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BUSINESS ORGANIZATIONS

(805 ILCS 105/) General Not For Profit Corporation Act of 1986.

(805 ILCS 105/Art. 3 heading)

ARTICLE 3. PURPOSES AND POWERS

(805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

Sec. 103.05. Purposes and authority of corporations; particular purposes; exemptions.

(a) Not-for-profit corporations may be organized under this Act for any one or more of the following or similar purposes:

- (1) Charitable.
- (2) Benevolent.
- (3) Eleemosynary.
- (4) Educational.
- (5) Civic.
- (6) Patriotic.
- (7) Political.
- (8) Religious.
- (9) Social.
- (10) Literary.
- (11) Athletic.
- (12) Scientific.
- (13) Research.
- (14) Agricultural.
- (15) Horticultural.
- (16) Soil improvement.
- (17) Crop improvement.
- (18) Livestock or poultry improvement.
- (19) Professional, commercial, industrial, or trade association.
- (20) Promoting the development, establishment, or expansion of industries.
- (21) Electrification on a cooperative basis.
- (22) Telephone service on a mutual or cooperative basis.
- (23) Ownership and operation of water supply facilities for drinking and general domestic use on a mutual or cooperative basis.

(24) Ownership or administration of residential property on a cooperative basis.

(25) Administration and operation of property owned on a condominium basis or by a homeowner association.

(26) Administration and operation of an organization on a cooperative basis producing or furnishing goods, services, or facilities primarily for the benefit of its members who are consumers of those goods, services, or facilities.

(27) Operation of a community mental health board or center organized pursuant to the Community Mental Health Act for the purpose of providing direct patient services.

(28) Provision of debt management services as authorized by the Debt Management Service Act.

(29) Promotion, operation, and administration of a ridesharing arrangement as defined in Section 1-176.1 of the Illinois Vehicle Code.

(30) The administration and operation of an organization for the purpose of assisting low-income consumers in the acquisition of utility and telephone services.

(31) Any purpose permitted to be exempt from taxation under Sections 501(c) or 501(d) of the United States Internal Revenue Code, as now in or hereafter amended.

(32) Any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code, as now or hereafter amended. Any such purpose is deemed to be charitable under subsection (a)(1) of this Section.

(33) Furnishing of natural gas on a cooperative basis.

(b) A corporation may be organized hereunder to serve in an area that adjoins or borders (except for any intervening natural watercourse) an area located in an adjoining state intended to be similarly served, and the corporation may join any corporation created by the adjoining state having an identical purpose and organized as a not-for-profit corporation. Whenever any corporation organized under this Act so joins with a foreign corporation having an identical purpose, the corporation shall be permitted to do business in Illinois as one corporation; provided (1) that the name, bylaw provisions, officers, and directors of each corporation are identical, (2) that the foreign corporation complies with the provisions of this Act relating to the admission of foreign corporation, and (3) that the Illinois corporation files a statement with the Secretary of State indicating that it has joined with a foreign corporation setting forth the name thereof and the state of its incorporation.

(Source: P.A. 94-738, eff. 5-4-06.)

(805 ILCS 105/103.10) (from Ch. 32, par. 103.10)

Sec. 103.10. General powers. Each corporation shall have power:

(a) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;

(b) To sue and be sued, complain and defend, in its corporate name, and shall have standing to sue when one or more of its members would otherwise have standing to sue in

his or her own right, providing the interests it seeks to protect are germane to the corporation's purposes, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit;

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced, provided that the affixing of a corporate seal to an instrument shall not give the instrument additional force or effect, or change the construction thereof, and the use of a corporate seal is not mandatory;

(d) To purchase, take, receive, lease as lessee, take by gift, devise, or bequest, or otherwise acquire, and to own, hold, hold as trustee, use, and otherwise deal in and with any real or personal property, or any interest therein, situated in or out of this State;

(e) To sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of its property and assets;

(f) To lend money to its officers, employees and agents except as limited by Section 108.80 of this Act;

(g) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals;

(h) To incur liabilities, to borrow money for its corporate purposes at such rates of interest as the corporation may determine without regard to the restrictions of any usury law of this State, to issue its notes, bonds and other obligations; to secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property, franchises, and income; and to make contracts, including contracts of guaranty and suretyship;

(i) To invest its funds from time to time and to lend money for its corporate purposes, and to take and hold real and personal property as security for the payment of funds so invested or loaned;

(j) To conduct its affairs, carry on its operations, and have offices within and without this State and to exercise in any other state, territory, district, or possession of the United States, or in any foreign country, the powers granted by this Act;

(k) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensations;

(l) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this State, except as provided in Section 102.30 of this Act, for the administration and regulation of the affairs of the corporation;

(m) To make donations in furtherance of any of its purposes; to lend money to the State or Federal government; and to conduct any lawful affairs in aid of the United States;

(n) To cease its corporate activities and surrender its corporate franchise;

(o) To establish deferred compensation plans, pension plans, and other incentive plans for its directors, officers

and employees and to make the payments provided for therein;

(p) To indemnify its directors, officers, employees or agents in accordance with and to the extent permitted by Section 108.75 of this Act and other applicable provisions of law;

(q) To be a promoter, partner, member, associate or manager of any partnership, joint venture or other enterprise; and

(r) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is formed.

