

# Chapter 61

## 1961 REPLACEMENT PART

### Nonprofit Corporations; Reports on Solicitations of Funds

- SHORT TITLE; DEFINITIONS; APPLICABILITY**
- 61.005 Short title  
61.011 Definitions for ORS 61.005 to 61.950  
61.015 Applicability
- SUBSTANTIVE PROVISIONS**
- 61.051 Purposes for which corporations may be organized
- 61.055 Corporation sole  
61.061 General powers  
61.065 Assertion of ultra vires  
61.071 Corporate name  
61.076 Reserved name  
61.081 Registered name  
61.086 Registered office and registered agent; service of process on corporation
- 61.091 Members  
61.095 Bylaws  
61.101 Meetings of members  
61.105 Notice  
61.111 Voting  
61.115 Quorum  
61.121 Board of directors  
61.125 Number and election of directors  
61.131 Vacancies in board of directors  
61.135 Quorum of directors  
61.141 Committees  
61.145 Place and notice of directors' meetings  
61.151 Officers  
61.155 Removal of officers  
61.161 Books and records  
61.165 Shares of stock and dividends prohibited  
61.170 Loans to directors and officers prohibited
- FORMATION OF CORPORATIONS**
- 61.305 Incorporators  
61.311 Articles of incorporation  
61.315 Filing articles of incorporation  
61.321 Effect of issuance of certificate of incorporation  
61.325 Organizational meeting of directors
- AMENDMENT OF ARTICLES**
- 61.355 Right to amend articles of incorporation  
61.361 Procedure to amend articles of incorporation
- 61.370 Articles of amendment  
61.375 Filing articles of amendment  
61.380 Effect of certificate of amendment  
61.385 Restated articles of incorporation
- MERGER AND CONSOLIDATION**
- 61.455 Procedure for merger  
61.461 Procedure for consolidation  
61.465 Adoption of merger or consolidation  
61.471 Articles of merger or consolidation  
61.475 Effective date of merger or consolidation  
61.481 Effect of merger or consolidation
- DISPOSITION OF ASSETS**
- 61.505 Sale, lease, exchange or mortgage of assets
- DISSOLUTION**
- 61.525 Voluntary dissolution  
61.530 Distribution of assets  
61.535 Plan of distribution
- 61.540 Revocation of voluntary dissolution proceedings  
61.545 Articles of dissolution  
61.550 Filing of articles of dissolution  
61.555 Involuntary dissolution  
61.560 Venue and process  
61.565 Jurisdiction of court to liquidate assets and affairs of corporation
- 61.570 Procedure in liquidation by court  
61.575 Filing of claims in liquidation proceedings  
61.581 Discontinuance of liquidation proceedings  
61.585 Decree of involuntary dissolution  
61.591 Filing of decree of dissolution  
61.595 Deposit with State Land Board of amount due certain persons  
61.600 Survival of remedy after dissolution
- FOREIGN CORPORATIONS**
- 61.655 Admission of foreign corporation  
61.660 Powers of foreign corporation  
61.665 Corporate name of foreign corporation  
61.670 Change of name by foreign corporation  
61.675 Application for certificate of authority  
61.680 Filing of application for certificate of authority
- 61.685 Effect of certificate of authority  
61.690 Registered office and registered agent of foreign corporation  
61.695 Change of registered office or registered agent of foreign corporation  
61.700 Service of process on foreign corporation  
61.715 Amended certificate of authority  
61.721 Withdrawal of foreign corporation  
61.725 Filing of application for withdrawal  
61.731 Cause for revocation of certificate of authority  
61.735 Procedure for revoking certificate of authority
- 61.741 Application to corporation authorized to transact business in this state on December 31, 1959  
61.745 Transacting business without certificate of authority
- CEMETERIES AND CREMATORIES**
- 61.755 Lands of cemetery or crematory corporation; exemption from execution, taxation and condemnation
- 61.760 Revenues; restrictions on uses thereof  
61.765 Selling land unsuited for burials  
61.770 Burial lots or space; use, exemption from taxation, execution and liens; lien for purchase price of gravestone
- 61.775 Recording plan; power to improve and regulate grounds
- ANNUAL REPORTS**
- 61.805 Annual report of domestic and foreign corporations  
61.810 Filing of annual report of domestic and foreign corporations  
61.815 Penalty if annual report not filed within prescribed time

## FEES AND CHARGES

61.855 Fees for filing documents and issuing certificates

61.860 Miscellaneous charges

## MISCELLANEOUS PROVISIONS

61.905 Powers of Corporation Commissioner

61.910 Appeal from Corporation Commissioner

61.915 Certificates and certified copies to be received in evidence

61.920 Forms to be furnished by Corporation Commissioner

61.925 Greater voting requirements

61.930 Waiver of notice

61.935 Action by members or directors without a meeting

61.940 Liability for unauthorized assumption of corporate powers

61.945 Reservation of power by Legislative Assembly

61.950 Effect of repeal of prior Acts

## REPORTS ON SOLICITATIONS OF FUNDS

61.972 Contents, verification and filing of solicitor's report

61.976 Audit of accounts of solicitor

61.980 Institutions and societies excepted

61.984 Reports by groups receiving aid from community chest and soliciting funds

## PENALTIES

61.990 Penalties

## CROSS REFERENCES

Crimes with respect to organizations, orders and societies, 165.305 to 165.340

Exemption from corporate excise tax of certain non-profit corporations, 317.080

Exemption of property of certain fraternal organizations from taxation, 307.136

Interest, legal rate, 82.010

Jurisdiction of Oregon courts over corporations, 14.020

Oregon National Guard Association, 399.460

Service of summons and complaint upon corporations, 15.080

Teachers' retirement fund associations, 239.102

61.051

Nonprofit district improvement companies, 554.050

61.061

Amending articles of incorporation, effect, 61.380

City assessments, right to bond, 223.210

Merger or consolidation, effect, 61.481

61.065

Certificate of incorporation, effect of issuance, 61.321

61.071

"Cooperative," enjoining use of word, 62.850

61.530

Cemetery maintenance districts, Ch. 265

61.555

Action by Governor to annul corporate existence, 30.570

Action to annul corporate existence on leave of court, 30.580

61.665

"Cooperative," enjoining use of word, 62.850

61.735

Action by Governor to annul corporate existence, 30.570

Action to annul corporate existence on leave of court, 30.580

61.755

Acquisition of abandoned cemetery by city, 226.530

Acquisition of highway right of way through cemetery by exercise of power of eminent domain, 366.325

Discontinuance of cemetery and removal of remains, 97.450

Distance of cemeteries from source of water supply, 449.125

Liability for injuring cemetery property, 164.580

Prearranged funeral plans as trusts, 128.410

Sale of share granting any right to funeral or burial services, 59.660 to 59.700

61.770

Cemetery lots and property rights in human bodies, Ch. 97

**SHORT TITLE; DEFINITIONS;  
APPLICABILITY**

**61.005 Short title.** ORS 61.005 to 61.950 shall be known and may be cited as the "Oregon Nonprofit Corporation Law."  
[1959 c.580 §1]

**61.010** [Repealed by 1959 c.580 §104]

**61.011 Definitions for ORS 61.005 to 61.950.** As used in ORS 61.005 to 61.950, unless the context requires otherwise:

(1) "Anniversary" means that day each year exactly one or more years after:

(a) The date on the certificate of incorporation issued under ORS 61.315, in the case of a domestic corporation.

(b) The date on the certificate of authority to transact business in this state issued under ORS 61.680, in the case of a foreign corporation.

