

## Chapter 55A

### North Carolina Nonprofit Corporation Act.

#### ARTICLE 1.

##### General Provisions.

###### Part 1. Short Title and Reservation of Power.

###### **§ 55A-1-01. Short title.**

This Chapter shall be known and may be cited as the "North Carolina Nonprofit Corporation Act". (1993, c. 398, s. 1.)

###### **§ 55A-1-02. Reservation of power to amend or repeal.**

The General Assembly has power to amend or repeal all or part of this Chapter at any time and all domestic and foreign corporations subject to this Chapter are governed by the amendment or repeal. (1993, c. 398, s. 1.)

###### **§§ 55A-1-03 through 55A-1-19. Reserved for future codification purposes.**

###### Part 2. Filing Documents.

###### **§ 55A-1-20. Filing requirements.**

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a domestic or foreign corporation must be executed:

- (1) By the presiding officer of its board of directors, by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary. (1955, c. 1230; 1967, c. 13, s. 2; c. 823, s. 21; 1985 (Reg. Sess., 1986), c. 801, s. 2; 1993, c. 398, s. 1; 1999-369, s. 2.1; 2001-358, s. 7(a); 2001-387, ss. 32, 155, 173, 175(a); 2001-413, s. 6.)

###### **§ 55A-1-21. Forms.**

(a) The Secretary of State may promulgate and furnish on request forms for:

- (1) An application for a certificate of existence;
- (2) A foreign corporation's application for a certificate of authority to conduct affairs in this State;
- (3) A foreign corporation's application for a certificate of withdrawal;
- (4) Designation of Principal Office Address; and
- (5) Corporation's Statement of Change of Principal Office.

If the Secretary of State so requires, use of these forms is mandatory.

(b) The Secretary of State may promulgate and furnish on request forms for other documents required or permitted to be filed by this Chapter but their use is not mandatory. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 539, s. 9.)

**§ 55A-1-22. Filing, service, and copying fees.**

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary for filing:

	Document	Fee
(1)	Articles of incorporation	\$60.00
(2)	Application for reserved name	\$10.00
(3)	Notice of transfer of reserved name	\$10.00
(4)	Application for registered name	\$10.00
(5)	Application for renewal of registered name	\$10.00
(6)	Corporation's statement of change of registered agent or registered office	
	or	
	both	
	\$	
	5.00	
(7)	Agent's statement of change of registered office for each affected corporation	
	\$	
	5.00	
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	
	\$	
	5.00	
(10)	Amendment of articles of incorporation	\$25.00
(11)	Restated articles of incorporation without amendment of articles	\$10.00
(12)	Restated articles of incorporation with amendment of articles	\$25.00
(13)	Articles of merger	\$25.00
(14)	Articles of dissolution	\$15.00
(15)	Articles of revocation of dissolution	\$10.00
(16)	Certificate of administrative dissolution	No fee
(17)	Application for reinstatement following administrative dissolution	\$100.00
(18)	Certificate of reinstatement	No fee
(19)	Certificate of judicial dissolution	No fee
(20)	Application for certificate of authority	\$125.00
(21)	Application for amended certificate of authority	\$25.00
(22)	Application for certificate of withdrawal	\$10.00
(23)	Certificate of revocation of authority to conduct affairs	No fee

- (24) Corporation's Statement of Change of Principal Office  
 \$  
 5.00
- (24a) Designation of Principal Office Address  
 \$  
 5.00
- (25) Articles of correction \$10.00
- (26) Application for certificate of existence or authorization (paper) \$15.00
- (26a) Application for certificate of existence or authorization (electronic)  
 \$10.00
- (27) Any other document required or permitted to be filed by this Chapter \$10.00
- (28) Repealed by Session Laws 2001-358, s. 7(c), effective January 1, 2002.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign corporation:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original.
- (2) Fifteen dollars (\$15.00) for a paper certificate.
- (3) Ten dollars (\$10.00) for an electronic certificate.

(1957, c. 1179; 1967, c. 823, s. 24; 1969, c. 875, s. 10; 1975, 2nd Sess., c. 981, s. 2; 1983, c. 713, ss. 39-42; 1991, c. 574, s. 2; 1993, c. 398, s. 1; 1995, c. 539, s. 10; 1997-456, s. 55.3; 1997-475, s. 5.2; 1997-485, s. 11; 2001-358, s. 7(c); 2001-387, ss. 173, 175(a); 2001-413, s. 6; 2002-126, ss. 29A.27, 29A.28.)

