Chapter 57

1963 REPLACEMENT PART

Private Corporations Generally

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SHORT TITLE AND DEFINITIONS

57.002 Short title. ORS 57.002, 57.190, 57.195 to 57.375, 57.380 to 57.411, 57.455 to 57.485, 57.506 to 57.799 and 57.991 to 57.994 shall be known and may be cited as the "Oregon Business Corporation Act."
[1953 c.549 §1]

57.004 Definitions. As used in the Oregon Business Corporation Act, unless the context otherwise requires, the term:

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

(a) The date on the certificate of incorporation issued under ORS 57.316, in the case of a domestic corporation.

(b) The date on the certificate of authority to transact business in this state issued under ORS 57.680, in the case of a foreign corporation.

(2) "Articles of incorporation" means the original or restated articles of incorporation and all amendments thereto and includes articles of merger or consolidation.

(3) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(4) "Capital surplus" means the entire surplus of a corporation other than its earned surplus.

(5) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this chapter, except a foreign corporation.

(6) "Earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus.

(7) "Foreign corporation" means a corporation for profit or a cooperative association organized under laws other than the laws of this state except any corporation organized under the laws of the United States and any corporation which is an agency of the United States.

(8) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its business.

(9) "Net assets" means the amount by which the total assets of a corporation, excluding treasury shares, exceed the total debts of the corporation.

(10) "Shareholder" means one who is a holder of record of shares in a corporation.

(11) "Shares" means the units into which the proprietary interests in a corporation are divided.

(12) "Stated capital" means, at any particular time, the sum of:

(a) The par value of all shares of the corporation having a par value that have been issued,

(b) The amount of the consideration received by the corporation for all shares of the corporation without par value that have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law, and

(c) Such amounts not included in paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law.

(13) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

(14) "Surplus" means the excess of the net assets of a corporation over its stated capital.

(15) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares, but not "outstanding" shares.
[1953 c.549 §2; 1959 c 244 §1; 1963 c.479 §1]

Note: The provisions of chapter 580, Oregon Laws 1963, establishing the Corporation Division of the Department of Commerce are operative not later than July 1, 1964, and stand repealed on July 1, 1967. Subsections (1) and (2) of section 8, chapter 580, Oregon Laws 1963, read as follows:

Sec. 8 (1) The Corporation Division of the Department of Commerce succeeds to and is vested with all the duties, functions and powers vested in the Corporation Department of the State of Oregon; and, except as otherwise provided by law, there hereby are transferred to, imposed upon and vested in the Corporation Division all the duties, functions and powers of the Corporation Department, Corporation Commissioner and Deputy Corporation Commissioner. After the operative date of this Act the Corporation Division shall exercise such duties, functions and powers.

(2) The Legislative Counsel, for the purpose of harmonizing and clarifying the provisions of statute sections published in the Oregon Revised Statutes, may substitute for words designating the Corporation Department, the Corporation Commissioner and the Deputy Corporation Commissioner, wherever such words occur in the statute sections to be published in the Oregon Revised Statutes, words designating the Corporation Division of the Department of Commerce.

57.005 [Repealed by 1953 c.549 §138]

57.010 [Repealed by 1953 c.549 §138]

57.015 [Renumbered 57.811]

57.020 [Repealed by 1953 c.549 §138]

SUBSTANTIVE PROVISIONS

57.025 Purposes for which corporations may be organized. Corporations may be organized under this chapter for any lawful purpose or purposes, except for the purpose of banking or insurance.
[1953 c.549 §3]

57.030 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, lease, 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, and otherwise assist its employes, 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, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and guarantees 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 this chapter 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, and define their duties and fix their compensation.

(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) To make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) In time of war to transact any lawful business in aid of the United States in the prosecution of the war.

(15) 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 in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably 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 to the corporation; 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 shareholders, or otherwise.

(16) To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans and other incentive plans for its officers or employes.

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

(18) To have and exercise all powers necessary or convenient to effect any of or all the purposes for which the corporation is organized.
[1953 c.549 §4; 1963 c.479 §2]

57.035 Right of corporation to acquire and dispose of its own shares. (1) A corporation shall have the right to purchase, take, receive or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares, but purchases of its own shares, whether direct or indirect, shall be made only to the extent of unreserved and unrestricted earned surplus available therefor, and, if the articles of incorporation so permit, or with the affirmative vote of the holders of at least two-thirds of all shares entitled to vote thereon, to the extent of unreserved and unrestricted capital surplus available therefor.

(2) To the extent that earned surplus or capital surplus is used as the measure of the corporation's right to purchase its own shares, such surplus shall be restricted so long as such shares are held as treasury shares, and, upon the disposition or cancellation of any such shares, the restriction shall be removed pro tanto.

(3) Notwithstanding the foregoing limitation, a corporation may purchase or otherwise acquire its own shares for the purpose of:

(a) Eliminating fractional shares.

(b) Collecting or compromising indebtedness to the corporation.

(c) Paying dissenting shareholders entitled to payment for their shares under the provisions of this chapter.

(d) Effecting, subject to the other provisions of this chapter, the retirement of its redeemable shares by redemption or by purchase at not to exceed the redemption price.

