Article 16.

Records and Reports.

Part 1. Records.

§ 55-16-01. Corporate records.

(a) A corporation shall maintain the following records:

(1) Its articles of incorporation as currently in effect.

(2) Its bylaws as currently in effect.

(3) All written communications within the past three years to shareholders generally.

(4) Minutes of all meetings of, and records of all actions taken without a meeting by, its shareholders, its board of directors, and board committees established under section G.S. 55-8-25.

(5) A list of the names and business addresses of its current directors and officers.

(6) Its most recent annual report delivered as required by G.S. 55-16-22.

(b) A corporation shall maintain all annual financial statements prepared for the corporation for its last three fiscal years, or each year of its existence if shorter than three years, and any audit or other reports with respect to the financial statements.

(c) A corporation or its agent shall maintain a record of its current shareholders, in alphabetical order by class of shares showing the number and class of shares held by each shareholder.

(d) A corporation shall maintain accounting records in a form that permits preparation of its financial statements.

(e) A corporation shall maintain the records specified in this section in a manner so that they may be made available for inspection within a reasonable time. (1901, c. 2, ss. 38, 45; Rev., ss. 1180, 1181; C.S., s. 1170; G.S., s. 55-107; 1955, c. 1371, s. 1; 1969, c. 751, s. 14; 1989, c. 265, s. 1; 1997-475, s. 6.6; 2021-106, s. 6(a).)

§ 55-16-01.1. Definitions.

In this Article, the following definitions apply:

(1) Reserved.

(2) Reserved.

(3) Qualified shareholder. – A person who has been a shareholder in the corporation for at least six months immediately preceding the shareholder's demand for inspection of records or who holds at least five percent (5%) of the corporation's outstanding shares of any class.

(4) Shareholder. – A record shareholder or a beneficial shareholder whose shares are held in a voting trust or by a nominee on the beneficial shareholder's behalf and whose beneficial ownership is certified to the corporation by that voting trust or nominee.

(5) Subsidiary. – Any domestic or foreign entity directly or indirectly owned, in whole or in part, by the corporation of which the shareholder is a shareholder and over the affairs of which the corporation directly or indirectly exercises control. The term includes domestic and foreign corporations, including professional corporations and nonprofit corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, business trusts, and joint ventures. (2021-106, s. 6(b); 2023-130, s. 6(a).)

§ 55-16-02. Inspection of records by shareholders.

(a) A qualified shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in G.S. 55-16-01(a), excluding minutes of meetings of, and records of actions taken without a meeting by, the corporation's board of directors and board committees established under G.S. 55-8-25, if the qualified shareholder gives the corporation written notice of the qualified shareholder's demand at least five business days before the date on which the qualified shareholder wishes to inspect and copy.

(b) A qualified shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the qualified shareholder meets the requirements of subsection (c) of this section and gives the corporation written notice of the qualified shareholder's demand at least five business days before the date on which the qualified shareholder wishes to inspect and copy:

(1) Records of any final action taken with or without a meeting by the board of directors, or by a committee of the board of directors while acting in place of the board of directors on behalf of the corporation maintained in accordance with G.S. 55-16-01(a).
(2) Accounting records of the corporation.
(3) The record of shareholders maintained in accordance with G.S. 55-16-01(c).
(4) The financial statements of the corporation maintained in accordance with G.S. 55-16-01(b).

A shareholder of a public corporation is not entitled to inspect or copy any accounting records of the corporation or any records of the corporation with respect to any matter which the corporation determines in good faith may, if disclosed, adversely affect the corporation in the conduct of its business or may constitute material nonpublic information at the time the shareholder's notice of demand to inspect and copy is received by the corporation.

(c) A qualified shareholder may inspect and copy the records described in subsection (b) of this section only if all of the following apply:

(1) The qualified shareholder's demand is made in good faith and for a proper purpose.
(2) The qualified shareholder describes with reasonable particularity the qualified shareholder's purpose and the records the qualified shareholder desires to inspect.
(3) The records are directly connected with the qualified shareholder's purpose.