**§§ 55A-1-22.1 through 55A-1-27: Repealed by Session Laws 2001-358, s. 7(b), effective January 1, 2002.**

**§ 55A-1-28. Certificate of existence.**

(a) Anyone may apply to the Secretary of State to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.

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

- (1) The domestic corporation's corporate name or the foreign corporation's name used in this State;
- (2) That the domestic corporation is duly incorporated under the law of this State, the date of its incorporation, and the period of its duration if less than perpetual; or that the foreign corporation is authorized to conduct affairs in this State;
- (3) That the articles of incorporation of a domestic corporation or the certificate of authority of a foreign corporation has not been suspended for failure to comply

with the Revenue Act of this State and that the corporation has not been administratively dissolved for failure to comply with the provisions of this Chapter;

- (4) Repealed by Session Laws c. 539, s. 14.
- (5) That articles of dissolution have not been filed; and
- (6) Other facts of record in the office of the Secretary of State that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to conduct affairs in this State. (1955, c. 1230; 1993, c. 398, s. 1; 1995, c. 539, s. 14.)

**§ 55A-1-29: Repealed by Session Laws 2001-358, s. 7(b).**

### Part 3. Secretary of State.

#### **§ 55A-1-30. Powers.**

The Secretary of State has the power reasonably necessary to perform the duties required of the Secretary of State by this Chapter. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-1-31. Interrogatories by Secretary of State.**

The Secretary of State may propound to any domestic or foreign corporation which the Secretary of State has reason to believe is subject to the provisions of this Chapter, and to any officer or director thereof, any written interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain whether the corporation is subject to the provisions of this Chapter or has complied with all the provisions of this Chapter applicable to it. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to an individual, they shall be answered by the individual, and if directed to a corporation, they shall be answered by the presiding officer of the board of directors, the president, or by another officer of the corporation. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this Chapter, requiring or permitting action by the Attorney General. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-1-32. Penalties imposed upon corporations, officers, and directors for failure to answer interrogatories.**

(a) The knowing failure or refusal of a domestic or foreign corporation to answer truthfully and fully, within the time prescribed in this Chapter, interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter shall constitute grounds for administrative dissolution under G.S. 55A-14-20 or for revocation under G.S. 55A-15-30, as the case may be.

(b) Each officer and director of a domestic or foreign corporation who knowingly fails or refuses, within the time prescribed by this Chapter, to answer truthfully and fully interrogatories propounded to him by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a Class 1 misdemeanor. (1955, c. 1230; 1993, c. 398, s. 1; 1994, Ex. Sess., c. 14, s. 37.)

**§ 55A-1-33. Information disclosed by interrogatories.**

Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection nor shall the Secretary of State disclose any facts or information obtained therefrom except when the Secretary of State's official duty requires disclosure to be made public or when the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action or proceeding by this State. (1993, c. 398, s. 1.)

**§§ 55A-1-34 through 55A-1-39. Reserved for future codification purposes.**

Part 4. Definitions.

**§ 55A-1-40. Chapter definitions.**

In this Chapter unless otherwise specifically provided:

- (1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.
- (2) "Board" or "board of directors" means the group of natural persons vested by the corporation with the management of its affairs whether or not the group is designated as directors in the articles of incorporation or bylaws.
- (2a) "Business corporation" or "domestic business corporation" means a corporation as defined in G.S. 55-1-40.
- (3) "Bylaws" means the rules (other than the articles) adopted pursuant to this Chapter for the regulation or management of the affairs of the corporation irrespective of the name or names by which the rules are designated.
- (4) "Charitable or religious corporation" means any corporation that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section, or that is organized exclusively for one or more of the purposes specified in section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section and that upon dissolution shall distribute its assets to a charitable or religious corporation, the United States, a state or an entity that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or any successor section.
- (4a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.
- (5) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of this Chapter, except a foreign corporation.
- (6) "Delegates" means those persons elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters.
- (7) "Deliver" includes mail.
- (8) "Distribution" means a direct or indirect transfer of money or other property or incurrance of indebtedness by a corporation to or for the benefit of its members, directors, or officers, or to or for the benefit of transferees in liquidation under Article 14 of this Chapter (other than creditors).