(4) No purchase of or payment for its own shares shall be made at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.
[1953 c.549 §5; 1963 c.479 §3]

57.040 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 shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed or made pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or to 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 awarded 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 shareholders in a representative suit, against the incumbent or former officers or directors of the corporation.

(3) In a proceeding by the Attorney General, as provided in this chapter, to dissolve the corporation, or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business.
[1953 c.549 §6]

57.045 Corporate name. (1) The corporate name:

(a) Shall contain the word "corporation," "company," "incorporated" or "limited," or shall contain an abbreviation of one of such words.

(b) 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.

(c) Shall not be the same as, or deceptively similar to, any other corporate, limited partnership, reserved or registered name currently on file with the Corporation Commissioner or an assumed business name registered as provided in ORS 648.010.

(2) Nothing contained in this section shall preclude a corporation from transacting business under an assumed business name.
[1953 c.549 §7; 1963 c.492 §1; 1963 c.551 §22]

57.050 Reserved name. (1) The exclusive right to the use of a corporate name may be reserved by:

(a) Any person intending to organize a corporation under this chapter.

(b) Any domestic corporation intending to change its name.

(c) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(d) Any foreign corporation authorized to transact business in this state and intending to change its name.

(e) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

(2) The reservation shall be made by filing with the Corporation Commissioner an application to reserve a specified corporate name, executed by the applicant. If the Corporation Commissioner finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of 120 days.

(3) The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the Corporation Commissioner a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.
[1953 c.549 §8]

57.055 Registered name. (1) Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this chapter, provided its corporate name is not the same as, or deceptively similar to, any other corporate, limited partnership, reserved or registered name currently on file with the Corporation Commissioner, or any assumed business name registered under ORS 648.010.

(2) Such registration shall be made by:

(a) Filing with the Corporation Commissioner (i) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business and a brief statement of the business in which it is engaged, and (ii) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Corporation Commissioner of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(b) Paying to the Corporation Commissioner a registration fee in the amount of $1 for each month, or fraction thereof, between the date of filing such application and December 31 of the calendar year in which such application is filed.

(3) Such registration shall be effective until the close of the calendar year in which the application for registration is filed.
[1953 c.549 §9; 1963 c.492 §2; 1963 c.551 §23]

57.060 Renewal of registered name. A corporation which has in effect a registration of its corporate name may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of $10. A renewal application may be filed between October 1 and December 31 of each year, and shall extend the registration for the following calendar year.
[1953 c.549 §10]

57.065 Registered office and registered agent. Each corporation shall have and continuously maintain in this state:

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

(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, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.
[1953 c.549 §11]

57.070 Change of registered office or registered agent. (1) A corporation 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 this chapter, he shall file such statement in his office. The filing of such statement shall immediately terminate the existing registered office or agent, or both, and establish the newly appointed registered office or agent, or both, as that of the corporation.

(3) Any registered agent of a corporation may resign as agent upon filing a signed statement with the Corporation Commissioner. The resignation shall become effective 30 days after the filing of the signed statement, unless the corporation shall sooner appoint a successor registered agent, as provided in this section, thereby terminating the capacity of such agent. Upon the filing of the signed statement, the Corporation Commissioner shall forthwith notify the corporation of the filing of such statement and the effect thereof, which notice shall be addressed to the corporation at its registered office or in care of one of its principal officers, directors or incorporators, at the last-known address of such officer, director or incorporator, as shown by the records of the Corporation Commissioner.

[1953 c.549 §12; 1963 c.492 §3]

57.075 Service of process on corporation. (1) The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) The Corporation Commissioner shall be an agent of a corporation upon whom any such process, notice or demand may be served:

(a) Whenever the corporation fails to appoint or maintain a registered agent in this state, or

(b) Whenever the corporation's registered agent cannot with reasonable diligence be found at the registered office, or

(c) When the corporation has been dissolved and an action, suit or proceeding is instituted against or affecting it within five years after the issuance of a notice or certificate of dissolution or the filing of a decree of dissolution.

(3) Service shall be made on the Corporation Commissioner by delivering to him or to a clerk on duty in any office of the Corporation Commissioner duplicate copies of the process, notice or demand, with duplicate copies of any papers required by law to be delivered in connection with such service.

(4) When the Corporation Commissioner is served with any process, notice or demand, he shall immediately cause one of the copies thereof, with any accompanying papers, to be forwarded by registered mail to the corporation at the last-known post-office address of one of the corporation's officers or directors, as shown by the records on file in the office of the Corporation Commissioner, or at the last registered office of the corporation.

(5) A corporation served as provided in this section shall appear and answer within 30 days from the date of service on the Corporation Commissioner. Such date of service shall be stamped upon the face of the process, notice or demand or stated in a transmittal letter from the Corporation Commissioner to the corporation being served. After the Corporation Commissioner has forwarded the process, notice or demand, as required in subsection (4) of this section, he shall certify to the clerk of the court in which the suit or action was commenced, or to the corresponding official of an administrative body in which any proceedings were commenced or to the person giving notice if no suit or action or administrative proceedings are involved, the following facts:

(a) That the process, notice or demand and accompanying papers were forwarded.

(b) The date of service upon the Corporation Commissioner, as shown by the commissioner's official stamp upon the face of the process or in the commissioner's transmittal letter accompanying the process.

