

## Article 3.

### Purposes and Powers.

#### **§ 55A-3-01. Purposes.**

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

(b) A corporation engaging in an activity that is subject to regulation under another statute of this State may incorporate under this Chapter only if permitted by, and subject to all limitations of, the other statute. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-3-02. General powers.**

(a) Unless its articles of incorporation or this Chapter provides 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 affairs, including without limitation, power:

- (1) To sue and be sued, complain and defend in its corporate name;
- (2) To 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;
- (3) To make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this State, for regulating and managing the affairs of the corporation;
- (4) To 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) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) To 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 other entity;
- (7) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (8) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by G.S. 55A-8-32;
- (9) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust, or other entity;
- (10) To conduct its affairs, locate offices, and exercise the powers granted by this Chapter within or without this State;
- (11) To elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation;
- (12) To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees, and agents;

- (13) To make donations for the public welfare or for charitable, religious, cultural, scientific, or educational purposes, and to make payments or donations not inconsistent with law for other purposes that further the corporate interest;
- (14) To impose dues, assessments, admission and transfer fees upon its members;
- (15) To establish conditions for admission of members, admit members and issue memberships;
- (16) To carry on a business;
- (17) To procure insurance for its benefit on the life or physical or mental ability of any director, officer or employee and, in the case of a charitable or religious corporation, any sponsor, contributor, pledgor, student or former student whose death or disability might cause financial loss to the corporation, and for these purposes the corporation is deemed to have an insurable interest in each such person; and to procure insurance for its benefit on the life or physical or mental ability of any other person in whom it has an insurable interest;
- (18) To engage in any lawful activity that will aid governmental policy;
- (19) To do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

(b) It shall not be necessary to set forth in the articles of incorporation any of the powers enumerated in this section. (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-3-03. Emergency powers.**

(a) In anticipation of or during an emergency defined in subsection (d) of this section, 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) of this section, unless emergency bylaws provide otherwise:

- (1) Notice of a meeting of the board of directors need be given only to those directors it is practicable to reach and may be given in any practicable manner, including by publication and radio; and
- (2) One 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 affairs of the corporation, binds the corporation and the fact that the action is taken pursuant to this section shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event. (1993, c. 398, s. 1.)

**§ 55A-3-04. Ultra vires.**

(a) Except as provided in subsection (b) of this section, the validity of corporate action shall 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 member or a director 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 G.S. 55A-14-30.

(c) In a proceeding by a member or a director under subdivision (b)(1) of this section 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. (1955, c. 1230; 1993, c. 398, s. 1.)

#### **§ 55A-3-05. Exercise of corporate franchises not granted.**

The Attorney General may upon the Attorney General's own information or upon complaint of a private party bring an action in the name of the State to restrain any person from exercising corporate franchises not granted. (1985 (Reg. Sess., 1986), c. 801, s. 5; 1993, c. 398, s. 1.)

#### **§ 55A-3-06. Special powers; public parks and drives and certain recreational corporations.**

Any corporation heretofore or hereafter formed for the purpose of creating and maintaining public parks and drives shall have full power and authority to lay out, manage, and control parks and drives within the State, under any rules and regulations as the corporation may prescribe and shall have power to purchase and hold property and take gifts or donations for such purpose. It may hold property and exercise such powers and trust for any town, city, township, or county, in connection with which the parks and drives shall be maintained. Any city, town, township, or county, holding such property, may vest and transfer the same to any such corporation for the purpose of controlling and maintaining the same as public parks and drives under any regulations and subject to any conditions as may be determined upon by the city, town, township, or county. All such lands as the corporation may acquire shall be held in trust as public parks and drives, and shall be held open to the public under any rules, laws, and regulations as the corporation may adopt through its board of directors, and it shall have power and authority to make and adopt all laws and regulations as it may determine upon for the reasonable management of such parks and drives. The terms "public parks and drives" as used in this section shall be construed so as to include playgrounds, recreational centers, and other recreational activities and facilities which may be provided and established under the sponsorship of any county, city, town, township, or school district in North Carolina and constructed or established with the assistance of the government of the United States or any agency thereof. (1955, c. 1230; 1973, c. 695, s. 9; 1993, c. 398, s. 1.)

#### **§ 55A-3-07. Certain corporations subject to Public Records Act and Open Meetings Law.**

Any of the following corporations organized under this Chapter is subject to the Public Records Act (Chapter 132 of the General Statutes) and the Open Meetings Law (Article 33C of Chapter 143 of the General Statutes):

- (1) A corporation organized under the terms of any consent decree and final judgment in any civil action calling on a state officer to create the corporation, for the purposes of receipt and distribution of funds allocated to the State of North Carolina to provide economic impact assistance on account of one industry.
- (2) A corporation organized upon the request of the State for the sole purpose of financing projects for public use. (1999-2, s. 7; 2001-84, s. 4.)