(Source: P.A. 90-203, eff. 7-24-97.)

(805 ILCS 105/103.12) (from Ch. 32, par. 103.12)

Sec. 103.12. Private foundations - Federal tax laws. In the absence of an express provision to the contrary in its articles of incorporation, a corporation, as defined in Section 509 of the Internal Revenue Code of 1986, as may be amended from time to time, during the period it is a private foundation:

(a) Shall not engage in any act of self-dealing as defined in Section 4941(d) thereof;

(b) Shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 thereof;

(c) Shall not retain any excess business holdings as defined in Section 4943(c) thereof;

(d) Shall not make any investment in such manner as to subject it to tax under Section 4944 thereof;

(e) Shall not make any taxable expenditure as defined in Section 4945(d) thereof.

(Source: P.A. 96-649, eff. 1-1-10.)

(805 ILCS 105/103.15) (from Ch. 32, par. 103.15)

Sec. 103.15. Defense of Ultra Vires. No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(a) In a proceeding by a member entitled to vote or by a director against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing shall allow to the corporation or the other parties, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained;

(b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or, to the extent provided for by Section

107.80 of this Act, through a member in a representative suit, against the officers or directors of the corporation for exceeding their authority; or

(c) In a proceeding by the State, as provided in this Act, to dissolve the corporation, or in a proceeding by the State to enjoin the corporation from the transaction of unauthorized affairs.

(Source: P.A. 84-1423.)

(805 ILCS 105/103.20) (from Ch. 32, par. 103.20)

Sec. 103.20. Unauthorized assumption of corporate powers. All persons who assume to exercise corporate powers without authority to so do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

(Source: P.A. 84-1423.)

(805 ILCS 105/103.25)

Sec. 103.25. Locale misrepresentation.

(a) A person shall not advertise or cause to be listed in a telephone directory an assumed or fictitious business name that intentionally misrepresents where the business is actually located or operating or falsely states that the business is located or operating in the area covered by the telephone directory. This subsection (a) does not apply to a telephone service provider or to the publisher or distributor of a telephone service directory, unless the conduct prescribed in this subsection (a) is on behalf of that telephone service provider or that publisher or distributor.

(b) A foreign not-for-profit corporation that violates this Section is guilty of a petty offense and must be fined not less than \$501 and not more than \$1,000. A foreign not-for-profit corporation is guilty of an additional offense for each additional day in violation of this Section.

(Source: P.A. 91-906, eff. 1-1-01.)

(805 ILCS 105/103.30)

Sec. 103.30. Homeowners' association; American flag or military flag.

(a) Notwithstanding any provision in the association's declaration, covenants, bylaws, rules, regulations, or other instruments or any construction of any of those instruments by an association's board of directors, a homeowners' association incorporated under this Act may not prohibit the outdoor display of the American flag or a military flag, or both, by a homeowner on that homeowner's property if the American flag is displayed in a manner consistent with Sections 4 through 10 of Chapter 1 of Title 4 of the United States Code and a military flag is displayed in accordance with any reasonable rules and regulations adopted by the association. An association may adopt reasonable rules and regulations, consistent with Sections 4 through 10 of Chapter 1 of Title 4 of the United States Code, regarding the placement and manner of display of the American flag and an association may adopt reasonable rules and regulations regarding the placement and manner of display of a military flag. An association may not prohibit the installation of a flagpole for the display of the American flag or a military flag, or both, but the association may adopt reasonable rules and regulations regarding the location

and size of flagpoles.

(b) As used in this Section:

"American flag" means the flag of the United States (as defined in Section 1 of Chapter 1 of Title 4 of the United States Code and the Executive Orders entered in connection with that Section) made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "American flag" does not include a depiction or emblem of the American flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

"Homeowners' association" includes a property owners' association, townhome association, and any similar entity, and "homeowner" includes a townhome owner.

"Military flag" means a flag of any branch of the United States armed forces or the Illinois National Guard made of fabric, cloth, or paper displayed from a staff or flagpole or in a window, but "military flag" does not include a depiction or emblem of a military flag made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

(Source: P.A. 93-481, eff. 1-1-04.)

(805 ILCS 105/103.35)

Sec. 103.35. Unemployment insurance; notice. A not-for-profit corporation that is excluded from the definition of "nonprofit organization" under Section 211.2 of the Unemployment Insurance Act because it does not have in employment 4 or more individuals within each of 20 or more calendar weeks must provide a written notice to each employee, either in each employee's employment contract or in a written notice provided to employees who do not have employment contracts, and to each member of the board of directors that the employees of the not-for-profit corporation are not eligible to receive unemployment insurance benefits on the basis of their employment for the not-for-profit corporation.

(Source: P.A. 96-970, eff. 1-1-11.)

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