(6) The Corporation Commissioner shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(7) Nothing herein contained shall limit

or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law, or enlarge the purposes for which service on the Corporation Commissioner is permitted where such purposes are limited by other provisions of law.
[1953 c.549 §13; 1959 c.568 §1; 1963 c.479 §4]

57.080 Authorized shares. (1) Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of the shares of any class to the extent not inconsistent with the provisions of this chapter.

(2) Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(b) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(c) Having preference over any other class or classes of shares as to the payment of dividends.

(d) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(e) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation, but shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted.
[1953 c.549 §14]

57.085 Issuance of shares of preferred or special classes in series. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical, except as to the following relative rights and preferences, as to which there may be variations between different series:

(a) The rate of dividend.

(b) Whether shares can be redeemed and, if so, the redemption price and the terms and conditions of redemption.

(c) The amount payable upon shares in event of voluntary or involuntary liquidation.

(d) Sinking fund provisions, if any, for the redemption or purchase of shares.

(e) The terms and conditions, if any, on which shares may be converted.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(3) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file in the office of the Corporation Commissioner a statement setting forth:

(a) The name of the corporation.

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.

(c) The date of adoption of such resolution.

(d) That such resolution was duly adopted by the board of directors.

(5) Such statement 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, and shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter 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) Return the other duplicate original to the corporation or its representative.

(6) Upon the filing of such statement by the Corporation Commissioner, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment to the articles of incorporation.

[1953 c.549 §15; 1963 c.479 §5]

57.088 Issuance of rights or options to purchase shares. Subject to any provisions in respect thereof set forth in its articles of incorporation, and subject to pre-emptive rights, if any, of existing shareholders, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the provisions of the articles of incorporation, shall set forth the terms upon which, the time or times within which and the price or prices at which such shares may be purchased from the corporation on the exercise of any such right or option. No such rights or options shall be issued to a director, officer or employe of the corporation or of any subsidiary thereof unless the issuance is approved, at the annual meeting or a special meeting, by the holders of at least two-thirds of the outstanding shares entitled to vote thereon, or unless such issuance is pursuant to a plan previously so approved. In the absence of fraud in the transaction, the judgment of the board of directors as to the adequacy of the consideration received for such rights or options shall be conclusive. The price or prices to be received for any shares having a par value, other than treasury shares to be issued on the exercise of such rights or options, shall not be less than the par value thereof.

[1961 c.534 §3; 1963 c.479 §6]

57.090 Subscriptions for shares. (1) A subscription for shares of a corporation to be organized shall be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

(2) Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such instalments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any instalment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay instalments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of 20 days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope, addressed to the subscriber at his last postoffice address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

[1953 c.549 §16]

57.100 Consideration for shares. (1) Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

(2) Shares without par value may be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. In the event that such right be reserved as to any shares, the shareholders shall, prior to the issuance of such shares, fix the consideration expressed in dollars to be received for such shares, by a vote of the holders of a majority of all shares entitled to vote thereon.

(3) Treasury shares may be disposed of by the corporation for such consideration as may be fixed from time to time by the board of directors.

(4) That part of the surplus of a corporation which is transferred to stated capital upon the issuance of shares as share dividend shall be deemed to be the consideration for the issuance of such shares.

(5) In the event of a conversion of shares, or in the event of an exchange of shares with or without par value for the same or a different number of shares with or without par value, whether of the same or a different class or classes, the consideration for the shares so issued in exchange or conversion shall be deemed to be:

(a) The stated capital then represented by the shares so exchanged or converted, and

(b) That part of surplus, if any, transferred to stated capital upon the issuance of shares for the shares so exchanged or converted, and

(c) Any additional consideration paid to the corporation upon the issuance of shares for the shares so exchanged or converted.

(6) Nothing contained in this section shall be taken or construed as in any wise impairing or restricting the powers or authority of the Corporation Commissioner under the provisions of the Oregon Securities Law, as amended.

[1953 c.549 §17]

57.105 [Repealed by 1953 c.549 §138]

57.106 Payment for shares. (1) The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

(2) Future services shall not constitute payment or part payment for shares of a corporation.

(3) In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

[1953 c.549 §18]

57.110 [Repealed by 1953 c.549 §138]

57.111 Determination of amount of stated capital. (1) In case of the issuance by a corporation of shares having a par value, the consideration received therefor shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration shall constitute capital surplus.

(2) In case of the issuance by a corporation of shares without par value, the entire consideration received therefor shall constitute stated capital, unless the corporation shall determine as provided in this section that only a part thereof shall be stated capital. Within a period of 60 days after the issuance of any shares without par value, the board of directors may allocate to capital surplus any portion of the consideration received for the issuance of such shares. No such allocation shall be made of any portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation, except the amount, if any, of such consideration in excess of such preference.

(3) The stated capital of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the surplus of the corporation be transferred to stated capital. The board of directors may direct that the amount of the surplus so transferred shall be deemed to be stated capital in respect of any designated class of shares.