(2) "Articles of incorporation" includes the original or restated articles of incorporation, special laws or charters corresponding thereto, all amendments thereto and articles of merger.

(3) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(4) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(5) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of ORS 61.005 to 61.950 except a foreign corporation.

(6) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state.

(7) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(8) "Nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

[1959 c.580 §2]

**61.015 Applicability.** The provisions of ORS 61.005 to 61.950 relating to domestic corporations shall apply to:

(1) All corporations organized hereunder.

(2) All nonprofit corporations heretofore organized for a purpose or purposes for which a corporation might be organized under ORS 61.005 to 61.950 which were organized under or were otherwise subject to the provisions of any Act hereby repealed, subject to the following limitations:

(a) A corporation subject to ORS 61.310, 61.320, 61.330, 61.340, 61.350, 61.360, 61.470, 61.480, 61.490, 61.500, 61.580, 61.590 or 63.060 shall continue to be subject thereto as though the provisions thereof applicable to such corporation were included in its articles of incorporation. The corporation shall have the power to amend or eliminate such provisions in the manner provided in ORS 61.005 to 61.950 for amendment of articles of incorporation. The corporation may, but shall not be required to, amend its articles of incorporation immediately to set out such provisions. If the corporation desires in the future to amend its articles in any respect, it must restate its articles in a form consonant with the provisions of ORS 61.005 to 61.950. After such amendment, the provisions of this paragraph shall no longer apply to the corporation.

(b) Any corporation subject to the provisions of ORS chapter 63 and having authorized capital stock shall elect whether to be governed by ORS 61.005 to 61.950, by ORS chapter 57, or by ORS chapter 62. Such election shall be made by the adoption and filing of a statement of election. Such statement shall be adopted and filed in the manner provided in ORS chapter 57 for amending articles of incorporation. The corporation shall, at the time such statement is adopted, designate a registered office and appoint a registered agent whose office shall be the registered office. In addition to the information otherwise required by law, there shall be filed with the statement of election the address, including street and number, of the registered office, and the name of the registered agent at such address, and the names and addresses, including street and number, of its officers and directors, and a statement of the number of authorized shares of stock, the number issued, and the number outstanding, and, if the corporation elects to be subject to ORS 61.005 to 61.950, a statement that all issued and outstanding shares will be canceled when the election becomes effective, and that after such date the authority of the corporation to issue shares or declare dividends shall cease. Upon issuance by the

Corporation Commissioner of the certificate of election, the election shall become effective and the corporation shall be subject to the elected statute in all respects as though organized thereunder. The holders of any shares of stock who surrendered them pursuant to an election to accept ORS 61.005 to 61.950 shall become members of the corporation with one vote each or the number of votes they previously were entitled to cast as stockholders, whichever is greater, until the corporation by proper corporate action pursuant to the provisions of ORS 61.005 to 61.950 shall otherwise prescribe. In the event a corporation subject to ORS chapter 63 and having capital stock shall fail to make the election required by this section within one year after December 31, 1959, it shall automatically be subject to the provisions of ORS chapter 57. Prior to the issuance of a certificate of election, or the expiration of one year from December 31, 1959, whichever shall first occur, such corporation shall be subject only to the provisions of ORS chapter 63.

(c) Not later than 120 days after December 31, 1959, the Corporation Commissioner shall mail to each corporation organized and existing under or subject to any repealed sections, at the last address shown on his records for each such corporation, the following: A copy of the repealed sections apparently applicable to the corporation as such sections existed at the time of repeal; and a copy of the provisions of ORS 61.005 to 61.950 concerning the applicability of such repealed sections to such corporation; and a letter of instructions calling the attention of the corporation to the effect of ORS 61.005 to 61.950, the steps, if any, immediately required by it to conform hereto, and the consequences, if any, from its failure to take such steps. The Corporation Commissioner shall file in the permanent file of the corporation a copy of the material sent to the corporation as herein provided. If it is impossible from the commissioner's records to determine the repealed sections applicable to any corporation, a copy of all sections, with suitable explanation, shall be sent.

[1959 c.580 §3]

61.020 [Repealed by 1959 c.580 §104]

61.030 [Repealed by 1959 c.580 §104]

61.040 [Repealed by 1959 c.580 §104]

61.050 [Repealed by 1959 c.580 §104]

### SUBSTANTIVE PROVISIONS

**61.051 Purposes for which corporations may be organized.** Corporations may be organized under ORS 61.005 to 61.950 for any one or more lawful purposes none of which is for profit.

[1959 c.580 §4]

**61.055 Corporation sole.** (1) Any person may, in conformity with the constitution, canons, rules, regulations and disciplines of any church or religious denomination, form a corporation hereunder to be a corporation sole. Such corporation will differ from other corporations organized hereunder only in that it shall have no board of directors, need not have officers and shall be managed by the individual constituting the corporation, who shall be the incorporator or his successor.

(2) The name of such corporation shall be the name of the office within the church or religious denomination held by the incorporator, and shall be followed by the words "and his successors, a corporation sole."

(3) All of the provisions of ORS 61.005 to 61.950 shall apply to such corporation except in so far as they may be inconsistent with the absence of several directors. The individual constituting the corporation from time to time shall be deemed to constitute the board of directors for purposes of interpretation and application of the provisions of ORS 61.005 to 61.950. If the corporation has no officers, such individual may perform any act, including, but not limited to, the execution of any instrument, as required under ORS 61.005 to 61.950 or otherwise, in the same manner and with the same effect as though such act were performed by one or more officers of the corporation.

[1959 c.580 §5]

61.060 [Repealed by 1959 c.580 §104]

**61.061 General powers.** Each corporation shall have power:

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

(2) To sue and be sued, complain and defend, in its corporate name.

(3) 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.

(4) To purchase, take, receive, take by gifts, devise or bequests, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employes other than its officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, 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, or direct or indirect obligations of the United States, or any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its business, carry on its operations, and have offices and exercise the powers granted by ORS 61.005 to 61.950 in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, define their duties, fix their compensation and pay pensions and establish pension plans and pension trusts for its officers or employes.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, religious, eleemosynary, benevolent, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; but such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise.

(15) To cease its corporate activities and surrender its corporate franchise.

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

[1959 c.580 §6]

**61.065 Assertion 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:

(1) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized 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 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 may allow to the corporation or the other parties to the contract, 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 considered by the court as a loss or damage sustained.

(2) In a proceeding by the corporation,

whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors or former officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the Attorney General to enjoin the corporation from performing unauthorized acts.

[1959 c.580 §7]

61.070 [Repealed by 1959 c.580 §104]

**61.071 Corporate name.** The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any law of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business in this state, or a corporate name reserved or registered as permitted by the laws of this state.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not contain the word "cooperative."

[1959 c.580 §8]

61.075 [1955 c.200 §4; repealed by 1959 c.580 §104]

**61.076 Reserved name.** ORS 57.050 relating to the reservation of a corporate name is applicable to nonprofit corporations.

[1959 c.580 §9]

61.080 [Repealed by 1959 c.580 §104]

**61.081 Registered name.** ORS 57.055 and 57.060 relating to the registration of a corporate name by a foreign corporation are applicable to nonprofit corporations.

[1959 c.580 §10]

61.085 [1955 c.319 §1; repealed by 1959 c.580 §104]

**61.086 Registered office and registered agent; service of process on corporation.** (1) Each corporation shall have and continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its place of business.

(b) A registered agent, which agent may be either an individual resident in this state

whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.

(2) A corporation may change its registered office or registered agent in accordance with the procedure set forth in ORS 57.070, and a person who has been designated by a corporation as its registered agent may resign in accordance with the procedure set forth in ORS 57.070.