- (8a) "Domestic limited liability company" has the same meaning as the term "LLC" in G.S. 57D-1-03.
- (8b) "Domestic limited partnership" has the same meaning as in G.S. 59-102.
- (9) "Effective date of notice" is defined in G.S. 55A-1-41.
- (9a) "Electronic" has the same meaning as in G.S. 66-312.
- (9b) "Electronic record" has the same meaning as in G.S. 66-312.
- (9c) "Electronic signature" has the same meaning as in G.S. 66-312.
- (10) "Entity" includes:
  - a. Any domestic or foreign:
    - 1. Corporation; business corporation; professional corporation;
    - 2. Limited liability company;
    - 3. Profit and nonprofit unincorporated association, chapter or other organizational unit; and
    - 4. Business trust, estate, partnership, trust;
  - b. Two or more persons having a joint or common economic interest; and
  - c. The United States, and any state and foreign government.
- (10a) "Foreign business corporation" means a foreign corporation as defined in G.S. 55-1-40.
- (11) "Foreign corporation" means a corporation (with or without capital stock) organized under a law other than the law of this State for purposes for which a corporation might be organized under this Chapter.
- (11a) "Foreign limited liability company" has the same meaning as the term "foreign LLC" in G.S. 57D-1-03.
- (11b) "Foreign limited partnership" has the same meaning as in G.S. 59-102.
- (12) "Governmental subdivision" includes authority, county, district, and municipality.
- (13) "Includes" denotes a partial definition.
- (14) "Individual" denotes a natural person legally competent to act and also includes the estate of an incompetent or deceased individual.
- (15) "Means" denotes an exhaustive definition.
- (16) "Member" means a person who is, by the articles of incorporation or bylaws of the corporation, either (i) specifically designated as a member or (ii) included in a category of persons specifically designated as members. A person is not a member solely by reason of having voting rights or other rights associated with membership.
- (17) "Nonprofit corporation" means a corporation intended to have no income or intended to have income none of which is distributable to its members, directors, or officers, except as permitted by Article 13 of this Chapter, and includes all associations without capital stock formed under Subchapter V of Chapter 54 of the General Statutes or under any act or acts replaced thereby.
- (18) "Notice" includes demand and is defined in G.S. 55A-1-41.
- (19) "Person" includes individual and entity.
- (20) "Principal office" means the office (in or out of this State) where the principal offices of a domestic or foreign corporation are located, as most recently designated by the domestic or foreign corporation in its articles of incorporation, a Designation of Principal Office Address form, a Corporation's

Statement of Change of Principal Office Address form, or in the case of a foreign corporation, its application for a certificate of authority.

- (21) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.
- (22) "Record date" means the date established under Article 7 of this Chapter on which a corporation determines the identity of its members for the purposes of this Chapter.
- (23) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under G.S. 55A-8-40(c) for custody of the minutes of the meetings of the board of directors and of the members and for authenticating records of the corporation.
- (24) "State," when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.
- (24a) "Unincorporated entity" means a domestic or foreign limited liability company, a domestic or foreign limited partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State.
- (25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.
- (26) "Vote" includes authorization by written ballot and written consent, including through an electronic voting system or electronic ballot and electronic consent. (1955, c. 1230; 1959, c. 1161, s. 4; 1985 (Reg. Sess., 1986), c. 801, s. 1; 1993, c. 398, s. 1; 1995, c. 539, s. 15; 1999-369, s. 2.2; 2001-358, s. 5(b); 2001-387, ss. 33, 34, 35, 173, 175(a); 2001-413, s. 6; 2001-487, s. 62(e); 2008-37, s. 1; 2013-157, s. 4; 2021-162, s. 2(a).)

**§ 55A-1-41. Notice.**

(a) Notice under this Chapter shall be in writing unless oral notice is authorized in the corporation's articles of incorporation or bylaws and written notice is not specifically required by this Chapter.

(b) Notice may be communicated in person; by electronic means; or by mail or private carrier. If these forms of personal notice are impracticable as to one or more persons, notice may be communicated to such persons by publishing notice in a newspaper, or by radio, television, or other form of public broadcast communication, in the county where the corporation has its principal place of business in the State, or if it has no principal place of business in the State, the county where it has its registered office.

(c) Written notice by a domestic or foreign corporation to its member is effective when deposited in the United States mail with postage prepaid and correctly addressed to the member's address shown in the corporation's current record of members. Notice by a domestic corporation in the form of an electronic record sent by electronic means to a member who has designated an email address as provided in G.S. 55A-1-70(b) is effective when it is sent as provided in G.S. 66-325.