[1953 c.549 §19; 1963 c.479 §7]

57.115 [Repealed by 1953 c.549 §138]

57.116 Expenses of organization, reorganization and financing. The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering

such shares not fully paid and nonassessable.
[1953 c.549 §20]

57.120 [Repealed by 1953 c.549 §138]

57.121 Certificates representing shares. (1) The shares of a corporation shall be represented by certificates signed by the president or a vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employe of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

(2) Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall state upon the face or back thereof, in full or in the form of a summary, all of the designations, preferences, limitations and relative rights of the shares of each class authorized to be issued, and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

(3) Each certificate representing shares shall also state upon the face thereof:

(a) That the corporation is organized under the laws of this state.

(b) The name of the person to whom issued.

(c) The number and class of shares, and the designation of the series, if any, which such certificate represents.

(d) The par value of each share represented by such certificate, or a statement that the shares are without par value.

(4) No certificate shall be issued for any share until such share is fully paid.
[1953 c.549 §21]

57.125 [Repealed by 1953 c.549 §138]

57.126 Issuance of fractional shares or scrip. A corporation may, but shall not be obliged to, issue a certificate for a fractional share, and, by action of its board of directors, may issue in lieu thereof scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip, or subject to any other conditions which the board of directors may deem advisable.
[1953 c.549 §22]

57.130 [Repealed by 1953 c.549 §138]

57.131 Liability of subscribers and shareholders. (1) A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

(2) Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

(3) An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors or receiver shall not be personally liable as a holder of or subscriber to shares of a corporation; but the estate and funds in his hands shall be so liable.

(4) No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.
[1953 c.549 §23; 1963 c.479 §8]

57.135 [Repealed by 1953 c.549 §138]

57.136 Shareholder's pre-emptive rights. (1) Except as hereinafter provided, existing shareholders of a corporation shall have the first right to subscribe to a new issue of

stock, or to treasury stock offered for sale, in proportion to their respective holdings wherever such issue or sale will adversely affect their proportionate voting power.

(2) The pre-emptive right of a shareholder to acquire additional or treasury shares of a corporation may be limited or denied to the extent provided in the articles of incorporation.

(3) Unless otherwise provided by its articles of incorporation, the pre-emptive right of a shareholder to acquire additional or treasury shares shall not apply to the issuance or sale by a corporation to its directors, officers or employes or to the directors, officers or employes of any subsidiary corporation, of:

(a) Its shares, if the consideration and terms and conditions of such sale are approved at an annual or special meeting by the holders of at least two-thirds of all the shares entitled to vote thereon or by its board of directors pursuant to authority conferred by a like vote of the shareholders, or if such shares are issued and sold pursuant to the exercise of stock rights or options issued in compliance with ORS 57.088; or

(b) Rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes if such rights or options are issued in compliance with ORS 57.088.

[1953 c.549 §24; 1961 c.534 §1; 1963 c.479 §9]

57.140 [Repealed by 1953 c.549 §138]

57.141 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 reserved to the shareholders by the articles of incorporation or by bylaws existing on December 31, 1953. The bylaws may contain any provisions for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

[1953 c.549 §25; 1963 c.479 §10]

57.145 Meetings of shareholders. (1) Meetings of shareholders may be held either within or without this state, as may be provided in the bylaws, but no amendment to the bylaws changing the place of meeting shall be effective unless approved by a majority vote of shareholders entitled to vote. In the absence of any such provision, all meetings shall be held at the registered office of the corporation.

(2) An annual meeting of the shareholders 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. If the annual meeting is not held at the designated time, the president or the board of directors may call the annual meeting at a time fixed by them not more than 60 days after such designated time by proper notice designating the meeting as the annual meeting. If the annual meeting is not held at the designated time or during the 60-day period thereafter, the annual meeting may be called by the holders of not less than one-tenth of all the shares entitled to vote at the meeting. In such event, notice shall be given not more than 15 days after the expiration of such 60-day period. Such notice shall fix the time of the meeting at the earliest date permissible under the applicable notice requirements.

(3) Special meetings of the shareholders may be called by the president, the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other officers or persons as may be provided in the articles of incorporation or the bylaws.

[1953 c.549 §26; 1959 c.171 §1; 1963 c.479 §11]

57.150 Notice of shareholders' meetings. 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 10 nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

[1953 c.549 §27]

57.155 Closing transfer books and fixing record date. (1) For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of

directors of a corporation may provide that the stock transfer books shall be closed for a stated period, but not to exceed, in any case, 50 days. If the stock transfer books shall be closed for the purpose of determining the shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least 10 days immediately preceding such meeting.

(2) In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than 50 days and, in case of a meeting of shareholders, not less than 10 days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders.

(3) When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.
[1953 c.549 §28; 1963 c.479 §12]

57.160 Voting list. (1) The officer or agent having charge of the stock transfer books for shares of a corporation shall make, at least 10 days before each meeting of shareholders, a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of 10 days prior to such meeting, shall be kept on file at the registered office of the corporation and shall be subject to inspection by any shareholder at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or transfer books or to vote at any meeting of shareholders.

(2) Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

(3) An officer or agent having charge of the stock transfer books who shall fail to prepare the list of shareholders, or keep it on file for a period of 10 days, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.
[1953 c.549 §29]

57.165 Quorum of shareholders. (1) Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation.

(2) The shareholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.
[1953 c.549 §30]

57.170 Voting of shares. (1) Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of any class or classes are limited or denied by the articles of incorporation as permitted by this chapter.

