any vote that the interested director might otherwise have, and not counting the director in determining the presence of a quorum; or
 - d. The contract or transaction is a merger or consolidation described in section 10-33-85.
3. For purposes of this section:

- a. A director does not have a material financial interest in a resolution fixing the compensation of the director or fixing the compensation of another director as a director, officer, employee, or agent of the corporation, even though the first director is also receiving compensation from the corporation;
 - b. A director has a material financial interest in an organization in which the director, or a member of the family of the director, has a material financial interest; and
 - c. A "member of the family" of a director is a spouse, parent, child, child of a spouse, brother, sister, or the spouse of any of them.
4. The procedures described under subdivisions a, b, and c of subsection 2 are not required if the contract or other transaction is between related organizations.

10-33-47. Immunity of officers, directors, and trustees.

Any person that serves as a director, officer, or trustee of a corporation that is, or would qualify as a nonprofit organization that is described in paragraphs 3, 4, 5, 6, 7, 10, and 19 of section 501(c) of the Internal Revenue Code of 1954, as amended [26 U.S.C. 501(c)(3), (4), (5), (6), (7), (10), and (19)], is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met:

1. The officer, director, or trustee was acting in good faith and in the scope of that person's official duties as a director, officer, or trustee.
2. The act or omission did not constitute willful misconduct or gross negligence on the part of the officer, director, or trustee.
3. The officer, director, or trustee did not receive or expect to receive reimbursement for or payment of expenses in excess of two thousand dollars per year for expenses actually incurred as a result of providing services as a director, officer, or trustee, and did not receive or expect to receive compensation or anything in lieu of compensation as payment for services provided as a director, officer, or trustee.

10-33-48. Immunity of volunteers.

1. Any person who, on a volunteer basis, provides services or performs duties on behalf of a corporation is immune from civil liability for any act or omission resulting in damage or injury if at the time of the act or omission all of the following are met:
 - a. The person who caused the damage or injury was acting in good faith and in the scope of that person's duties as a volunteer for the corporation.
 - b. The act or omission did not constitute willful misconduct or gross negligence.
2. This section does not grant immunity to any person causing damage as the result of the negligent operation of a motor vehicle.

10-33-49. Officers.

1. The officers of a corporation must be individuals who are eighteen years of age or more exercising the functions of the offices and:
 - a. Must include a president and a secretary, however designated; and
 - b. May also include a treasurer, one or more vice presidents, and any other officers, however designated, as may be prescribed by the bylaws.
2. Unless the articles or the bylaws provide that the members with voting rights may elect the officers:
 - a. Each officer must be elected by the board at the time and in the manner as may be provided in the bylaws; or
 - b. To the extent authorized in the articles, the bylaws, or a resolution approved by the affirmative vote of a majority of the directors present, the president may appoint one or more officers, other than the treasurer.
3. Unless otherwise provided, president shall mean chief executive officer and treasurer shall mean chief financial officer.

10-33-50. Duties of officers and agents.

Unless the articles, bylaws, or a resolution adopted by the board, which is not inconsistent with the articles or bylaws, provides otherwise:

1. The president shall:
 - a. Have general active management for the activities of the corporation;
 - b. When present, preside at all meetings of the board and of members;
 - c. See that all orders and resolutions of the board are carried into effect;
 - d. Sign and deliver in the name of the corporation any deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the articles or bylaws or by the board to some officer or agent of the corporation;
 - e. Maintain records of and, whenever necessary, certify all proceedings of the board and the members; and
 - f. Perform other duties prescribed by the board.
2. The vice president, if any, or, if there is more than one, the vice presidents in the order determined by the board, shall:
 - a. In the absence or disability of the president, perform the duties and exercise the powers of the president; and
 - b. Perform any other duties and shall have such other powers as the board may from time to time prescribe.
3. The treasurer, if any, shall:
 - a. Keep accurate financial records for the corporation;
 - b. Deposit all money, drafts, and checks in the name of and to the credit of the corporation in the banks and depositories designated by the board;
 - c. Endorse for deposit all notes, checks, and drafts received by the corporation as ordered by the board, making proper vouchers;
 - d. Disburse corporate funds and issue checks and drafts in the name of the corporation, as ordered by the board;
 - e. Give to the president and the board, when requested, an account of all transactions by the treasurer and of the financial condition of the corporation; and
 - f. Perform other duties prescribed by the board or by the president.
4. The secretary shall:
 - a. Attend all meetings of the board, all meetings of the members and, when required, all meetings of standing committees;
 - b. Record all proceedings of the meetings;
 - c. Give, or cause to be given, notice of all meetings of the members and meetings of the board; and
 - d. Perform other duties prescribed by the board.
5. All other officers and agents of the corporation, as between themselves and the corporation, have the authority and shall perform the duties in the management of the corporation as may be provided in the articles or bylaws, or as may be determined by resolution of the board not inconsistent with the articles and bylaws.

