

FIRST REGULAR SESSION

HOUSE BILL NO. 1109

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCDANIEL.

2265H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 351.015 and 351.295, RSMo, and to enact in lieu thereof three new sections relating to corporations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 351.015 and 351.295, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 351.015, 351.295, and 351.296, to read as follows:

351.015. As used in this chapter, unless the context otherwise requires:

(1) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger or consolidation;

(2) "Authorized shares" means the aggregate number of shares of stock of all classes, whether with or without par value, which the corporation is authorized to issue. Shares of its own stock belonging to a corporation shall be deemed to be issued shares but not outstanding shares;

(3) **"Blockchain" means a digital ledger or database which is chronological, consensus-based, decentralized, and mathematically verified in nature;**

(4) "Certificate of stock" means a written instrument signed by or bearing the facsimile signature of the proper corporate officers, as required by this chapter, evidencing the fact that the person therein named is the holder of record of the share or shares therein described;

~~(4)~~ (5) **"Certificate token" means a representation of shares that is stored in an electronic format that contains the information specified under section 351.295, and the information is:**

(a) **Entered into a blockchain or other secure, auditable database;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 **(b) Linked to or associated with the certificate token; and**
18 **(c) Able to be transmitted electronically to the issuing corporation, the person to**
19 **whom the certificate token was issued, and any transferee;**
- 20 **(6) "Control share acquisition" means the acquisition, directly or indirectly, by any**
21 **person of ownership of, or the power to direct the exercise of voting power with respect to,**
22 **issued and outstanding control shares. For the purposes of this chapter, shares acquired within**
23 **ninety days of any acquisition of shares or shares acquired pursuant to a plan to make a control**
24 **share acquisition are considered to have been acquired in the same acquisition. For the purposes**
25 **of this chapter, a person who acquires shares in the ordinary course of business for the benefit**
26 **of others in good faith and not for the purpose of circumventing this chapter has voting power**
27 **only of shares in respect of which that person would be able to exercise or direct the exercise of**
28 **votes without further instruction from others. The acquisition of any shares of an issuing public**
29 **corporation does not constitute a control share acquisition if the acquisition is consummated in**
30 **any of the following circumstances:**
- 31 (a) Prior to June 13, 1984;
32 (b) Pursuant to a contract in existence prior to June 13, 1984;
33 (c) Pursuant to a will or other testamentary disposition, the laws of descent and
34 distribution or by ~~intervivos~~ **inter vivos** gift where such gift is made in good faith and not for
35 the purpose of circumventing section 351.407;
36 (d) Pursuant to a public offering, a private placement, or any other issuance of shares by
37 an issuing public corporation;
38 (e) By, on behalf of, or pursuant to any benefit or other compensation plan or
39 arrangement of an issuing public corporation;
40 (f) Pursuant to the conversion of debt securities into shares of an issuing public
41 corporation under the terms of such debt securities;
42 (g) Pursuant to a binding contract, other than any contract created by, pursuant to, or in
43 connection with a tender offer, whereby the holders of shares representing at least two-thirds of
44 the voting power of an issuing public corporation, such holders acting simultaneously, agreed
45 to sell such shares to any person;
46 (h) Pursuant to the satisfaction of a pledge or other security interest created in good faith
47 and not for the purpose of circumventing section 351.407;
48 (i) Pursuant to a merger or consolidation effected in compliance with sections 351.410
49 to 351.458 if the issuing public corporation is a party to the agreement of merger or
50 consolidation;
51 (j) Pursuant to a binding contract or other arrangement with any individual, foreign or
52 domestic corporation (whether or not for profit), partnership, limited liability company,

53 unincorporated society or association, or other entity which, at any time within one year prior to
54 the acquisition in question, owned shares representing more than fifty percent of the voting
55 power of the issuing public corporation;

56 (k) By or from any person whose shares have been previously accorded voting rights
57 pursuant to section 351.407; provided, the acquisition entitles the person making the acquisition,
58 directly or indirectly, alone or as a part of a group, to exercise or direct the exercise of voting
59 power of the corporation in the election of directors within a range of the voting power not in
60 excess of the range of voting power associated with the shares to which voting rights have been
61 previously accorded;

