

IC 23-1-22

Chapter 22. Powers and Purposes

IC 23-1-22-1

Purpose of corporation; law governing

Sec. 1. (a) Every corporation incorporated under this article has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(b) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this article unless provisions for incorporation of corporations engaging in that business exist under that statute.

As added by P.L.149-1986, SEC.6.

IC 23-1-22-2

Perpetual duration; powers

Sec. 2. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to:

- (1) sue and be sued, complain and defend in its corporate name;
- (2) have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it (however, the use of a corporate seal or an impression thereof is not required and does not affect the validity of any instrument whatsoever, notwithstanding any other statutes);
- (3) make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;
- (4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located;
- (5) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any entity, including itself, except as otherwise prohibited by this article;
- (7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (8) lend money, invest and reinvest its funds, and receive and

hold real and personal property as security for repayment;
(9) be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
(10) conduct its business, locate offices, and exercise the powers granted by this article within or without Indiana;
(11) elect directors, elect and appoint officers, and appoint employees and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;
(12) pay pensions and establish and administer pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, welfare plans, qualified and nonqualified retirement plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;
(13) make donations for the public welfare or for charitable, scientific, or educational purposes;
(14) transact any lawful business that will aid governmental policy;
(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation; and
(16) adopt, either in the corporation's articles of incorporation or bylaws, a provision establishing exclusive jurisdiction in the circuit or superior courts of any county in Indiana or in the United States district courts of Indiana, for:
(A) any derivative action brought on behalf of, or in the name of the corporation;
(B) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or agent of the corporation to:
(i) the corporation; or
(ii) any of the corporation's constituents identified in IC 23-1-35-1(d);
(C) any action asserting a claim arising under:
(i) any provision of this article; or
(ii) the corporation's articles of incorporation or bylaws; or
(D) any actions otherwise relating to the internal affairs of the corporation.

As added by P.L.149-1986, SEC.6. Amended by P.L.63-2014, SEC.3.

IC 23-1-22-3

Emergencies; powers; meetings

Sec. 3. (a) In anticipation of or during an emergency defined in subsection (d), the board of directors of a corporation may:

- (1) modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and
- (2) relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency defined in subsection (d), unless emergency bylaws provide otherwise:

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

(2) one (1) or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

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

(1) binds the corporation; and

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

(d) An emergency exists for purposes of this section if an extraordinary event prevents a quorum of the corporation's directors from assembling in time to deal with the business for which the meeting has been or is to be called.

As added by P.L.149-1986, SEC.6.

IC 23-1-22-4

Procedures regulating transactions resulting in change of control

Sec. 4. (a) In addition to any other provision contained in its articles of incorporation or bylaws or authorized by any other provision of this article, a corporation may establish one (1) or more procedures by which it regulates transactions that would, when consummated, result in a change of control of such corporation.

(b) For purposes of this section and any procedure established under this section, "control" means:

(1) for any corporation having one hundred (100) or more shareholders, the beneficial ownership, or the direct or indirect power to direct the voting, of no less than ten percent (10%) of the voting shares of a corporation's outstanding voting shares; and

(2) for any corporation having fewer than one hundred (100) shareholders, the beneficial ownership, or the direct or indirect power to direct the voting, of no less than fifty percent (50%) of the voting shares of the corporation's outstanding voting shares.

(c) A procedure established under this section may be adopted:

(1) in a corporation's original articles of incorporation or bylaws;

(2) by amending the articles of incorporation; or

(3) notwithstanding that a vote of the shareholders would otherwise be required by any other provision of this article or the articles of incorporation for the adoption or implementation of all or any portion of the procedure, by amending the bylaws.

As added by P.L.149-1986, SEC.6.

IC 23-1-22-5

Challenging corporation's power to act; ultra vires acts

Sec. 5. (a) Except as provided in subsection (b), the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

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

(1) in a proceeding by a shareholder against the corporation to enjoin the act;

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

(3) in a proceeding by the attorney general under IC 23-1-47-1.

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

As added by P.L.149-1986, SEC.6.