

IC 23-1-47

Chapter 47. Judicial Dissolution

IC 23-1-47-1

Judicial dissolution; when allowable

Sec. 1. The circuit or superior court may dissolve a corporation:

(1) in a proceeding by the attorney general if it is established that:

(A) the corporation obtained its articles of incorporation through fraud; or

(B) the corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) in a proceeding by a shareholder if it is established that:

(A) the directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock; or

(B) the shareholders are deadlocked in voting power and have failed, for a period that includes at least two (2) consecutive annual meeting dates, to elect successors to directors whose terms have expired;

(3) in a proceeding by a creditor if it is established that:

(A) the creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) the corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

As added by P.L.149-1986, SEC.31.

IC 23-1-47-2

Venue; parties; preservation of corporate assets

Sec. 2. (a) Venue for a proceeding by the attorney general to dissolve a corporation lies in Marion County. Venue for a proceeding brought by any other party named in section 1 of this chapter lies in the county where a corporation's principal office (or, if none in Indiana, its registered office) is or was last located.

(b) It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(c) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

As added by P.L.149-1986, SEC.31.

IC 23-1-47-3

Receivers and custodians

Sec. 3. (a) A court in a judicial proceeding brought to dissolve a corporation may appoint one (1) or more receivers to wind up and liquidate, or one (1) or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property wherever located.

(b) The court may appoint an individual or a domestic or foreign corporation (authorized to transact business in Indiana) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(1) the receiver:

(A) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

(B) may sue and defend in the receiver's own name as receiver of the corporation in all courts of this state; and

(2) the custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(d) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

(e) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver's or custodian's counsel from the assets of the corporation or proceeds from the sale of the assets.

As added by P.L.149-1986, SEC.31.

IC 23-1-47-4

Decree of dissolution; winding up affairs

Sec. 4. (a) If, after a hearing, the court determines that one (1) or more grounds for judicial dissolution described in section 1 of this chapter exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with IC 6-8.1-10-9 and IC 23-1-45-5 and the notification of claimants in accordance with IC 23-1-45-6 and IC 23-1-45-7.

As added by P.L.149-1986, SEC.31. Amended by P.L.73-1988, SEC.3.