(3) A registered agent appointed by a corporation is an agent of the corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(4) The provisions of ORS 57.075 relating to service of process on a corporation are applicable to nonprofit corporations.

[1959 c.580 §11]

61.090 [Repealed by 1959 c.580 §104]

**61.091 Members.** A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws, provided, that voting rights may be limited, enlarged or denied only to the extent specified in the articles of incorporation. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein.

[1959 c.580 §12; 1961 c.141 §1]

**61.095 Bylaws.** The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation.

[1959 c.580 §13]

61.100 [Repealed by 1959 c.580 §104]

**61.101 Meetings of members.** (1) Meetings of members may be held either within or without this state, as may be provided in

the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

(2) An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

(3) Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at such meeting. [1959 c.580 §14]

**61.105 Notice.** (1) Except as provided in subsection (2) of this section, written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than seven nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the member at his most recent address as it appears on the records of the corporation.

(2) A corporation all or a part of whose activities consist of soliciting funds from the public for charitable, religious, eleemosynary, benevolent, scientific, educational or similar purposes, may provide in its articles of incorporation or bylaws that all or a certain class or classes of its contributors shall be voting members with limited right to notice. Such a corporation may have, but need not have, another class or other classes of voting members with full right to notice as provided in subsection (1) of this section. Voting members with limited right to notice shall be given notice of the place, day and hour of the meeting by publication three times at one-week intervals, the last publication to be not less than seven days before the meet-

ing, in a newspaper of general circulation in the county in which the principal office of the corporation is located, and such further notice, if any, as the articles of incorporation or bylaws may prescribe.

[1959 c.580 §15; 1961 c.141 §2]

**61.110** [Repealed by 1959 c.580 §104]

**61.111 Voting.** (1) The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote.

(2) A member may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

(3) The articles of incorporation may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

[1959 c.580 §16]

**61.115 Quorum.** (1) The vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by ORS 61.005 to 61.950, the articles of incorporation or the bylaws.

(2) Those members present at any annual or special meeting of members constitute a quorum at the meeting, unless the bylaws of the corporation provide that a greater number constitutes a quorum.

[1959 c.580 §17]

**61.120** [Repealed by 1959 c.580 §104]

**61.121 Board of directors.** The business affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the

corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

[1959 c.580 §18]

#### 61.125 Number and election of directors.

(1) The number of directors of a corporation, other than a corporation sole, shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

(2) The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation. Thereafter, directors shall be elected or appointed in the manner and for the terms set forth in the articles of incorporation, provided that the bylaws may permit such elections to be conducted by mail. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

(3) Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed to take office.

(4) A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

[1959 c.580 §19]

61.130 [Repealed by 1959 c.580 §104]

#### 61.131 Vacancies in board of directors.

Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors,

unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

[1959 c.580 §20]

61.135 Quorum of directors. A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by ORS 61.005 to 61.950, the articles of incorporation or the bylaws.

[1959 c.580 §21]

61.140 [Repealed by 1959 c.580 §104]

61.141 Committees. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint 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 articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation; provided, however, that no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by

its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

[1959 c.580 §22]

**61.145 Place and notice of directors' meetings.** Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

[1959 c.580 §23]

**61.150** [1953 c.549 §141; repealed by 1959 c.580 §104]

**61.151 Officers.** (1) The officers of a corporation, other than a corporation sole, shall consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

(2) The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

(3) The officers of a corporation may be designated by such other titles in lieu of the above as may be provided in the articles of incorporation or the bylaws.

[1959 c.580 §24]

**61.155 Removal of officers.** Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best

interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

[1959 c.580 §25]

**61.160** [1953 c.680 §§1, 2; repealed by 1957 c.347 §1]

**61.161 Books and records.** (1) Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors. It shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

(2) In any action or proceeding to enforce the rights of members provided in this section, if the member prevails in the action or proceeding, there shall be taxed and allowed to such member, as a part of the costs thereof, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action or proceeding.

[1959 c.580 §26]

**61.165 Shares of stock and dividends prohibited.** A corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by ORS 61.005 to 61.950, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

[1959 c.580 §27]

**61.170 Loans to directors and officers prohibited.** (1) No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

(2) Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for the action upon which the claim is asserted. To the extent that any director is required to pay such claim he shall be subrogated to the rights of the corporation against the debtor on the loan.

[1959 c.580 §28]

61.180 to 61.200 [Reserved for expansion]

61.210 [Repealed by 1959 c.580 §104]

61.220 [Amended by 1955 c.199 §1; repealed by 1959 c.580 §104]

61.230 [Repealed by 1959 c.580 §104]

61.240 to 61.300 [Reserved for expansion]

### FORMATION OF CORPORATIONS

**61.305 Incorporators.** One or more persons may incorporate a corporation by signing, verifying and delivering articles of incorporation in duplicate to the Corporation Commissioner.

[1959 c.580 §29]

61.310 [Repealed by 1959 c.580 §104]

**61.311 Articles of incorporation.** (1) The articles of incorporation shall set forth:

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The purpose or purposes for which the corporation is organized.

(d) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation.

(e) The address, including street and number, if any, of its initial registered office, and the name of its initial registered agent at such address.

(f) The number of directors constituting the initial board of directors, and the names and addresses, including street and number, if any, of the persons who are to serve as the initial directors.

(g) The name and address, including street and number, if any, of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in ORS 61.005 to 61.950.

[1959 c.580 §30]

### 61.315 Filing articles of incorporation.

(1) Duplicate originals of the articles of incorporation shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in ORS 61.005 to 61.950 prescribed:

(a) Indorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one duplicate original in his office.

(c) Issue a certificate of incorporation to which he shall affix the other duplicate original.

(2) The certificate of incorporation, together with the duplicate original of the articles of incorporation affixed thereto by the Corporation Commissioner shall be returned to the incorporators or their representative.

[1959 c.580 §31]

61.320 [Repealed by 1959 c.580 §104]

**61.321 Effect of issuance of certificate of incorporation.** Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under ORS 61.005 to 61.950, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

[1959 c.580 §32]

**61.325 Organizational meeting of directors.** After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and transacting of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

[1959 c.580 §33]

61.330 [Repealed by 1959 c.580 §104]

61.340 [Repealed by 1959 c.580 §104]

61.350 [Repealed by 1959 c.580 §104]

**AMENDMENT OF ARTICLES**

**61.355 Right to amend articles of incorporation.** A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under ORS 61.005 to 61.950.  
[1959 c.580 §34]

**61.360** [Repealed by 1959 c.580 §104]

**61.361 Procedure to amend articles of incorporation.** (1) Amendments to the articles of incorporation shall be made in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at an annual or a special meeting of members having voting rights. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in ORS 61.005 to 61.950 for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) Where there are no members, or no members having voting rights, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(2) Any number of amendments may be submitted and voted upon at any one meeting.

[1959 c.580 §35]

**61.370 Articles of amendment.** The articles of amendment shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) Where there are members having voting rights, a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of

the votes which members present at such meeting or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

[1959 c.580 §36]

**61.375 Filing articles of amendment.** (1) Duplicate originals of the articles of amendment shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that the articles of amendment conform to law, he shall, when all fees have been paid as in ORS 61.005 to 61.950 prescribed:

(a) Indorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such duplicate originals in his office.

(c) Issue a certificate of amendment to which he shall affix the other duplicate original.