(2) Neither treasury shares, nor shares of its own stock held by a corporation in a fiduciary capacity, nor shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation, shall be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

(3) A shareholder may vote either in person or by proxy executed in writing by the shareholder 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.

(4) At each election for directors, every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or, if the articles of incorporation specifically permit cumulative voting, to cumulate his votes either by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal or by distributing such votes on the same principle among any number of such candidates.

(5) Shares standing in the name of another domestic or foreign corporation may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

(6) Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy; but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(7) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(8) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(9) On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.

[1953 c.549 §31; 1963 c.479 §13]

57.175 Voting trust. Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed 10 years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its registered office, and by transferring their shares to such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

[1953 c.549 §32]

57.180 Board of directors. The business and affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation so require. The articles of incorporation may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

[1953 c.549 §33]

57.185 Number and selection of directors. The number of directors of a corporation 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 constituting 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, but no decrease 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. The names and addresses of the members of the first board of directors

shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified, unless removed in accordance with the provisions of the bylaws. At the first annual meeting of shareholders, and at each annual meeting thereafter, the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in the case of classification of directors as permitted by this chapter. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified, unless removed in accordance with the provisions of the bylaws.
[1953 c.549 §34; 1955 c.200 §1]

57.190 Classification of directors. (1) Except as provided in subsection (2) of this section, the bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or, until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

(2) If the corporation has cumulative voting:

(a) Classification of directors may be provided only if authorized by the articles of incorporation, and

(b) No class shall consist of fewer than three members.
[1953 c.549 §35; 1963 c.479 §14]

57.193 Removal of directors. (1) Except at provided in subsections (2) and (3) of this section, all or any number of the directors may be removed, with or without cause, at a meeting called expressly for that purpose, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

(2) If the corporation has cumulative voting and fewer than all the directors are removed, no one of the directors may be removed if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors or, if there be classes of directors, at any election of the class of directors of which he is a part.

(3) Only the members of a class entitled to elect a director may vote on the removal of a director elected by such class.
[1963 c.479 §31]

57.195 Vacancies in board of directors. Any vacancy occuring in the board 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 otherwise provided in the articles of incorporation. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of shareholders called for that purpose unless otherwise provided in the articles of incorporation.
[1953 c.549 §36]

57.200 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 a greater number is required by the articles of incorporation or the bylaws or unless a lesser number is specified by the articles of incorporation. 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 the articles of incorporation or the bylaws.
[1953 c.549 §37]

57.205 [Repealed by 1953 c.549 §138]

57.206 Executive committee. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by 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, may designate two or more directors to constitute an executive

committee, which committee, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors in the management of the corporation, but no such committee shall have the authority of the board of directors in reference to amending the articles of incorporation; adopting a plan of merger or consolidation; recommending to the shareholders the sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all the property and assets of the corporation otherwise than in the usual and regular course of its business; recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof; or amending the bylaws of the corporation. The designation of such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any member thereof, of any responsibility imposed upon it or him by law.
[1953 c.549 §38; 1963 c.479 §15]

57.210 [Repealed by 1953 c.549 §138]

57.211 Place and notice of directors' meetings. (1) Meetings of the board of directors, regular or special, may be held either within or without this state.

(2) Regular meetings of the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a 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.
[1953 c.549 §39]

57.215 [Repealed by 1953 c.549 §138]

57.216 Dividends. The board of directors of a corporation may, from time to time, declare and the corporation may pay dividends on its outstanding shares in cash, property or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation, subject to the following provisions:

(1) Dividends may be declared and paid in cash or property only out of the unreserved and unrestricted earned surplus of the corporation, except as otherwise provided in this section.

(2) If the articles of incorporation of a corporation engaged in the business of exploiting natural resources so provide, dividends may be declared and paid in cash out of the depletion reserves, but each such dividend shall be identified as a distribution of such reserves; and the amount per share paid from such reserves shall be disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(3) Dividends may be declared and paid in its own shares out of any treasury shares that have been reacquired out of surplus of the corporation.

(4) Dividends may be declared and paid in its own authorized but unissued shares out of any unreserved and unrestricted surplus of the corporation upon the following conditions:

(a) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate par value of the shares issued as a dividend. If such shares are issued at more than par value, there shall be transferred from earned surplus to capital surplus an amount equal to the value, exceeding par value, for which such shares are issued.

(b) If a dividend is payable in its own shares without par value, such shares shall be issued at such value as shall be fixed by the board of directors by resolution adopted at the time such dividend is declared, and there shall be transferred to stated capital at the time such dividend is paid an amount of surplus equal to the aggregate value so fixed in respect of such shares; and the amount per share so transferred to stated capital shall be disclosed to the shareholders receiving such dividend concurrently with the payment thereof.

(5) No dividend payable in shares of any class shall be paid to the holders of shares of any other class unless the articles of incorporation so provide or such payment is authorized by the affirmative vote or the written consent of the holders of at least

a majority of the outstanding shares of the class in which the payment is to be made.

