

**Maine Revised Statutes**  
**Title 13-C: MAINE BUSINESS CORPORATION ACT**  
**Chapter 1: GENERAL PROVISIONS**

**§102. DEFINITIONS**

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF).]

**1. Articles of incorporation.** "Articles of incorporation" means the original or restated articles of incorporation and all amendments thereto. "Articles of incorporation" includes articles of merger, articles of consolidation, articles of domestication, articles of conversion, a certificate of incorporation and what has previously been designated as "articles of agreement" for a corporation and certificate of organization. "Articles of incorporation" also includes special acts of the Legislature chartering corporations that could not be organized under general acts. If any document filed under this Act restates the articles of incorporation in their entirety, the articles do not include any prior documents.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**2. Authorized shares.** "Authorized shares" means the shares of all classes that a domestic or foreign corporation is authorized to issue.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**2-A. Close corporation.** "Close corporation" means a corporation that, at any given time, has not more than 20 shareholders of all classes of shares, whether or not the shareholders are entitled to vote. For purposes of determining whether a corporation is a close corporation, 2 or more persons owning shares of record in their names as joint tenants are counted as a single shareholder.

[ 2003, c. 344, Pt. B, §29 (NEW) .]

**3. Conspicuous.** "Conspicuous" means so written, displayed or presented that a reasonable person against whom the writing is to operate should have noticed it. Words that are printed in italics, boldface, contrasting color or capitals or that are underlined are conspicuous.

[ 2011, c. 274, §1 (AMD) .]

**4. Corporation; domestic corporation; domestic business corporation.** "Corporation," "domestic corporation" or "domestic business corporation" means a corporation for profit or with shares, that is not a foreign corporation, incorporated under or subject to the provisions of this Act.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**5. Deliver; delivery.** "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and, if authorized in accordance with section 103-A, by electronic transmission.

[ 2011, c. 274, §2 (AMD) .]

**6. Distribution.** "Distribution" means a direct or indirect transfer of money or other property, except a corporation's own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption or other acquisition of shares; a distribution of indebtedness; or otherwise.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**6-A. Document.** "Document" means:

A. A tangible medium on which information is inscribed and includes any writing or any written instrument; or [2011, c. 274, §3 (NEW).]

B. An electronic record. [2011, c. 274, §3 (NEW).]

[ 2011, c. 274, §3 (NEW) .]

**7. Domestic unincorporated entity.** "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of this State.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**8. Effective date of notice.** "Effective date of notice" has the meaning set forth in section 103-A.

[ 2011, c. 274, §4 (AMD) .]

**8-A. Electronic.** "Electronic" means relating to technology that has electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

[ 2011, c. 274, §5 (NEW) .]

**8-B. Electronic record.** "Electronic record" means information that is stored in an electronic or other medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 103-A, subsection 10.

[ 2011, c. 274, §6 (NEW) .]

**9. Electronic transmission; electronically transmitted.** "Electronic transmission" or "electronically transmitted" means any form or process of communication, not directly involving the physical transfer of paper or other tangible medium, that:

A. Is suitable for the retention, retrieval and reproduction of information by the recipient; and [2011, c. 274, §7 (NEW).]

B. Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 103-A, subsection 10. [2011, c. 274, §7 (NEW).]

[ 2011, c. 274, §7 (RPR) .]

**10. Employee.** "Employee" includes an officer of a domestic or foreign corporation but does not include a director. A director may accept duties that make that director also an employee.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**11. Entity.** "Entity" includes a domestic or foreign business corporation; a domestic or foreign nonprofit corporation; an estate; a partnership; a trust; 2 or more persons having a joint or common economic interest; a domestic or foreign unincorporated entity; a state; the United States; and a foreign government.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**11-A. Expenses.** "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter, including, but not limited to, attorney's fees.

[ 2007, c. 289, §1 (NEW) .]