10-33-51. Multiple offices.

Unless the articles or bylaws provide otherwise, any number of offices or functions of those offices may be held or exercised by the same individual. If a record must be signed by individuals holding different offices or functions and an individual holds or exercises more than one of those offices or functions, that individual may sign the record in more than one capacity, but only if the record indicates each capacity in which the individual signs.

10-33-52. Officers deemed elected.

In the absence of an election or appointment of officers by the board or the members with voting rights, the individual or individuals exercising the functions of the principal officers of the corporation are deemed to have been elected to those offices.

10-33-53. Contract rights.

The election or appointment of an individual as an officer or agent does not, of itself, create contract rights. However, a corporation may enter into a contract with an officer or agent. The resignation or removal of an officer or agent is without prejudice to any contractual rights or obligations. The fact that the contract may be for a term that is longer than the terms of the directors who authorized or approved the contract does not make the contract void or voidable.

10-33-54. Resignation, removal, and vacancies for officers.

1. An officer may resign by giving written notice to the corporation. The resignation is effective without acceptance when the notice is given to the corporation, unless a later effective date is specified in the notice.
2. With respect to removal:
 - a. Except as otherwise provided in the articles or bylaws, an officer may be removed at any time, with or without cause, by a resolution adopted by the board or by the members with voting rights, whichever elected or appointed the officer.
 - b. An officer appointed by the president may also be removed at any time, with or without cause, by the president.
 - c. To the extent authorized in the articles, the bylaws, or a resolution approved by the affirmative vote of a majority of the directors present, the president of a corporation may remove an officer elected or appointed by the board, other than the treasurer.
 - d. The articles or the bylaws may provide other manners of removing an officer.
 - e. A removal as described in this subsection is without prejudice to any contractual rights of the officer.
3. A vacancy in an office because of death, resignation, removal, disqualification, or other cause may, or in the case of a vacancy in the office of treasurer, if any, or president, must be filled for the unexpired part of the term in the manner provided in the articles or bylaws as determined by the board, or under section 10-33-52.

10-33-55. Delegation by officers.

Unless prohibited by the articles or bylaws or by a resolution adopted by the board, an officer elected or appointed by the board, without the approval of the board, may delegate some or all of the duties and powers of an office to other individuals. An officer who delegates the duties or powers of an office remains subject to the standard of conduct for an officer with respect to the discharge of all duties and powers so delegated.

10-33-56. Standard of conduct for officers.

1. An officer shall discharge the duties of an office in good faith, in a manner the officer reasonably believes to be in the best interests of the corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. An individual exercising the principal functions of an office or to whom some or all of the duties and powers of an office are delegated pursuant to section 10-33-55 is deemed an officer for purposes of this section and sections 10-33-81 and 10-33-84.
2. An officer is not considered to be a trustee with respect to the corporation or with respect to property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

10-33-57. Members.

1. A corporation may have one or more classes of members or may have no members. In the absence of a provision in its articles or bylaws providing for members, a corporation has no members.
 - a. If a corporation has no members, an action for which there is no specific provision of this chapter applicable to a corporation without members and that would