(6) A split-up or division of the issued shares of any class into a greater number of shares of the same class without increasing the stated capital of the corporation shall not be construed to be a share dividend within the meaning of this section.
[1953 c.549 §40; 1963 c.479 §16]

57.220 [Repealed by 1953 c.549 §138]

57.221 Distributions in partial liquidation. (1) The board of directors of a corporation may, from time to time, distribute to its shareholders in partial liquidation, out of stated capital or capital surplus of the corporation, a portion of its assets, in cash or property, subject to the following provisions:

(a) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent.

(b) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation.

(c) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid.

(d) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of voluntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation.

(e) Each such distribution, when made, shall be identified as a distribution in partial liquidation and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(2) The board of directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.
[1953 c.549 §41]

57.225 [Repealed by 1953 c.549 §138]

57.226 Loans. No loans shall be made by a corporation to its officers or directors, and no loans shall be made by a corporation secured by its shares.
[1953 c.549 §42]

57.230 [Repealed by 1953 c.549 §138]

57.231 Liability of directors in certain cases. (1) In addition to any other liabilities imposed by law upon directors of a corporation:

(a) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this chapter or contrary to any restrictions contained in the articles of incorporation shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this chapter or the restrictions in the articles of incorporation.

(b) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this chapter shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this chapter.

(c) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(d) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation,

or the making of any loan secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

(e) If a corporation shall commence business before it has received for the issuance of shares the amount of consideration which this chapter requires be received before the commencement of business, the directors who assent thereto shall be jointly and severally liable to the corporation for the part of such prescribed amount as shall not have been received before commencing business, but such liability shall be terminated when the corporation has actually received consideration of the value prescribed by this chapter for the issuance of shares.

(2) A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

(3) A director shall not be liable under paragraphs (a), (b) or (c) of subsection (1) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or certified by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

(4) Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets knowing such dividend or distribution to have been made in violation of this section, in proportion to the amounts received by them respectively.

(5) 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 or assented to the action upon which the claim is asserted.

[1953 c.549 §43; 1963 c.479 §17]

57.235 [Repealed by 1953 c.549 §138]

57.236 Officers. (1) The officers of a corporation shall consist of a president and a secretary, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary.

(2) All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

[1953 c.549 §44; 1963 c.492 §4]

57.240 [Repealed by 1953 c.549 §138]

57.241 Removal of officers. Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

[1953 c.549 §45]

57.245 [Repealed by 1953 c.549 §138]

57.246 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 shareholders and board of directors; and shall keep at its registered office or principal place of business, or at the office of its transfer agent or register, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each.

(2) Any person who shall have been a

shareholder of record for at least six months immediately preceding his demand or who shall be the holder of record of at least five percent of all the outstanding shares of a corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its books and records of account, minutes and record of shareholders and to make extracts therefrom. The corporation shall mail a copy of its latest financial statement to any shareholder upon his written request therefor.

(3) Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder, or his agent or attorney, so to examine and make extracts from its books and records of account, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder in a penalty of 10 percent of the value of the shares owned by such shareholder, in addition to any other damages or remedy afforded him by law. It shall be a defense to any action for penalties under this section that the person suing therefor has within two years sold or offered for sale any list of shareholders of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders for any such purpose, or has improperly used any information secured through any prior examination of the books and records of account, or minutes, or record of shareholders of such corporation or any other corporation, or was not acting in good faith or for a proper purpose in making his demand.

(4) Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which such shareholder shall have been a shareholder of record, and irrespective of the number of shares held by him, to compel the production for examination by such shareholder of the books and records of account, minutes, and record of shareholders of a corporation.

[1953 c.549 §46]

57.250 [Repealed by 1953 c.549 §138]

57.255 to 57.300 [Reserved for expansion]

57.305 [Repealed by 1953 c.549 §138]

FORMATION OF CORPORATIONS

57.306 Incorporators. One or more natural persons of the age of 21 years or more may act as incorporators of a corporation by signing, verifying and delivering in duplicate to the Corporation Commissioner articles of incorporation for such corporation.

[1953 c 549 §47; 1955 c.200 §2; 1963 c.492 §5]

57.310 [Repealed by 1953 c.549 §138]

57.311 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. It shall be sufficient to state, either alone or with other purposes, that the purpose of the corporation is to engage in any lawful activity for which corporations may be organized under this chapter, and by such statement all lawful activities shall be within the purposes of the corporation, except for express limitations, if any.

(d) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.

(e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.

(f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series in so far as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(g) Any provision limiting or denying to shareholders the pre-emptive right to acquire additional or treasury shares of the corporation.

(h) Any provision, 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 restricting

the transfer of shares or which under this chapter is required or permitted to be set forth in the bylaws.

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

(j) 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 directors until the first annual meeting of shareholders or until their successors be elected and qualified.

(k) 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 the Oregon Business Corporation Act.

[1953 c.549 §48; 1963 c.492 §6]

57.315 [Repealed by 1953 c.549 §138]

57.316 Filing of 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 this chapter prescribed:

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

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

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

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

[1953 c.549 §49; 1955 c.200 §3]

57.320 [Repealed by 1953 c.549 §138]

57.321 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 the Oregon Business Corporation Act, except as against this state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

[1953 c.549 §50]

57.325 [Repealed by 1953 c.549 §138]

57.326 Requirement before commencing business. A corporation shall not transact any business or incur any indebtedness, except such as shall be incidental to its organization or to obtaining subscriptions to or payment for its shares, until there has been paid in for the issuance of shares consideration of the value of at least $1,000, or of the value equal to the total par value of its authorized shares if the corporation is authorized to issue only shares having a par value, and the total par value thereof is less than $1,000.