(c1) The corporation may impose reasonable restrictions on the confidentiality, use, or distribution of records described in subsection (b) of this section.

(d) The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

(e) This section does not affect any of the following:

(1) The right of a shareholder to inspect records under G.S. 55-7-20 or, if the shareholder is in litigation with the corporation, to inspect the records to the same extent as any other litigant.
(2) The power of a court, independently of this Chapter, to compel the production of corporate records for examination and to impose reasonable restrictions as provided in G.S. 55-16-04(c), so long as, in the case of production of records

described in subsection (b) of this section at the request of a qualified shareholder, the qualified shareholder has met the requirements of subsection (c) of this section.

(f), (g) Repealed by Session Laws 2021-106, s. 6(c), effective October 1, 2021, and applicable to demands for inspection and requests for financial statements received by a corporation on or after that date.

(h) A qualified shareholder of a corporation has the inspection rights provided in this section with respect to the records of a subsidiary of the corporation to the extent that either of the following applies:

(1) The corporation has actual possession and control of the records of the subsidiary.

(2) The corporation could obtain the records through the exercise of control over the subsidiary and, as of the date of the making of the demand, the qualified shareholder inspection of the books and records of the subsidiary would not constitute a breach of an agreement between the corporation or the subsidiary and a person not affiliated with the corporation.

(i) Notwithstanding the provisions of this section or any other provisions of this Chapter or interpretations to the contrary, a shareholder of a public corporation has no common law rights to inspect or copy any accounting records of the corporation or any other records of the corporation that may not be inspected or copied by a shareholder of a public corporation as provided in subsection (b) of this section. (1901, c. 2, ss. 38, 45, 49; Rev., ss. 1179-1181; C.S., ss. 1170, 1172; G.S., ss. 55-107, 55-109; 1955, c. 1371, s. 1; 1965, c. 609; 1973, c. 469, s. 11; 1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 12.26; 1993, c. 552, s. 19; 2021-106, s. 6(c); 2023-130, s. 6(b).)

§ 55-16-03. Scope of inspection right.

(a) A qualified shareholder may appoint an agent or attorney to exercise the qualified shareholder's inspection and copying rights under G.S. 55-16-02.

(b) The corporation may, if reasonable, satisfy the right of a qualified shareholder to copy records under G.S. 55-16-02 by furnishing to the qualified shareholder copies by photocopy or other means chosen by the corporation, including copies through an electronic transmission.

(c) The corporation may impose a reasonable charge to cover the costs of providing copies of documents to the qualified shareholder, which may be based on an estimate of the costs.

(d) The corporation may comply with a qualified shareholder's demand to inspect the record of shareholders under G.S. 55-16-02(b)(3) by providing the shareholder with a list of its shareholders that was compiled no earlier than the date of the qualified shareholder's demand. (1901, c. 2, s. 49; Rev., s. 1179; C.S., s. 1172; G.S., s. 55-109; 1955, c. 1371, s. 1; 1965, c. 609; 1973, c. 469, s. 11; 1989, c. 265, s. 1; 2005-268, s. 35; 2021-106, s. 6(d).)

§ 55-16-04. Court-ordered inspection.

(a) If a corporation does not allow a qualified shareholder who complies with G.S. 55-16-02(a) to inspect and copy any records required by that subsection to be available for inspection, the superior court of the county where the corporation's principal office, or if none in this State, its registered office, is located may, upon application of the qualified shareholder, summarily order inspection and copying of the records demanded at the corporation's expense.

(b) If a corporation does not within a reasonable time allow a qualified shareholder who complies with G.S. 55-16-02(b) to inspect and copy the records required by that subsection, the

qualified shareholder who complies with G.S. 55-16-02(b) and (c) may apply to the superior court in the county where the corporation's principal office, or if none in this State, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on their confidentiality, use, or distribution by the demanding qualified shareholder, and it shall also order the corporation to pay the qualified shareholder's costs, including reasonable attorneys' fees, incurred to obtain the order unless the corporation establishes that it refused inspection in good faith due to any of the following:

(1) The corporation had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(2) The corporation required reasonable restrictions on the confidentiality, use, or distribution of the records demanded to which the demanding qualified shareholder had been unwilling to agree.