(2) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Corporation Commissioner, shall be returned to the corporation or its representative.  
[1959 c.580 §37]

**61.380 Effect of certificate of amendment.** (1) Upon the issuance of the certificate of amendment by the Corporation Commissioner, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

(2) No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

[1959 c.580 §39]

**61.385 Restated articles of incorporation.** (1) A corporation may, by action taken

in the same manner as required for amendment of articles of incorporation, adopt restated articles of incorporation. The restated articles of incorporation may contain any changes in the articles of incorporation that could be made by amendment regularly adopted. Adoption of restated articles of incorporation containing any such changes shall have the effect of amending the existing articles of incorporation to conform to the restated articles of incorporation, without further action of the board of directors or shareholders. Restated articles of incorporation shall contain a statement that they supersede the theretofore existing articles of incorporation and amendments thereto. Restated articles of incorporation shall contain all the statements which the Oregon Nonprofit Corporation Law requires in original articles of incorporation except that:

(a) In lieu of setting forth the address of the initial registered office and the name of the initial registered agent at such address, there shall be set forth the address, including street and number, if any, of the registered office and the name of the registered agent at such address at the time of the adoption of the restated articles of incorporation; and

(b) No statement need be made with respect to the number of directors constituting the initial board of directors or the names and addresses of the incorporators.

(2) Restated articles of incorporation when executed and filed in the manner prescribed in the Oregon Nonprofit Corporation Law for articles of amendment shall supersede the theretofore existing articles of incorporation and amendments thereto. The Corporation Commissioner shall upon request certify a copy of the articles of incorporation, or the articles of incorporation as restated, or any amendments to either thereof.

(3) The restated articles of incorporation, when filed, shall be accompanied by a statement, executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, setting forth the following:

(a) The name of the corporation.

(b) Where there are members having voting rights, a statement setting forth the date of the meeting of members at which the restated articles of incorporation were adopted, that a quorum was present at such

meeting and that the restated articles of incorporation received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or a statement that the restated articles of incorporation were adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(c) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the restated articles of incorporation were adopted and a statement of the fact that the restated articles of incorporation received the vote of a majority of the directors in office.

[1959 c.580 §38; 1961 c.144 §1]

61.390 to 61.400 [Reserved for expansion]

61.410 [Repealed by 1959 c.580 §104]

61.420 [Amended by 1955 c.197 §1; repealed by 1959 c.580 §104]

61.430 [Repealed by 1959 c.580 §104]

61.440 [Repealed by 1959 c.580 §104]

61.450 [Repealed by 1959 c.580 §104]

## MERGER AND CONSOLIDATION

**61.455 Procedure for merger.** (1) Any two or more domestic corporations, or any one or more foreign corporations and one or more domestic corporations may merge into one of such corporations, pursuant to a plan of merger approved in the manner prescribed by ORS 61.005 to 61.950, if such merger is permitted by the laws of the state under which each such corporation is organized.

(2) Each corporation shall adopt a plan of merger setting forth:

(a) The names of the corporations proposing to merge and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(b) The terms and conditions of the proposed merger.

(c) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(d) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

[1959 c.580 §40]

61.460 [Repealed by 1959 c.580 §104]

**61.461 Procedure for consolidation.** (1) Any two or more domestic corporations, or any one or more foreign corporations and

one or more domestic corporations, may consolidate into a new corporation to be governed by the laws of a state under which one of such corporations was organized, pursuant to a plan of consolidation approved in the manner prescribed by ORS 61.005 to 61.950, if such consolidation is permitted by the laws of the state under which each such corporation is organized.

(2) Each corporation shall adopt a plan of consolidation setting forth:

(a) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(b) The terms and conditions of the proposed consolidation.

(c) A designation of the state under the laws of which the new corporation is being organized and all of the statements required to be set forth in articles of incorporation for corporations organized under the applicable laws of such state.

(d) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.  
[1959 c.580 §41]

**61.465 Adoption of merger or consolidation.** (1) A plan of merger or consolidation shall be adopted by each domestic corporation in the following manner:

(a) Where the members of any merging or consolidating corporation have voting rights, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at an annual or a special meeting of members having voting rights. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in ORS 61.005 to 61.950 for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

(b) Where any merging or consolidating corporation has no members, or no members having voting rights, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

(2) The plan of merger or consolidation shall be adopted by each foreign corporation in the manner provided by the applicable laws of the state under which it is organized.

(3) After such adoption, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation or pursuant to mutual agreement evidenced by a resolution of recession adopted in the manner provided in this section for the adoption of a plan of merger or consolidation.

[1959 c.580 §42]

61.470 [Repealed by 1959 c.580 §104]

**61.471 Articles of merger or consolidation.** (1) Upon such adoption, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

(a) The plan of merger or the plan of consolidation.

(b) Where the members of any merging or consolidating domestic corporation have voting rights, then as to each such corporation a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(c) Where any merging or consolidating domestic corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(d) Where any foreign corporation is a party to the merger or consolidation, then as to each such foreign corporation a statement that the plan was adopted in accordance with the applicable provisions of the laws of the state under which it was organized.

(e) If the surviving or new corporation is to be a foreign corporation, an irrevocable

designation of the Corporation Commissioner as its agent to accept service of process in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation.

(2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such articles conform to law, he shall, when all fees have been paid as in ORS 61.005 to 61.950 prescribed:

(a) Indorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one of such duplicate originals in his office.

(c) Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.

(3) The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the Corporation Commissioner, shall be returned to the surviving or new corporation, as the case may be, or its representative.

(4) If the surviving or new corporation is to be governed by the laws of any state other than this state, and if it is to transact business in this state, it shall comply with the provisions of ORS 61.005 to 61.950 with respect to foreign corporations.

[1959 c.580 §43]

**61.475 Effective date of merger or consolidation.** Upon the issuance of the certificate of merger or the certificate of consolidation by the Corporation Commissioner the merger or consolidation shall be effected.

[1959 c.580 §44]

**61.480** [Repealed by 1959 c.580 §104]

**61.481 Effect of merger or consolidation.** (1) When such merger or consolidation has been effected, if the surviving or new corporation is to be governed by the laws of this state:

(a) The several corporations parties to the plan of merger or consolidation shall be a single corporation which shall be the surviving corporation designated in the plan of merger, or the new corporation provided for in the plan of consolidation, as the case may be.

(b) The separate existence of all corporations parties to the plan of merger or con-

solidation, except the surviving or new corporation, shall cease.

(c) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under ORS 61.005 to 61.950.

(d) Such surviving or new corporation shall possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(e) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated. Any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, and such surviving or new corporation may be substituted in place of the merged or consolidated corporation. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(f) The articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger. The statements set forth in articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under ORS 61.005 to 61.950 shall be deemed to be the articles of incorporation of the new corporation.

(2) If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be as in this section set forth, except in so far as the laws of such other state provide otherwise.

[1959 c.580 §45]

61.490 [Repealed by 1959 c.580 §104]

61.500 [Repealed by 1959 c.580 §104]

61.510 [Repealed by 1959 c.580 §104]

61.520 [Repealed by 1959 c.580 §104]

### DISPOSITION OF ASSETS

**61.505 Sale, lease, exchange or mortgage of assets.** A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing that it be submitted to a vote at an annual or a special meeting of members having voting rights. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by ORS 61.005 to 61.950 for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, mortgage, pledge or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) Where there are no members, or no members having voting rights, a sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.  
[1959 c.580 §46]

### DISSOLUTION

**61.525 Voluntary dissolution.** (1) A corporation may dissolve and wind up its affairs in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at an annual or a special meeting of members having voting rights. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in ORS 61.005 to 61.950 for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

(2) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to transact business except in so far as may be necessary for the winding up thereof, shall cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in ORS 61.005 to 61.950.