[1953 c.549 §51]

57.330 [Repealed by 1953 c.549 §138]

57.331 Organization 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 the transaction 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.

[1953 c.549 §52]

57.335 [Repealed by 1953 c.549 §138]

57.340 [Repealed by 1953 c.549 §138]

57.345 [Repealed by 1953 c.549 §138]

57.350 [Repealed by 1953 c.549 §138]

AMENDMENT OF ARTICLES AND CHANGE IN SHARES

57.355 Right to amend articles of incorporation. (1) 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 might be lawfully contained in original articles of incorporation at the time of making such amendment, and, if a change in shares or the rights of shareholders, or an exchange, reclassification or cancellation of shares or rights of shareholders is to be made, such provisions as may be necessary

to effect such change, exchange, reclassification or cancellation.

(2) In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation, from time to time, so as:

(a) To change its corporate name.

(b) To change its period of duration.

(c) To change, enlarge or diminish its corporate purposes.

(d) To increase or decrease the aggregate number of shares, or shares of any class, which the corporation has authority to issue.

(e) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued.

(f) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued.

(g) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, limitations and the relative rights in respect to all or any part of its shares, whether issued or unissued.

(h) To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value.

(i) To change the shares of any class, whether issued or unissued, and whether with or without par value, into a different number of shares of the same class or into the same or a different number of shares, either with or without par value, of other classes.

(j) To create new classes of shares having rights and preferences either prior and superior or subordinate and inferior to the shares of any class then authorized, whether issued or unissued.

(k) To cancel or otherwise affect the right of the holders of the shares of any class to receive dividends which have accrued but have not been declared.

(L) To divide any preferred or special class of shares, whether issued or unissued, into series and fix and determine the designations of such series and the variations in the relative rights and preferences as between the shares of such series.

(m) To authorize the board of directors to establish, out of authorized but unissued shares, series of any preferred or special class of shares and fix and determine the relative rights and preferences of the shares of any series so established.

(n) To authorize the board of directors to fix and determine the relative rights and preferences of the authorized but unissued shares of series theretofore established in respect to which either the relative rights and preferences have not been fixed and determined or the relative rights and preferences theretofore fixed and determined are to be changed.

(o) To revoke, diminish or enlarge the authority of the board of directors to establish series out of authorized but unissued shares of any preferred or special class and fix and determine the relative rights and preferences of the shares of any series so established.

(p) To limit, deny or grant to shareholders of any class the preemptive right to acquire additional or treasury shares of the corporation, whether then or thereafter authorized.

[1953 c.549 §53]

57.360 Procedure to amend articles of incorporation. Amendments to the articles of incorporation shall be made in the following manner:

(1) If a corporation has issued shares of stock:

(a) The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of at least a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote

of the holders of at least a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(2) (a) If a corporation has not issued any shares of stock, the articles of incorporation may be amended by resolution adopted by a majority of the directors.

(b) If the provisions of the articles of incorporation relating to the duration, purposes, authorized capital, rights or preferences of shares, or internal affairs are amended by the directors prior to the issuance of stock, the directors shall immediately notify in writing each person who is a party to any agreement for the subscription of stock of the corporation. Such notice shall set forth the text of the amendment and state that the subscriber may, within 30 days after delivery or mailing of the notice of amendment, rescind his subscription by notice in writing delivered or mailed to the directors at an address specified. If a notice of rescission is not delivered or mailed within 30 days, the subscriber may not thereafter assert the fact of the amendment as the basis for avoiding the subscription agreement or asserting any claim against any person.

(3) Any number of amendments may be submitted to the shareholders or directors and voted upon by them at one meeting.
[1953 c.549 §54; 1959 c.172 §1; 1963 c.492 §7]

57.365 Class voting on amendments. (1) The holders of the outstanding shares of a class shall be entitled to vote as a class upon a proposed amendment, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the amendment would:

(a) Increase or decrease the aggregate number of authorized shares of such class.

(b) Increase or decrease the par value of the shares of such class.

(c) Effect an exchange, reclassification or cancellation of all or part of the shares of such class.

(d) Effect an exchange, or create a right of exchange, of all or any part of the shares of another class into the shares of such class.

(e) Change the designations, preferences, limitations or relative rights of the shares of such class.

(f) Change the shares of such class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes.

(g) Create a new class of shares having rights and preferences prior and superior to the shares of such class, or increase the rights and preferences of any class having rights and preferences prior or superior to the shares of such class.

(h) In the case of a preferred or special class of shares, divide the shares of such class into series and fix and determine the designation of such series and the variations in the relative rights and preferences between the shares of such series or authorize the board of directors to do so.

(i) Limit or deny the existing pre-emptive rights of the shares of such class.

(j) Cancel or otherwise affect dividends on the shares of such class which had accrued but had not been declared.