**12. Filing entity.** "Filing entity" means an unincorporated entity that is created by filing a public organic document.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**13. Foreign corporation; foreign business corporation.** "Foreign corporation" or "foreign business corporation" means a corporation incorporated for profit under a law other than the law of this State that would be a business corporation if incorporated under the laws of this State.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**14. Foreign nonprofit corporation.** "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of this State that would be a nonprofit corporation if incorporated under the laws of this State.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**15. Foreign unincorporated entity.** "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this State.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**16. Governmental subdivision.** "Governmental subdivision" includes an authority, county, district and municipality.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**17. Includes.** "Includes" denotes a partial definition.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**18. Individual.** "Individual" means a natural person.

[ 2003, c. 344, Pt. B, §30 (AMD) .]

**19. Interest.** "Interest" means either or both of the following rights under the organic law of an unincorporated entity:

A. A right to receive distributions from the entity either in the ordinary course or upon liquidation, including as an assignee; and [2003, c. 344, Pt. B, §30 (AMD) .]

B. A right to receive notice or vote on issues involving the internal affairs of an unincorporated entity, other than as an agent, assignee, proxy or person responsible for managing the business and affairs of the entity. [2003, c. 344, Pt. B, §30 (AMD) .]

[ 2003, c. 344, Pt. B, §30 (AMD) .]

**19-A. Interest holder.** "Interest holder" means a person who holds of record an interest.

[ 2003, c. 344, Pt. B, §31 (NEW) .]

**20. Means.** "Means" denotes an exhaustive definition.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**21. Membership.** "Membership" means the rights of a member in a domestic or foreign nonprofit corporation.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**22. Nonfiling entity.** "Nonfiling entity" means an unincorporated entity that is not created by filing a public organic document.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**23. Nonprofit corporation; domestic nonprofit corporation.** "Nonprofit corporation" or "domestic nonprofit corporation" means a corporation incorporated under the laws of this State and subject to the provisions of Title 13, chapter 81 or 93 or the Maine Nonprofit Corporation Act.

[ 2003, c. 344, Pt. B, §32 (AMD) .]

**24. Notice.** "Notice" has the meaning set forth in section 103-A.

[ 2011, c. 274, §8 (AMD) .]

**25. Organic document.** "Organic document" means a public organic document or a private organic document.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**26. Organic law.** "Organic law" means the statute governing the internal affairs of a domestic or foreign business or nonprofit corporation or unincorporated entity.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**27. Owner liability.** "Owner liability" means personal liability for a debt, obligation or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

A. Solely by reason of the person's status as a shareholder, member or interest holder; or [2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF).]

B. By the articles of incorporation, bylaws or an organic document pursuant to a provision of the organic law authorizing the articles of incorporation, bylaws or an organic document to make one or more specified shareholders, members or interest holders liable in their capacity as shareholders, members or interest holders for all or specified debts, obligations or liabilities of the entity. [2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF).]

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**28. Person.** "Person" includes an individual and an entity.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**29. Principal office.** "Principal office" means the office so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) . ]

**30. Private organic document.** "Private organic document" means any document other than the public organic document, if any, that determines the internal governance of an unincorporated entity. When a private organic document has been amended or restated, "private organic document" means the private organic document as last amended or restated.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) . ]

**30-A. Public corporation.** "Public corporation" means a corporation that has a class or series of shares listed on a national securities exchange, a class or series of shares that is a covered security under the federal Securities Act of 1933, Section 18(b)(1)(A) or (B), as amended, or a class or series of equity securities registered under Section 12 of the federal Securities Exchange Act of 1934, as amended.