62 ~~[(5)]~~ (7) "Control shares" means shares that, except for this chapter, would have voting
63 power with respect to shares of an issuing public corporation that, when added to all other shares
64 of the issuing public corporation owned by a person or in respect to which that person may
65 exercise or direct the exercise of voting power, would entitle that person, immediately after
66 acquisition of the shares, directly or indirectly, alone or as a part of a group, to exercise or direct
67 the exercise of the voting power of the issuing public corporation in the election of directors
68 within any of the following ranges of voting power:

69 (a) One-fifth or more but less than one-third of all voting power;

70 (b) One-third or more but less than a majority of all voting power;

71 (c) A majority or more of all voting power; provided, however, that shares which the
72 person or the group have owned or of which the person or the group could have exercised or
73 directed the voting for more than ten years shall not be deemed to be control shares and shall not
74 be aggregated for the purpose of determining inclusion within the above-stated ranges;

75 ~~[(6)]~~ (8) "Corporation" or "domestic corporation" includes corporations organized under
76 this chapter or subject to some or all of the provisions of this chapter except a foreign
77 corporation;

78 ~~[(7)]~~ (9) "Foreign corporation" means a corporation for profit organized under laws other
79 than the laws of this state;

80 ~~[(8)]~~ (10) "Incorporator" means a signer of the original articles of incorporation;

81 ~~[(9)]~~ (11) "Interested shares" means the shares of an issuing public corporation in respect
82 of which any of the following persons may exercise or direct the exercise of the voting power
83 of the corporation in the election of directors:

84 (a) An acquiring person or member of a group with respect to a control share acquisition;

85 (b) Any officer of the issuing public corporation elected or appointed by the directors of
86 the issuing public corporation;

87 (c) Any employee of the issuing public corporation who is also a director of such
88 corporation;

89 ~~[(10)]~~ **(12)** "Issuing public corporation", unless the articles of incorporation provide
90 otherwise as to the applicability of this section, means a corporation that has a class of voting
91 stock registered with the securities and exchange commission under Section 12 of the Exchange
92 Act and is either (a) a corporation incorporated under the laws of the state of Missouri, or, (b)
93 subdivision (2) of section 351.690 notwithstanding, any insurance company organized pursuant
94 to the laws of Missouri and doing business under the provisions of chapter 376, provided that
95 the bylaws of such insurance company expressly state that such insurance company shall, for the
96 purposes of this chapter, be included within the definition of "issuing public corporation";

97 ~~[(11)]~~ **(13)** "Net assets", for the purpose of determining the right of a corporation to
98 purchase its own shares and of determining the right of a corporation to declare and pay
99 dividends and the liabilities of directors therefor, shall not include shares of its own stock
100 belonging to a corporation;

101 ~~[(12)]~~ **(14)** **"Network signature" means a string of alphanumeric characters that,**
102 **when broadcast by a person to the data address's corresponding distributed or other**
103 **electronic network or database, provides reasonable assurances to a recipient that the**
104 **broadcasting person has knowledge or possession of the private key uniquely associated**
105 **with the data address;**

106 **(15)** "Paid-in surplus" means all that part of the consideration received by the corporation
107 for, or on account of, all shares issued which does not constitute stated capital minus such formal
108 reductions from said sum as may have been effected in a manner permitted by this chapter;

109 ~~[(13)]~~ **(16)** "Person" includes, without limitation, an individual, a foreign or domestic
110 corporation whether not for profit or for profit, a partnership, a limited liability company, an
111 unincorporated society or association, two or more persons having a joint or common interest,
112 or any other entity;

113 ~~[(14)]~~ **(17)** "Registered office" means that office maintained by the corporation in this
114 state, the address of which is on file in the office of the secretary of state;

115 ~~[(15)]~~ **(18)** "Shareholder" means one who is a holder of record of shares in a corporation;