(d) Written notice to a domestic or foreign corporation authorized to conduct affairs in this State may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its articles of incorporation, the Designation of Principal

Office Address form, or any Corporation's Statement of Change of Principal Office Address form filed with the Secretary of State.

(e) Except as provided in subsection (c) of this section, written notice is effective at the earliest of the following:

- (1) When received.
- (2) Five days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with at least first-class postage thereon prepaid and correctly addressed.
- (3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.
- (4) If mailed with less than first-class postage, 30 days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with postage thereon prepaid and correctly addressed.
- (5) When delivered to the member's address shown in the corporation's current list of members.

In the case of notice in the form of an electronic record sent by electronic means, the time of receipt shall be determined as provided in G.S. 66-325.

(f) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members. In the case of members who are residents of the same household and who have the same address, the corporation's bylaws may provide that a single notice may be given to the members jointly.

(g) Oral notice is effective when actually communicated to the person entitled to oral notice.

(h) If this Chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Chapter, those requirements govern.

(i) Written notice need not be provided in a separate document and may be included as part of a newsletter, magazine, or other publication regularly sent to members if conspicuously identified as a notice. (1993, c. 398, s. 1; 1995, c. 539, s. 16; 2008-37, s. 2; 2021-162, s. 2(b).)

**§§ 55A-1-42 through 55A-1-49. Reserved for future codification purposes.**

#### Part 5. Private Foundations.

#### **§ 55A-1-50. Private Foundations.**

Except where otherwise determined by a court of competent jurisdiction, a corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 1986:

- (1) Shall distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Code.
- (2) Shall not engage in any act of self-dealing as defined in section 4941(d) of the Code.
- (3) Shall not retain any excess business holdings as defined in section 4943(c) of the Code.
- (4) Shall not make any investments in such manner as to subject the corporation to tax under section 4944 of the Code.



- (5) Shall not make any taxable expenditures as defined in section 4945(d) of the Code.

All references in this section to sections of the Code shall be to sections of the Internal Revenue Code of 1986 as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States. (1955, c. 1230; 1957, c. 783, s. 7; 1969, c. 875, s. 4; 1971, c. 1136, s. 1; 1977, c. 236, s. 1, c. 663; 1979, c. 1027; 1985, c. 505; 1985 (Reg. Sess., 1986), c. 801, ss. 8-14; 1993, c. 398, s. 1.)

**§§ 55A-1-51 through 55A-1-59. Reserved for future codification purposes.**

Part 6. Judicial Relief.

**§ 55A-1-60. Judicial relief.**

(a) If for any reason it is impracticable for any corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles of incorporation, bylaws, or this Chapter, then upon petition of a director, officer, delegate, member, or the Attorney General, the superior court may order that such a meeting be held or that a written ballot or other method be used for obtaining the vote of members, delegates, or directors, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all such persons who would be entitled to notice of a meeting held pursuant to the articles of incorporation, bylaws, and this Chapter, and notice given in this manner shall be effective whether or not it results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. Notice shall be given in this manner to all persons determined by the court to be members or directors.

(c) The order issued pursuant to this section may, to the extent the court finds it reasonably required under the circumstances, dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles of incorporation, bylaws, or this Chapter.

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

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and that complies with all the provisions of the order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles of incorporation, bylaws, and this Chapter. (1993, c. 398, s. 1.)

Part 7. Miscellaneous.

**§ 55A-1-70. Electronic transactions.**

(a) A corporation may conduct a transaction by electronic means, except as limited by its articles of incorporation or bylaws or by action of its board of directors.

(b) Members who wish to communicate and conduct business with a corporation by electronic means shall first designate the email address to be used for communication and business between the member and the corporation and shall provide any other information required by the corporation to facilitate communication and business conducted between the member and the corporation. The corporation shall inform the members on how to designate an email address, of any additional information the corporation requires and how to provide it, and on how to update an email address and other required information previously provided.

(c) For purposes of applying Article 40 of Chapter 66 of the General Statutes to transactions under this Chapter, a corporation that conducts an electronic transaction in accordance with this section is deemed to have agreed to conduct the transaction by electronic means. (2008-37, s. 3; 2021-162, s. 2(c).)