

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 875
HOUSE BILL 819

1 AN ACT TO AMEND CHAPTER 55A OF THE GENERAL STATUTES RELATING TO
2 NON-PROFIT CORPORATIONS.

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4 The General Assembly of North Carolina do enact:
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6 **Section 1.** G.S. 55A-6 as the same appears in the 1965 Replacement Volume 2B of
7 the General Statutes is hereby amended by deleting from the first line thereof the word,
8 "Three", and inserting in lieu thereof the word, "One".

9 **Sec. 2.** G.S. 55A-9 as the same appears in the 1965 Replacement Volume 2B of the
10 General Statutes is hereby amended by adding at the end of the section an additional sentence
11 to read as follows, "Any action permitted to be taken at the organizational meeting may be
12 taken without a meeting of the board of directors and shall be deemed board action if it
13 complies with the requirements of G.S. 55A-86."

14 **Sec. 3.** G.S. 55A-10 is hereby amended and rewritten to read as follows:

15 **"55A-10 Corporate name.** (a) The corporate name shall not contain any word or phrase likely
16 to mislead the public or which indicates or implies that it is organized for any purpose other
17 than one or more of the purposes contained in its charter.

18 "(b) The Corporate name shall not, subject to the provisions of G.S. 55A-60, be the same
19 as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for
20 profit, or of any foreign corporation, whether for profit or not for profit, authorized to transact
21 business or conduct affairs in this State, or a corporate name the exclusive right to which is at
22 the time reserved or registered by some other person in the manner prescribed in this Section or
23 G.S. 55-12.

24 "(c) The exclusive right to a corporate name not prohibited by this Section may be
25 reserved for a period of 90 days by:

- 26 (1) Any person intending to organize a corporation under this Chapter.
- 27 (2) Any domestic corporation intending to change its name.
- 28 (3) Any foreign corporation intending to make application for a certificate of
29 authority to conduct affairs in this State.
- 30 (4) Any foreign corporation authorized to conduct affairs in this State and
31 intending to change its name, or
- 32 (5) Any person intending to organize a foreign corporation and intending to
33 have such corporation make application for a certificate of authority to
34 conduct affairs in this State.

35 The same name shall not be reserved for two or more consecutive 90-day periods by the
36 same applicant or for the use and benefit of the same applicant nor shall such consecutive
37 reservations be made of names so similar as to fall within the prohibition of this Section.

38 "(d) Any person or corporation acquiring the good will of a domestic corporation or of a
39 foreign corporation authorized to conduct affairs in this State may, on furnishing the Secretary
40 of State satisfactory evidence of such acquisition, reserve the exclusive right to the corporate
41 name of the said corporation for a period of ten years.

42 "(e) The reservation of name, pursuant to subsections (c) and (d) of this Section, shall be
43 made by filing with the Secretary of State a verified application therefor stating the name and

address of the applicant, and the Secretary of State shall, upon tender of the fee hereinafter prescribed, reserve the name exclusively for the applicant unless he finds that the name is not available under the provisions of this Section.

"(f) The exclusive right to a specified corporate name reserved hereunder, may, on tender of the fee hereinafter prescribed, be transferred to any other person or corporation by filing in the office of the Secretary of State a notice of such transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

"(g) Any foreign corporation not conducting affairs in this State may register its corporate name, if not prohibited by this Section, by filing with the Secretary of State a verified application therefor setting forth the name and address of the principal office of the corporation, the jurisdiction in which it is incorporated, the date of its incorporation, a statement that it is organized and conducting affairs in good standing under the laws of the jurisdiction in which it is incorporated, and a brief statement of the business in which it is engaged; and the Secretary of State shall, upon tender of the fee prescribed by G.S. 55A-77(a), register the name exclusively for the use of such foreign corporation, unless he finds that the name is not available under the provisions of this Section. Such registration shall be effective for a period of one year, and it may be renewed from year to year, not to exceed ten years, by filing with the Secretary of State a verified renewal application setting forth the same facts required to be set forth in the original application for registration. Any renewal application filed after the expiration of the registration shall be treated as a new application for registration.

"(h) The Secretary of State may revoke any reservation or registration of a corporate name if he finds, upon a hearing held not less than five (5) days after written notice has been sent by registered mail to the person or corporation who made the reservation or registration, that the application therefor or any transfer thereof was not made in good faith or that any statement contained in the application for reservation or registration was false when such application was filed or has thereafter become false.

"(i) The use by a corporation of a name in violation of this Section may be enjoined notwithstanding the filing of its articles by the Secretary of State."

Sec. 4. G.S. 55A-15(b)(5) as the same appears in the 1965 Replacement Volume 2B of the General Statutes is hereby amended to read as follows:

"(5) To procure for its benefit insurance on the life or physical or mental ability of any employee, including any officer, or, in case of a religious, educational, or charitable corporation, any sponsor, contributor, student or former student, whose death or disability might cause financial loss to the corporation, and to this end the corporation has an insurable interest in the lives of each of such persons."