[1959 c.580 §47]

**61.530 Distribution of assets.** The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason

of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, scientific, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in ORS 61.005 to 61.950;

(4) Assets held by any nonprofit corporation organized or existing solely for the purpose of owning and operating a cemetery may, upon dissolution, be transferred and conveyed by gift to a cemetery district;

(5) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(6) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, as may be specified in a plan of distribution adopted as provided in ORS 61.005 to 61.950; but any such remaining assets which are held by corporations organized for charitable, religious, eleemosynary, benevolent, scientific, educational or similar purposes shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation. [1959 c.580 §48]

**61.535 Plan of distribution.** A plan providing for the distribution of assets, not inconsistent with the provisions of ORS 61.005 to 61.950, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which ORS 61.005 to 61.950 requires a plan of distribution, in the following manner:

(1) When there are members having voting rights, the board of directors shall adopt

a resolution recommending a plan of distribution and directing the submission thereof to a vote at an annual or a special meeting of members having voting rights. Written or printed notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in ORS 61.005 to 61.950 for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office. [1959 c.580 §49]

**61.540 Revocation of voluntary dissolution proceedings.** (1) A corporation may, at any time prior to the issuance of a certificate of dissolution by the Corporation Commissioner, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(a) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at an annual or a special meeting of members having voting rights. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in ORS 61.005 to 61.950 for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(b) Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(2) Upon the adoption of such resolution

by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again transact business.

[1959 c.580 §50]

**61.545 Articles of dissolution.** If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of ORS 61.005 to 61.950, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president, and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) Where there are members having voting rights, a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- (3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.
- (4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (5) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of ORS 61.005 to 61.950.
- (6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

(7) The names and respective addresses, including street and number of the corporation's directors as of the date of execution of the articles of dissolution or if there be no directors at such time, then of its last acting board of directors.

[1959 c.580 §51]

**61.550 Filing of articles of dissolution.**

(1) Duplicate originals of such articles of dissolution shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in ORS 61.005 to 61.950 prescribed:

(a) Indorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one duplicate original in his office.

(c) Issue a certificate of dissolution to which he shall affix the other duplicate original.

(2) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Corporation Commissioner, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in ORS 61.005 to 61.950.

[1959 c.580 §52]

**61.555 Involuntary dissolution.** (1) A corporation may be dissolved involuntarily by a proclamation of the Governor when:

(a) The corporation has failed for two consecutive years to file its annual report or to pay any fees or penalties required; or

(b) The corporation has failed for 90 days to appoint and maintain a registered agent in this state; or

(c) The corporation has failed for 90 days after change of its registered office or registered agent to file in the office of the Corporation Commissioner a statement of such change.

(2) (a) On or before the first Monday in January of each year the Corporation Commissioner shall report to the Governor a list of all corporations delinquent in any of the matters mentioned in paragraph (a), (b) or (c) of subsection (1) of this section, and

the Governor shall forthwith issue his proclamation declaring such corporations dissolved and their articles of incorporation revoked and repealed.

(b) The proclamation of the Governor shall be filed in the office of the Corporation Commissioner, and published in such newspapers and for such length of time as the Corporation Commissioner shall prescribe.

(c) Any corporation dissolved by the proclamation referred to herein may be reinstated by proclamation of the Governor at any time within 10 years from the date of the proclamation declaring such corporation dissolved, whenever it is established to the satisfaction of the Governor that in fact there was no cause for the dissolution, or that the neglect, omission or delinquency resulting in dissolution has been corrected and payment made of the amount delinquent, if no other corporation of the same or deceptively similar name has been incorporated in this state.

(d) Nothing herein contained shall relieve any such reinstated corporation from penalty of forfeiture of its powers as a body corporate in case of failure to pay subsequently accruing licenses and taxes imposed by any law of this state.

(e) Nothing in this section shall be construed to affect any suits now pending by or against any corporation which has been dissolved by proclamation, nor any suit now pending or hereafter brought for any liability against the stockholders or officers thereof, or to revive any charter or corporation previously dissolved or revoked, nor to make valid any defective organization of any corporation.

(f) Suits and actions upon choses in action arising out of contracts sold or assigned by any corporation dissolved pursuant to this section may be brought or prosecuted in the name of the purchaser or assignee. The fact of sale or assignment and of purchase by the plaintiff shall be set forth in the writ or other process; and the defendant may avail himself of any matter of defense of which he might have availed himself in a suit upon the claim by such corporation, had it not been dissolved pursuant to this section.

(3) In addition to any other remedies provided by law, a corporation may be dissolved involuntarily by a decree of the circuit court in an action filed by the Attorney General when it is established that:

(a) The corporation has fraudulently solicited money; or

(b) The corporation has fraudulently used the money solicited.

[1959 c.580 §53]

**61.560 Venue and process.** ORS 57.590 relating to venue and process is applicable to nonprofit corporations.

[1959 c.580 §54]

**61.565 Jurisdiction of court to liquidate assets and affairs of corporation.** (1) The circuit courts shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a member or director when it is made to appear:

(A) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(B) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(C) That the corporate assets are being misapplied or wasted; or

(D) That the corporation is unable to carry out its purposes.

(b) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(c) When an action has been filed by the Attorney General to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution.

(2) Proceedings under paragraph (a) or (b) of subsection (1) hereof shall be brought in the county in which the registered office or the principal office of the corporation is situated.

(3) It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.

[1959 c.580 §55]

**61.570 Procedure in liquidation by court.**

(1) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite

to preserve the corporate assets wherever situated, and carry on the business of the corporation until a full hearing can be had.

(2) After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties, which may be increased or diminished at any time during the proceedings.

(3) The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as provided in ORS 61.530 except:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall first be paid, satisfied and discharged, or adequate provision shall be made therefor;

(b) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in ORS 61.005 to 61.950, or where no plan of distribution has been adopted, as the court may direct.

(4) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(5) A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of the corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated. [1959 c.580 §56]

**61.575 Filing of claims in liquidation proceedings.** ORS 57.606 relating to filing of claims in liquidation proceedings is applicable to nonprofit corporations. [1959 c.580 §57]

**61.580** [Amended by 1957 c.312 §1; repealed by 1959 c.580 §104]

**61.581 Discontinuance of liquidation proceedings.** ORS 57.611 relating to discontinuance of liquidation proceedings is applicable to nonprofit corporations. [1959 c.580 §58]

**61.585 Decree of involuntary dissolution.** In proceedings to liquidate the assets and business of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of ORS 61.005 to 61.950, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease. [1959 c.580 §59]

**61.590** [Amended by 1957 c.312 §2; repealed by 1959 c.580 §104]

**61.591 Filing of decree of dissolution.** ORS 57.620 relating to filing of decree of dissolution is applicable to nonprofit corporations. [1959 c.580 §60]

**61.595 Deposit with State Land Board of amount due certain persons.** Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any person who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash, deposited with the State Land Board and administered as provided in ORS 57.625. [1959 c.580 §61]

**61.600 Survival of remedy after dissolution.** ORS 57.630 relating to survival of remedy after dissolution is applicable to nonprofit corporations except that for the purpose of this section the word "shareholders" as used in that section means "members." [1959 c.580 §62]

**61.605 to 61.650** [Reserved for expansion]

**FOREIGN CORPORATIONS**

**61.655 Admission of foreign corporation.** (1) No foreign corporation shall have the right to transact business in this state until it has procured a certificate of authority so to do from the Corporation Commissioner. No foreign corporation shall be entitled to procure a certificate of authority under ORS 61.005 to 61.950 to transact in this state any business which a corporation organized under ORS 61.005 to 61.950 is not permitted to transact. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in ORS 61.005 to 61.950 contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

(2) Without excluding other activities which may not constitute transacting business in this state, a foreign corporation shall not be considered to be transacting business in this state, for the purposes of ORS 61.005 to 61.950, by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Creating evidences of debt, mortgages or liens on real or personal property.