116 ~~[(16)]~~ **(19)** "Shares" are the units into which the shareholders' rights to participate in the
117 control of the corporation, in its surplus or profits, or in the distribution of its assets, are divided;

118 ~~[(17)]~~ **(20)** "Stated capital" means at any particular time the sum of:

119 (a) The par value of all shares then issued having a par value; and

120 (b) The consideration received by the corporation for all shares then issued without par
121 value except such part thereof as may have been allocated otherwise than to stated capital in a
122 manner permitted by law; and

123 (c) Such amounts not included in paragraphs (a) and (b) of this subdivision as may have
124 been transferred to the stated capital account of the corporation, whether upon the issue of shares

125 as a share dividend or otherwise, minus such formal reductions from said sum as may have been
126 effected in a manner permitted by this chapter;

127 ~~[(18)]~~ (21) "Subscriber" means one who subscribes for shares in a corporation, whether
128 before or after incorporation.

351.295. 1. The shares of a corporation shall be represented by certificates, provided
2 that the articles of incorporation or bylaws, or a resolution or resolutions of the board of directors
3 of the corporation, may provide that some or all of any or all classes or series of its stock shall
4 be uncertificated shares. Any such provision of the articles of incorporation or bylaws or
5 resolution of the board of directors shall not apply to shares represented by a certificate until such
6 certificate is surrendered to the corporation. Notwithstanding such a provision of the articles of
7 incorporation or bylaws, or the adoption of such a resolution by the board of directors, every
8 holder of stock represented by certificates shall be entitled to have a certificate. Except as
9 otherwise provided in the articles of incorporation or bylaws, such certificate shall be signed by
10 the president or a vice president and by the secretary or an assistant secretary or the treasurer or
11 an assistant treasurer of such corporation and sealed with the seal of the corporation. Any or all
12 the signatures on the certificate may be **electronic or** a facsimile and the seal may be **electronic,**
13 facsimile, engraved, or printed. In case any officer, transfer agent or registrar who has signed
14 or whose facsimile signature has been placed on a certificate shall have ceased to be such officer,
15 transfer agent or registrar before such certificate is issued, the certificate may nevertheless be
16 issued by the corporation with the same effect as if the person were an officer, transfer agent or
17 registrar at the date of issue. Every holder of uncertificated shares is entitled to receive a
18 statement of holdings as evidence of share ownership. **Each certificate shall state on its face**
19 **the name of the person to whom or, in the case of a certificate token, the data address to**
20 **which the token was issued.**

21 2. Every certificate for shares without par value shall have plainly stated upon its face
22 the number of shares which it represents, and no certificate shall express any par value for such
23 shares or a rate of dividend to which such shares shall be entitled in terms of percentage of any
24 par or other value.

25 **3. The articles of incorporation or bylaws of a corporation may specify that all or**
26 **a portion of the shares of the corporation may be represented by share certificates in the**
27 **form of certificate tokens. The electronic message, command, or transaction that transmits**
28 **the certificate tokens to the data address to which a certificate token was issued shall be**
29 **authorized at the time of issuance by one or more messages, commands, or transactions**
30 **signed with the network signatures of two officers designated in the bylaws or by the board**
31 **of directors of the corporation.**

351.296. As used in this chapter, any reference to:

2 **(1) Share certificate, share, stock, share of stock, or words of similar import shall**
3 **be construed to include a certificate token;**

4 **(2) A requirement to print information on a share certificate or words of similar**
5 **import shall be construed to be satisfied if the information satisfies the requirements under**
6 **subsection 3 of section 351.295;**

7 **(3) Certificated shares or words of similar import shall be construed to include**
8 **shares represented by certificate tokens, and any reference to the delivery or deposit of**
9 **these shares to the corporation shall be construed to refer to any method of granting**
10 **control of the tokens to the corporation; and**

11 **(4) A certificate being duly endorsed or words of similar import shall be construed**
12 **to mean that the transaction authorizing transfer of control of the certificate token was**
13 **signed by the lawful holder of the token with the network signature corresponding to the**
14 **lawful holder's data address to which the certificate token was issued or last lawfully**
15 **transferred.**

✓