(d) Repealed by Session Laws 2021-106, s. 6(e), effective October 1, 2021, and applicable to demands for inspection and requests for financial statements received by a corporation on or after that date. (1901, c. 2, s. 49; Rev., s. 1179; C.S., s. 1172; G.S., s. 55-109; 1955, c. 1371, s. 1; 1965, c. 609; 1973, c. 469, s. 11; 1989, c. 265, s. 1; 2021-106, s. 6(e).)

§ 55-16-05. Inspection of records by directors.

(a) A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) The superior court of the county where the corporation's principal office, or its registered office if the corporation does not have a principal office in this State, is located may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused inspection rights, unless the corporation establishes that the director is not entitled to inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable counsel fees, incurred in connection with the application. (2005-268, s. 36.)

§ 55-16-06. Exception to notice requirements.

(a) Whenever notice is required to be given to a shareholder under any provision of this Chapter, the notice is not required if the corporation is not permitted to deliver notice by email or other electronic means pursuant to G.S. 55-1-41 and any of the following apply:

(1) Notice of two consecutive annual meetings, and all notices of meetings during the period between those two consecutive annual meetings, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(2) All, but not less than two, payments of dividends on securities during a 12-month period, or two consecutive payments of dividends on securities

during a period of more than 12 months, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(3) No address has been provided to the corporation by or on behalf of a shareholder and the corporation has not otherwise obtained an address for the shareholder it believes is reliable.

(b) If a shareholder delivers to the corporation a written notice setting forth the shareholder's current address, the requirement that notice be given to the shareholder is reinstated. (2005-268, s. 36; 2023-130, s. 1(d).)

§§ 55-16-07 through 55-16-19. Reserved for future codification purposes.

Part 2. Reports.

§ 55-16-20. Financial statements for shareholders.

(a) Upon the written request of a shareholder, a corporation shall deliver, or make available to the requesting shareholder by posting on its website or by other generally recognized means, annual financial statements for the most recent fiscal year of the corporation for which annual financial statements have been prepared for the corporation. If financial statements have been prepared for the corporation on the basis of generally accepted accounting principles for the specified period, the corporation shall deliver or make available those financial statements to the requesting shareholder. If the annual financial statements to be delivered or made available to the requesting shareholder are audited or otherwise reported upon by a public accountant, the report shall also be delivered or made available to the requesting shareholder.

(b) A corporation shall deliver, or make available and provide written notice of availability of, the financial statements required under subsection (a) of this section to the requesting shareholder within five business days of delivery of the written request to the corporation.

(c) A corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable regulations of the United States Securities and Exchange Commission.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, the following apply:

(1) As a condition to delivering or making available financial statements to a requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of the financial statements.

(2) The corporation may, if it reasonably determines that the shareholder's request is not made in good faith or for a proper purpose, decline to deliver or make available the financial statements to that shareholder.

(e) If a corporation does not respond to a shareholder's request for annual financial statements pursuant to this section in accordance with subsection (b) of this section within five business days of delivery of the request to the corporation, the following apply:

(1) The requesting shareholder may apply to the superior court of the county where the corporation's principal office, or if none in this State, its registered office, is located for an order requiring delivery of or access to the requested financial statements. The court shall dispose of an application under this subsection on an expedited basis.

(2) If the court orders delivery or access to the requested financial statements, it may impose reasonable restrictions on their confidentiality, use, or distribution.

(3) In a proceeding under this subsection, if the corporation has declined to deliver or make available the financial statements because the shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, and distribution of the financial statements, the corporation has the burden of demonstrating that the restrictions proposed by the corporation were reasonable.