(e) Securing or collecting debts due to it or enforcing any rights in property securing the same.

(f) Soliciting funds.

[1959 c.580 §63]

**61.660 Powers of foreign corporation.** ORS 57.660 relating to powers of foreign corporations applies to nonprofit corporations, except that for the purpose of this section the references therein to ORS chapter 57 mean ORS 61.005 to 61.950.

[1959 c.580 §64]

**61.665 Corporate name of foreign corporation.** No certificate of authority shall be issued to a foreign corporation if the corporate name of such corporation:

(1) Contains any word or phrase which

indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Is the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business in this state, or a corporate name reserved or registered as permitted by the laws of this state.

(3) Cannot be transliterated into letters of the English alphabet, if it is not in English.

(4) Contains the word "cooperative."  
[1959 c.580 §65]

**61.670 Change of name by foreign corporation.** Whenever a foreign corporation which is authorized to transact business in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter transact any business in this state until it has changed its name to a name which is available to it under the laws of this state.  
[1959 c.580 §66]

**61.675 Application for certificate of authority.** (1) A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the Corporation Commissioner, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The date of incorporation and the period of duration of the corporation.

(c) The address, including street and number, if any, of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(d) The address, including 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.

(e) The purpose or purposes of the corporation which it proposes to pursue in transacting its business in this state.

(f) The names and respective addresses, including street and number, if any, of the directors and officers of the corporation.

(g) Such additional information as may be necessary or appropriate in order to enable the Corporation Commissioner to determine whether such corporation is entitled to a certificate of authority to transact business in this state.

(2) Such application shall be made on forms prescribed and furnished by the Corporation Commissioner and shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application. [1959 c.580 §67]

**61.680 Filing of application for certificate of authority.** ORS 57.680 relating to filing of application for certificate of authority applies to nonprofit corporations, except that for the purpose of this section the reference therein to ORS chapter 57 means ORS 61.005 to 61.950. [1959 c.580 §68]

**61.685 Effect of certificate of authority.** Upon the issuance of a certificate of authority by the Corporation Commissioner, the corporation shall be authorized to transact business in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in ORS 61.005 to 61.950. [1959 c.580 §69]

**61.690 Registered office and registered agent of foreign corporation.** Each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business in this state, having an office identical with such registered office. [1959 c.580 §70]

**61.695 Change of registered office or registered agent of foreign corporation.** (1) A foreign corporation authorized to transact business in this state may change its

registered office or change its registered agent, or both, upon filing in the office of the Corporation Commissioner a statement setting forth:

(a) The name of the corporation.

(b) If the address of its registered office be changed, the address to which the registered office is to be changed including street and number, if any.

(c) If its registered agent be changed, the name of its successor registered agent.

(d) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(e) That such change was authorized by resolution duly adopted by its board of directors.

(2) Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to the provisions of ORS 61.005 to 61.950, he shall file such statement in his office. Upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(3) A person who has been designated by a foreign nonprofit corporation as its registered agent may resign in accordance with the provisions of subsection (3) of ORS 57.070. [1959 c.580 §71]

**61.700 Service of process on foreign corporation.** ORS 57.700 relating to service of process on foreign corporation applies to nonprofit corporations, except that for the purpose of this section the reference therein to ORS chapter 57 means ORS 61.005 to 61.950. [1959 c.580 §72]

61.705 [1959 c.580 §73; repealed by 1961 c.180 §10]

61.710 [Renumbered 61.972]

61.711 [1959 c.580 §74; repealed by 1961 c.180 §10]

**61.715 Amended certificate of authority.** ORS 57.716 relating to amended certificate of authority is applicable to nonprofit corporations. [1959 c.580 §75]

61.720 [Renumbered 61.976]

**61.721 Withdrawal of foreign corporation.** ORS 57.721 relating to withdrawal of foreign corporation is applicable to nonprofit corporations.

[1959 c.580 §76]

**61.725 Filing of application for withdrawal.** ORS 57.726 relating to filing of application for withdrawal is applicable to nonprofit corporations, except that for the purpose of this section the references therein to ORS chapter 57 mean ORS 61.005 to 61.950.

[1959 c.580 §77]

**61.730** [Renumbered 61.980]

**61.731 Cause for revocation of certificate of authority.** (1) The certificate of authority of a foreign corporation to transact business in this state may be revoked upon the conditions prescribed in this section when:

(a) The corporation has failed for two consecutive years to file its annual report or to pay any fees or penalties required; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by ORS 61.690; or

(c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the Corporation Commissioner a statement of such change as required by ORS 61.695; or

(d) A misrepresentation has been made of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to ORS 61.005 to 61.950.

(2) No certificate of authority of a foreign corporation shall be revoked unless:

(a) The Corporation Commissioner shall have given the corporation not less than 60 days' notice thereof by mail addressed to its principal office, and

(b) The corporation shall fail prior to revocation to file such annual report or pay any fee or penalty required, or file the required statement of change of registered agent or registered office, or correct such misrepresentation.

[1959 c.580 §78; 1961 c.180 §5]

**61.735 Procedure for revoking certificate of authority.** (1) On or before the first Monday in January in each year the Corporation Commissioner shall report to the Governor a list of all foreign corporations which have given cause for revocation of their certificates of authority. The Governor

shall forthwith issue his proclamation declaring the right of such foreign corporation to do business in this state revoked.

(2) No person shall exercise or attempt to exercise any power under the authority given to any foreign corporation after the issuance of the proclamation revoking its authority to transact business in this state.

(3) All powers conferred by law upon such foreign corporation are thereby withdrawn unless the Governor, for good cause shown to him, shall give further time for the filing of the statement and the payment of any fee or penalty required, in which case a certificate of such extension of time shall be filed by the Governor in the office of the Corporation Commissioner stating the reasons therefor.

(4) The proclamation of the Governor shall be filed in the office of the Corporation Commissioner and published in such newspapers and for such length of time as the Corporation Commissioner shall prescribe. The Corporation Commissioner shall indorse on the application for certificate of authority of each foreign corporation that its right to transact business in this state has been revoked.

(5) Whenever it is established to the satisfaction of the Governor that any foreign corporation named in the proclamation referred to herein has not in fact given cause for revocation of its certificate of authority, the Governor shall reinstate such corporation by filing his proclamation to that effect in the office of the Corporation Commissioner.

(6) If any foreign corporation authorized to transact business in this state has such right to transact business revoked in the manner hereinabove provided for, the Governor, by and with the advice of the Attorney General, may at any time, upon payment by such foreign corporation to the Corporation Commissioner of the sum fixed by the Governor, reinstate the corporation and restore it to all its franchises and privileges. The sum fixed by the Governor shall in no case be less than the amount delinquent. Upon such payment the Corporation Commissioner shall issue his certificate entitling the foreign corporation to resume its business and its franchises.

(7) The reinstated foreign corporation is not by reason of such reinstatement, relieved from any penalty of forfeiture of its powers as a body corporate in case of failure

to pay subsequently accruing fees and taxes imposed by any law of this state.

(8) Nothing hereinabove contained shall be construed to affect any suit or action brought for any liability against the members or officers of any foreign corporation, nor to revive any certificate of authority of a foreign corporation previously revoked, nor to make valid any defective authorization of any foreign corporation to transact business within this state.