Sec. 5. G.S. 55A-23 as the same appears in the 1965 Replacement Volume 2B of the General Statutes is hereby amended and rewritten to read as follows:

"Sec. 55A-23. Committees. (a) Unless otherwise provided in the charter or bylaws, the board of directors, by resolution adopted by a majority of the number of directors then in office may designate one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the charter or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation, except that no such committee shall have authority as to the following matters:

- (1) The dissolution, merger or consolidation of the corporation; the amendment of the charter of the corporation; or the sale, lease or exchange of all or substantially all of the property of the corporation.
- (2) The designation of any such committee or the filling of vacancies in the Board of Directors or in any such committee.
- (3) The amendment or repeal of the bylaws, or the adoption of new bylaws.

(4) The amendment or repeal of any resolution of the board which by its terms shall not be so amendable or repealable.

"(b) Other committees not having and exercising the authority of the board of directors in the management of the corporation may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present.

"(c) Any committee, or any member thereof may be discharged or removed by action of a majority of the board of directors pursuant to the provisions of G.S. 55A-22 or G.S. 55A-86. The designation of any committee and the delegation thereto of authority shall not operate to relieve the board of directors or any member thereof, of any responsibility or liability imposed upon it or him by law.

Sec. 6. Chapter 55A of the General Statutes is hereby amended by inserting a new section G.S. 55A-27.1 therein to read as follows:

"Sec. 55A-27.1. Form of Records. Any records maintained by a corporation in the regular course of its business, including its books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs, or any other information storage device; provided that the records so kept can be converted into clearly legible form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect the same. Where records are kept in such manner, the cards, tapes, photographs, microphotographs or other information storage device together with a duly authenticated read-out or translation shall be admissible in evidence, and shall be accepted for all other purposes, to the same extent as an original written record of the same information would have been."

Sec. 7. G.S. 55A-60(b) as the same appears in the 1965 Replacement Volume 2B of the General Statutes is hereby amended and rewritten to read as follows:

"(b) The corporate name shall not be the same as, or deceptively similar to, the name of any domestic corporation, whether for profit or not for profit, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this State, or a name the exclusive right to which is, at the time, reserved or registered in the manner prescribed in G.S. 55A-10, except that the Secretary of State may in his discretion issue a certificate of authority to a foreign corporation which has a corporate name the same as or similar to that of some other domestic corporation or foreign corporation authorized to transact business or conduct affairs in this State:

(1) If the Secretary of State finds, upon proof by affidavit or otherwise, that such corporations are not engaged in the conduct of the same or similar affairs and that the public is not likely to be confused or deceived, and if, upon requirement by the Secretary of State in his discretion, such foreign corporation agrees in its application for certificate of authority to add to its corporate name in this State words indicating the state or country under the laws of which it is incorporated; or

(2) If the foreign corporation agrees in its application for certificate of authority to conduct affairs in this State only under an assumed name that would be available for its use in this State, in which event such corporation shall thereafter comply with all of the provisions of law, including the provisions of G.S. 66-68 through 66-71, relating to doing business under an assumed name and such assumed name shall be deemed to be the name of such foreign corporation in this State and shall be entitled to the same protections under this Chapter as if it were the name of such foreign corporation.

Sec. 8. G.S. 55A-61(a) as the same appears in the 1965 Replacement Volume 2B of the General Statutes is hereby amended and rewritten to read as follows:

"(a) A foreign corporation, in order to procure a certificate of authority to conduct affairs in this State, shall make application therefor to the Secretary of State, which application shall set forth:

- (1) The name of the corporation and the state or country under the laws of which it is incorporated.
- (2) If the corporation agrees under G.S. 55A-60(b) to add to its corporate name in this State words indicating its jurisdiction of incorporation or agrees to conduct affairs under an assumed name, then the name of the corporation with the words so added or the assumed name.
- (3) The date of incorporation and the period of duration of the corporation.
- (4) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.
- (5) The address, including county and city or town, and street and number, if any, of the proposed registered office of the corporation in this State, and the name of its proposed registered agent in this State at such address.
- (6) The purposes of the corporation which it proposes to pursue in conducting its affairs in this State.
- (7) The names and respective addresses of the directors and officers of the corporation.
- (8) A statement that, in consideration of the issuance of a certificate of authority to conduct affairs in this State, the corporation appoints the Secretary of State of North Carolina as its agent to receive service of process, notice, or demand whenever the corporation fails to appoint or maintain a registered agent in this State, or whenever any such registered agent cannot with reasonable diligence be found at the registered office.

Sec. 9. G.S. 55A-86 as the same appears in the 1965 Replacement Volume 2B of the General Statutes is hereby amended and rewritten to read as follows:

"55A-86. Action by members without a meeting. Any action required by this Chapter to be taken at a meeting of the members or of the board of directors, or of a committee of directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or by a majority of the directors, or by a majority of the members of the committee of directors, as the case may be, and filed with the secretary of the corporation as part of the corporate records, whether done before or after the action so taken; provided, however, that this shall not apply whenever the charter or the bylaws of the corporation specifically require that such action be by a unanimous vote."

Sec. 10. G.S. 55A-77(a) is hereby amended by renumbering G.S. 55A-77(a)(16) as G.S. 55A-77(a)(17) and inserting immediately preceding that subdivision a new subdivision G.S. 55A-77(a)(16) to read as follows:

- "(16) For filing an application to reserve or register a corporate name and for filing an application to renew such a registration G.S. 55A-10(e) and (f),.....\$5.00."

Sec. 11. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 12. This Act shall be effective on and after October 1, 1969.

In the General Assembly read three times and ratified, this the 16th day of June, 1969.