(4) In a proceeding under this subsection, if the corporation has declined to deliver or make available the financial statements pursuant to subdivision (d)(2) of this section, the corporation has the burden of demonstrating that it had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.

(5) If the court orders delivery or access to the requested financial statements, it shall order the corporation to pay the shareholder's costs, including reasonable attorneys' fees, incurred to obtain the court order, unless the corporation establishes that it had refused delivery or access to the requested financial statements because the shareholder had refused to agree to reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the corporation had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose. (1901, c. 2, ss. 38, 45, 49; Rev., ss. 1179-1181; C.S., ss. 1170, 1172; G.S., ss. 55-107, 55-109; 1955, c. 1371, s. 1; 1965, c. 609; 1973, c. 469, s. 11; 1989, c. 265, s. 1; 2021-106, s. 6(f).)

§ 55-16-21: Repealed by Session Laws 2005-268, s. 37, effective October 1, 2005.

§ 55-16-22. Annual report.

(a) Requirement. – Except as provided in subsections (a1) and (a2) of this section, each domestic corporation and each foreign corporation authorized to transact business in this State shall deliver an annual report directly to the Secretary of State in electronic form or in paper form as prescribed by the Secretary of State under this section.

(a1) Insurers. – Each insurance company subject to the provisions of Chapter 58 of the General Statutes shall deliver an annual report to the Secretary of State.

(a2) Professional Corporations Exempt. – A corporation governed by Chapter 55B of the General Statutes is exempt from this section.

(a3) Form; Required Information. – The annual report required by this section shall be in a form prescribed by the Secretary of State. The Secretary of State shall prescribe the form needed to file an annual report electronically and shall provide this form by electronic means. The annual report shall set forth all of the following:

(1) The name of the corporation and the state or country under whose law it is incorporated.

(2) The street address, and the mailing address if different from the street address, of the registered office, the county in which its registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of such registered office or registered agent, or both.

(3) The address and telephone number of its principal office.

(4) The names, titles, and business addresses of its principal officers.

(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.

(5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection.

(a4) Form; Certain Veteran-Owned Businesses. – The Secretary of State shall also provide appropriate space and instructions on the annual report form for a domestic corporation or foreign corporation to voluntarily indicate whether or not the corporation is a veteran-owned small business or a service-disabled veteran-owned small business.

(b) Currency of Information. – Information in the annual report must be current as of the date the annual report is executed on behalf of the corporation.

(c) Due Date. – An annual report is due by the fifteenth day of the fourth month following the close of the corporation's fiscal year.

(d) Incomplete Information. – If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and submitted to the Secretary of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(e) Amendments. – Amendments to any previously filed annual report may be filed with the Secretary of State at any time for the purpose of correcting, updating, or augmenting the information contained in the annual report.

(f) Expired.

(g) Repealed by Session Laws 2017-204, s. 1.13, effective August 11, 2017.

(h) Delinquency. – If the Secretary of State does not receive an annual report within 60 days of the date the report is due, the Secretary of State may presume that the annual report is delinquent. This presumption may be rebutted by evidence of delivery presented by the filing corporation. (1989, c. 265, s. 1; 1989 (Reg. Sess., 1990), c. 1066, s. 32(a); 1993, c. 218, s. 2; 1997-475, s. 6.1; 2003-233, s. 3; 2010-31, s. 31.4(a); 2017-90, s. 1(b); 2017-204, s. 1.13; 2019-177, s. 5.)

§ 55-16-22.1. Repealed by Session Laws 1998-228, S.17.

§ 55-16-22.2. Report of veteran-owned small businesses and service-disabled veteran-owned small businesses.

Using the information reported pursuant to G.S. 55-16-22(a4), the Secretary of State shall compile summary information on an aggregate basis about the number of veteran-owned small businesses and the number of service-disabled veteran-owned small businesses reporting in this State. The Secretary of State shall annually report this summary information to the Department of Military and Veterans Affairs by March 1 of each year. (2017-90, s. 1(c).)