(9) Suits and actions upon choses in action arising out of contracts sold or assigned by any foreign corporation whose right to transact business has been revoked as hereinabove provided may be brought or prosecuted in the name of the purchaser or assignee. The fact of sale or assignment and of purchase by the plaintiff shall be set forth in the writ or other process. The defendant may avail himself of any matter of defense of which he might have availed himself in a suit upon the claim by the foreign corporation, had its right to transact business been revoked.

[1959 c.580 §79]

61.740 [Renumbered 61.984]

**61.741 Application to corporation authorized to transact business in this state on December 31, 1959.** Foreign corporations which are duly authorized to transact business in this state on December 31, 1959, for a purpose or purposes for which a corporation might secure such authority under ORS 61.005 to 61.950, shall, subject to the limitations set forth in their respective certificates of authority, be entitled to all the rights and privileges applicable to foreign corporations procuring certificates of authority to transact business in this state under ORS 61.005 to 61.950, and from December 31, 1959, such corporations shall be subject to all the limitations, restrictions, liabilities and duties prescribed herein for foreign corporations procuring certificates of authority to transact business in this state under ORS 61.005 to 61.950.

[1959 c.580 §80]

**61.745 Transacting business without certificate of authority.** (1) No foreign corporation transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state, until such corporation shall have obtained a certifi-

cate of authority. No action, suit or proceeding shall be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the transaction of business by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all its assets.

(2) The failure of a foreign corporation to obtain a certificate of authority to transact business in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

[1959 c.580 §81]

61.750 [Reserved for expansion]

## CEMETERIES AND CREMATORIES

**61.755 Lands of cemetery or crematory corporation; exemption from execution, taxation and condemnation.** A nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains, may purchase or take, by gift or devise, and own and hold lands for the sole purpose of either a cemetery or a crematory and burial place for incinerate remains. Such lands shall be exempt from execution and taxation, and from any appropriation for public purposes, and lots or portions of such land and space in any buildings thereon may be sold, if intended to be used exclusively for burial purposes, and in no wise with a view to the profit of the members of such corporation. The land so held for cemetery purposes shall not exceed 600 acres, but if the land already held for such purpose by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 20 acres at any one time. The land so held for the purposes of a crematory and the burial of incinerate remains shall not exceed 30 acres, but if the land already held for such purposes by the corporation is all practically used, the amount thereof may be increased by adding thereto not more than 10 acres at any one time.

[1959 c.580 §95]

**61.760 Revenues; restrictions on uses thereof.** (1) A nonprofit corporation organized or existing solely for the purposes of

either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains may, by its bylaws, provide that a stated percentage of the money received from the sale of lots and burial space, cremation of bodies, donations, gifts or other sources of revenue shall constitute an irreducible fund. This fund may be invested in such manner or loaned upon such securities as the corporation or its directors deem proper. The interest or income arising from the irreducible fund provided for in this section or by any bylaws, or so much thereof as is necessary, shall be devoted exclusively to the preservation and embellishment of the grounds, buildings and property of the corporation and the lots and space in buildings or grounds sold to the members of the corporation, or to the payment of the interest or principal of the debts authorized by subsection (2) of this section for the purchase of land, erecting buildings, and improvements. Any surplus thereof not needed or used for such purposes shall be invested as provided in this section and shall become part of the irreducible fund. Any bylaw enacted for the creation of the irreducible fund cannot thereafter be amended, except for the purpose of increasing the fund. After paying for the land and the erection of the original buildings and improvements thereon, all the future receipts and income of the corporation subject to the provisions in this section relating to the creation of an irreducible fund, whether from the sale of lots and burial space, cremation of bodies, donations, gifts and other sources, shall be applied exclusively to laying out, preserving, protecting, embellishing and beautifying the cemetery or the crematory and grounds thereof, and the avenues leading thereto, and to the erection of such buildings and improvements as may be necessary or convenient for cemetery or crematory purposes, and to pay the necessary expenses of the corporation.

(2) No debts shall be contracted by such corporation in anticipation of any future receipts, except for originally purchasing the lands authorized to be purchased by it, laying out and embellishing the grounds and avenues, erecting buildings and vaults on such land, and improving them for the purposes of the corporation. The corporation may issue bonds or notes for debts so contracted and may secure them by way of mortgage upon any of its lands, buildings, property and improvements excepting lots or

space conveyed to the members.

[1959 c.580 §96]

**61.765 Selling land unsuited for burials.**

If in the board of directors' opinion, any portion of the lands of a nonprofit corporation organized and existing solely for the purposes of either owning or operating a cemetery or the cremation of dead bodies and the burial and care of incinerate remains is unsuitable for burial purposes or other purposes of the corporation, the board of directors may sell such portion and apply the proceeds to the general purposes of such corporation in the same proportion and manner as provided by ORS 61.005 to 61.950.

[1959 c.580 §97]

**61.770 Burial lots, or space; use, exemption from taxation, execution and liens; lien for purchase price of gravestone.**

Burial lots or space for burial of incinerate remains in buildings or grounds sold by a nonprofit corporation organized and existing solely for the purposes of either owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall be for the sole purpose of interment or deposit and safekeeping of incinerate remains. Such lots or space shall be exempt from taxation, execution, attachment or other lien or process, if used as intended by the purchaser thereof from such corporation, or his assigns or representatives, exclusively for burial purposes, and in no wise with a view to profit. The vendor of any gravestone, however, shall not be prevented from having and enforcing a lien thereon for all or part of its purchase price. If a suit is brought to enforce such a lien, the decree therein is enforceable thereafter; and, for the purpose of enabling the lien to be had and enforced, the gravestone shall be deemed personal property and may be severed and removed, under execution and order of sale, from the lot where it is situated and may be sold in the same manner as any other personal property.

[1959 c.580 §98]

**61.775 Recording plan; power to improve and regulate grounds.** A nonprofit corporation organized and existing solely for the purposes of owning and operating a cemetery or cremating dead bodies and burying and caring for incinerate remains shall cause a plan of its land and grounds and of the lots laid out by it and of the niches or burial space in the buildings erected thereon to be made and recorded in the county in

which such grounds and land are located, such lots or spaces to be numbered by regular consecutive numbers. Such corporation may inclose, improve, and adorn the grounds, buildings, and avenues, prescribe rules for the designation, improvement and adorning of lots and burial spaces and for erecting monuments, and prohibit any use, division, improvement or adornment of a lot or burial space which it may deem improper.

[1959 c.580 §99]

61.780 to 61.800 [Reserved for expansion]

### ANNUAL REPORTS

**61.805 Annual report of domestic and foreign corporations.** (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by ORS 61.005 to 61.950, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address, including street and number, if any, of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address, including street and number, if any, of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the business which the corporation is actually transacting, or, in the case of a foreign corporation, which the corporation is actually transacting in this state.

(d) The names and respective addresses, including street and number, if any, of the principal officers of the corporation.