[ 2007, c. 289, §2 (NEW) . ]

**31. Public organic document.** "Public organic document" means the document, if any, that is filed as a public record to create an unincorporated entity. When a public organic document has been amended or restated, "public organic document" means the public organic document as last amended or restated.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) . ]

**32. Proceeding.** "Proceeding" includes a civil suit and criminal, administrative and investigatory action.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) . ]

**32-A. Qualified director.** "Qualified director" is defined in this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

- (1) "Director's conflicting-interest transaction" has the same meaning as in section 871;
- (2) "Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken; and
- (3) "Material relationship" means a familial, financial, professional, employment or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken. [ 2007, c. 289, §3 (NEW) . ]

B. "Qualified director" means a person who, at the time action is to be taken under:

- (1) Section 755, does not have:
  - (a) A material interest in the outcome of the proceeding; or
  - (b) A material relationship with a person who has such an interest;
- (2) Section 854 or 856:
  - (a) Is not a party to the proceeding;
  - (b) Is not a director as to whom a transaction is a director's conflicting-interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under section 881, which transaction or disclaimer is challenged in the proceeding; and
  - (c) Does not have a material relationship with a director described in division (a) or (b);

(3) Section 873, is not a director:

(a) As to whom the transaction is a director's conflicting-interest transaction; or

(b) Who has a material relationship with another director as to whom the transaction is a director's conflicting-interest transaction;

(4) Section 881, would be a qualified director under subparagraph (3) if the business opportunity was a director's conflicting-interest transaction; or

(5) Section 202, subsection 2, paragraph F, is not a director:

(a) To whom the limitation or elimination of a duty of an officer to offer potential business opportunities to the corporation would apply; or

(b) Who has a material relationship with another officer to whom the limitation or elimination would apply. [2015, c. 259, §1 (AMD).]

C. The presence of one or more of the following circumstances does not automatically prevent a director from being a qualified director:

(1) Nomination or election of the director to the board by a director who is not a qualified director with respect to the matter, or by any person who has a material relationship with that director, acting alone or participating with others;

(2) Service as a director of another corporation of which a director who is not a qualified director with respect to the matter or any individual who has a material relationship with that director is or was also a director; or

(3) With respect to action to be taken under section 755, status as a named defendant, as a director against whom action is demanded or as a director who approved the conduct being challenged. [2007, c. 289, §3 (NEW).]

[ 2015, c. 259, §1 (AMD) .]

**33. Record date.** "Record date" means the date established under chapter 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this Act. The determinations must be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**34. Shareholder.** "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**35. Shares.** "Shares" means the units into which the proprietary interests in a corporation are divided.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**36. Sign; signature.** "Sign" or "signature" means, with present intent to authenticate or adopt the document:

A. To execute or adopt a tangible symbol to a document and includes any manual, facsimile or conformed signature; or [2011, c. 274, §9 (NEW).]

B. To attach or logically associate with an electronic transmission an electronic sound, symbol or process and includes an electronic signature in an electronic transmission. [2011, c. 274, §9 (NEW).]

[ 2011, c. 274, §9 (RPR) .]

**37. State.** "State," when referring to a part of the United States, includes a state or commonwealth and its agencies and governmental subdivisions and a territory or insular possession of the United States and its agencies and governmental subdivisions.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**38. Subscriber.** "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**39. Unincorporated entity.** "Unincorporated entity" means an organization or artificial legal person that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not any of the following: a domestic or foreign business or nonprofit corporation; an estate; a trust; a state; the United States; or a foreign government. "Unincorporated entity" includes, but is not limited to, a general partnership, limited liability company, limited partnership, business trust, joint stock association and unincorporated nonprofit association.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**40. United States.** "United States" includes a district, authority, bureau, commission, department and any other agency of the United States.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**41. Voting group.** "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this Act are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this Act to vote generally on a matter are for that purpose a single voting group.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**42. Voting power.** "Voting power" means the current power to vote in the election of directors.

[ 2001, c. 640, Pt. A, §2 (NEW); 2001, c. 640, Pt. B, §7 (AFF) .]

**43. Writing; written.** "Writing" or "written" means any information in the form of a document.

[ 2011, c. 274, §10 (NEW) .]

#### SECTION HISTORY

2001, c. 640, §A2 (NEW). 2001, c. 640, §B7 (AFF). 2003, c. 344, §§B29-32 (AMD). 2007, c. 289, §§1-3 (AMD). 2011, c. 274, §§1-10 (AMD). 2015, c. 259, §1 (AMD).

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