(2) Such annual report shall be made on forms prescribed and furnished by the Corporation Commissioner, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation by a principal officer, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

[1959 c.580 §82]

**61.810 Filing of annual report of domestic and foreign corporations.** Such annual report of a domestic or foreign corporation shall be delivered to the Corporation

Commissioner before the sixteenth day of the second calendar month following the anniversary. If the Corporation Commissioner finds that such report conforms to the requirements of this chapter, he shall file the same. If he finds that it does not conform, he shall return the same to the corporation for any necessary corrections. In this event, the penalties prescribed under ORS 61.815 for failure to file such report within the time provided under this section shall not apply if such report is corrected to conform to the requirements of this chapter and returned to the Corporation Commissioner within 60 days after such report has been returned by the Corporation Commissioner. [1959 c.580 §83; 1961 c.180 §6]

**61.815 Penalty if annual report not filed within prescribed time.** Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by ORS 61.005 to 61.950, or fails to amend same when required to do so by the Corporation Commissioner in case it is incomplete, irregular or unsatisfactory, shall be subject to a penalty of \$5 to be assessed by the Corporation Commissioner. [1959 c.580 §86; 1961 c.180 §7]

61.820 to 61.850 [Reserved for expansion]

### FEES AND CHARGES

**61.855 Fees for filing documents and issuing certificates.** The Corporation Commissioner shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, \$10.

(2) Filing articles of amendment and issuing a certificate of amendment, \$5.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, \$5.

(4) Filing articles of dissolution, \$5.

(5) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, \$10.

(6) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, \$5.

(7) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, \$5.

(8) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, \$5.

[1959 c.580 §84; 1961 c.180 §8]

**61.860 Miscellaneous charges.** ORS 57.766 relating to miscellaneous charges is applicable to nonprofit corporations.

[1959 c.580 §85]

61.865 to 61.900 [Reserved for expansion]

### MISCELLANEOUS PROVISIONS

**61.905 Powers of Corporation Commissioner.** The Corporation Commissioner shall have the power and authority reasonably necessary to enable him to administer ORS 61.005 to 61.950 efficiently and to perform the duties therein imposed upon him.

[1959 c.580 §87]

**61.910 Appeal from Corporation Commissioner.** (1) If the Corporation Commissioner shall fail to approve any document required by ORS 61.005 to 61.950 to be approved by the Corporation Commissioner before the same shall be filed in his office, he shall, within 10 days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the circuit court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the document sought to be filed and a copy of the written disapproval thereof by the Corporation Commissioner. The matter shall be tried de novo by the court and the court shall either sustain the action of the Corporation Commissioner or direct him to take such action as the court may deem proper.

(2) If the Corporation Commissioner shall revoke or suspend the certificate of authority to transact business in this state of any foreign corporation, or revoke or suspend the certificate of incorporation of any domestic corporation pursuant to the provisions of ORS 61.005 to 61.950, such corporation may appeal to the circuit court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state or its certificate of incorporation and a copy of the notice of revocation or suspension given

by the Corporation Commissioner. The matter shall be tried de novo by the court and the court shall either sustain the action of the Corporation Commissioner or direct him to take such action as the court may deem proper.

(3) Appeals from all orders and judgments entered by the circuit court under this section may be taken as in other civil actions.

[1959 c.580 §88]

**61.915 Certificates and certified copies to be received in evidence.** ORS 57.781 relating to certificates and certified copies to be received in evidence is applicable to nonprofit corporations.

[1959 c.580 §89]

**61.920 Forms to be furnished by Corporation Commissioner.** All reports required by ORS 61.005 to 61.950 to be filed in the office of the Corporation Commissioner shall be made on forms which shall be prescribed and furnished by the Corporation Commissioner. Forms for all other documents to be filed in the office of the Corporation Commissioner shall be furnished by the Corporation Commissioner on request therefor, but the use thereof, unless otherwise specifically prescribed in ORS 61.005 to 61.950, shall not be mandatory.

[1959 c.580 §90]

**61.925 Greater voting requirements.** Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by ORS 61.005 to 61.950 with respect to such action, the provisions of the articles of incorporation shall control.

[1959 c.580 §91]

**61.930 Waiver of notice.** Whenever any notice is required to be given to any member or director of a corporation under the provisions of ORS 61.005 to 61.950 or under the provisions of the articles of incorporation or bylaws of the corporation, waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

[1959 c.580 §92]

**61.935 Action by members or directors without a meeting.** Any action which ORS 61.005 to 61.950 requires to be taken at a

meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or 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 all of the directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote, and may be so described in any document filed with the Corporation Commissioner under ORS 61.005 to 61.950.

[1959 c.580 §93]

**61.940 Liability for unauthorized assumption of corporate powers.** All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

[1959 c.580 §94]

**61.945 Reservation of power by Legislative Assembly.** The legislature shall have power to amend, repeal or modify ORS 61.005 to 61.950.

[1959 c.580 §100]

**61.950 Effect of repeal of prior Acts.** The existence of corporations formed or existing on December 31, 1959, shall not be impaired by the enactment of ORS 61.005 to 61.950 nor by any change in the requirements for the formation of corporations, nor by any amendment or repeal of the laws under which they were formed or created; and, except as otherwise expressly provided in ORS 61.005 to 61.950, the repeal of a prior Act by section 104, chapter 580, Oregon Laws 1959, shall not affect any liability or penalty incurred, under the provisions of such Act, prior to the repeal thereof.

[1959 c.580 §101]

61.955 to 61.970 [Reserved for expansion]

### REPORTS ON SOLICITATIONS OF FUNDS

**61.972 Contents, verification and filing of solicitor's report.** All persons, corporations, societies or other organizations, except those specified in ORS 61.980, that solicit funds for charitable, benevolent, eleemosynary, political, educational or religious purposes and collect more than \$250 in any calendar year shall file, on or before February 15, with the county clerk of each county in which the funds were solicited, a detailed report showing the amount of the funds re-

ceived or disposed of during the year ending December 31 preceding. The report shall contain a detailed list of all salaries and wages paid and expenses allowed to any officer, employe, agent or other person, giving his name, and of all moneys expended for supplies, equipment and other expenses. This report shall be verified by the person soliciting the funds under his own authority, or if filed by a corporation, society or other organization by its managing officer or agent.

[Formerly 61.710]

**61.976 Audit of accounts of solicitor.** Upon petition of 10 persons who contributed funds during any calendar year to any person or organization enumerated in ORS 61.972, the circuit court of the county in which such person or organization resides or has its principal office shall appoint a competent certified public accountant to audit the accounts of such person or organization pertaining to funds solicited, and shall file his report with the county clerk of the county. The cost of the audit shall be paid by the petitioners. It shall be the duty of the person having custody of any of the records or books of account of the person or organization pertaining to the receipt or expenditures of any such funds, to place them at the disposal of any person appointed to audit the accounts, pursuant to the provisions of this section.

[Formerly 61.720]

**61.980 Institutions and societies excepted.** Any educational institution soliciting funds solely for the use of that institution, or any lodge, club or other similar society soliciting funds only from members, or any political committee required to file a report under the provisions of ORS 260.070, or any church or religious organization or society soliciting funds only from its members or members of its congregation, shall not be subject to ORS 61.972 to 61.984.

[Formerly 61.720]

**61.984 Reports by groups receiving aid from community chest and soliciting funds.** Any corporation, society or organization receiving funds from any community chest, or similar organization, that solicits funds from the public for the purposes specified in ORS 61.972 shall file a report as required by that section.

[Formerly 61.740]

61.988 [Reserved for expansion]

**PENALTIES**

**61.990 Penalties.** (1) Violation of ORS 61.972, 61.976 or 61.984 is punishable upon conviction by a fine not exceeding \$250.

(2) In case funds are solicited by a corporation, society or other organization and no report is made as required by ORS 61.972 or 61.984, its officers, managing committee

or managing director shall upon conviction be fined not more than \$250.

(3) Any person who prepares or files, or assists in preparing or filing, a report required by ORS 61.972 to 61.984 that is false or fraudulent shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.  
Done at Salem, Oregon,  
on December 1, 1961.

Sam R. Haley  
Legislative Counsel