(2) Different series of the same class of shares shall not constitute different classes of shares for the purpose of voting by classes upon a proposed amendment, except when a series will be adversely affected by an amendment in a manner different from other shares of the same class.
[1953 c.549 §55; 1963 c.479 §18]

57.370 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) If the amendment alters or changes any provision of the original or amended articles of incorporation, an identification by reference or description of the affected provision and a statement of its text as it is amended to read. If the amendment strikes or deletes any provision of the original or amended articles of incorportion, an identification by reference or description of the provision so stricken or deleted and a statement that it is stricken out or deleted. If the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision added.

(3) The date of the adoption of the amendment by the shareholders.

(4) The number of shares outstanding, and the number of shares entitled to vote thereon, and, if the shares of any class are

entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.

(6) If such amendment provides for an exchange, reclassification or cancellation of issued shares, and, if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.

(7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

(8) If such amendment was adopted by a majority of the directors pursuant to paragraph (a) of subsection (2) of ORS 57.360, then, in lieu of the information required by paragraphs (3), (4) and (5) of this section, a statement that no shares have yet been issued and that the amendment was authorized as provided in paragraph (a) of subsection (2) of ORS 57.360. The date of the adoption of the amendment by a majority of the directors shall be included.

[1953 c.549 §56; 1963 c.479 §19]

57.375 Filing of 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 and charges have been paid as in this chapter 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.

[1953 c.549 §57]

57.377 Amendment of articles following reorganization. (1) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

(2) In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration or corporate purposes of the corporation;

(b) Repeal, alter or amend the bylaws of the corporation;

(c) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations and relative rights in respect to all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(3) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth

the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) 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 and charges have been paid as in this chapter 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.

(4) The certificate of amendment, with the duplicate original of the articles of amendment affixed thereto by the Corporation Commissioner, shall be returned to the corporation or its representative.

(5) 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, without any action thereon by the directors or shareholders of the corporation and with the same effect as though the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

[1963 c.479 §29]

57.380 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 suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

[1953 c.549 §58]

57.385 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 required by the Oregon Business Corporation Act to be included in original articles of incorporation except that:

(a) The restated articles of incorporation shall set forth the amount of its stated capital at the time of the adoption of the restated articles of incorporation; and

(b) 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

(c) No statement need be made with respect to the number, names and addresses 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 Business Corporation Act 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) The date of the adoption of the restated articles of incorporation by the shareholders.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon, and, if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.

(d) The number of shares voted for and against the restated articles of incorporation, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against the restated articles of incorporation, respectively.

(e) If the restated articles of incorporation provide for an exchange, reclassification or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the restated articles of incorporation, then a statement of the manner in which the same shall be effected.

(f) If the restated articles of incorporation effect a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by the restated articles of incorporation.

[1953 c.549 §59; 1961 c.166 §1; 1963 c.492 §8]

57.390 Restriction on redemption or purchase of redeemable shares. No redemption or purchase of redeemable shares shall be made by a corporation when it is insolvent or when such redemption or purchase would render it insolvent, or which would reduce the net assets below the aggregate amount payable to the holders of shares having prior or equal rights to the assets of the corporation upon involuntary dissolution.

[1953 c.549 §60]

57.395 Cancellation of redeemable shares by redemption or purchase. (1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so canceled which the corporation is authorized to issue by the number of shares so canceled.

(2) The statement of cancellation 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, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares canceled through redemption or purchase, itemized by classes and series.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(e) If the articles of incorporation provide that the canceled shares shall not be reissued, then the number of shares which the corporation has authority to issue, itemized by classes and series, after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter 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) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this chapter.

[1953 c.549 §61]

57.400 Cancellation of other reacquired shares. (1) A corporation may at any time,

by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

(2) The statement of cancellation 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, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares canceled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter 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) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled, and the shares so canceled shall be restored to the status of authorized but unissued shares.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this chapter. [1953 c.549 §62]

57.405 [Repealed by 1953 c.549 §138]

57.406 Reduction of stated capital in certain cases. (1) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written or printed notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of at least a majority of the shares entitled to vote thereon.

(2) When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement 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, and shall set forth:

(a) The name of the corporation.

(b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon.

(d) The number of shares voted for and against such reduction, respectively.

(e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(3) Duplicate originals of such statement shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter 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) Return the other duplicate original to the corporation or its representative.

(4) Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth.

(5) No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

[1953 c.549 §63]

57.410 [Repealed by 1953 c.549 §138]

57.411 Special provisions relating to surplus and reserves. (1) The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus.

(2) The capital surplus of a corporation may be increased from time to time by resolution of the board of directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus.

(3) A corporation may, by resolution of its board of directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus, if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

(4) A corporation may, by resolution of its board of directors, create a reserve or reserves out of its earned surplus for any proper purpose or purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent so reserved shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this chapter.

[1953 c.549 §64]

57.415 [Repealed by 1953 c.549 §138]

57.420 [Repealed by 1953 c.549 §138]

57.425 [Repealed by 1953 c.549 §138]

57.430 [Repealed by 1953 c.549 §138]

RIGHTS OF DISSENTING SHAREHOLDERS

57.432 Dissent from merger or consolidation; dissent from certain sales, leases or exchanges; extent of right to dissent; fiduciary's right. (1) Any shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(a) Any plan of merger or consolidation to which the corporation is a party; or

(b) Any sale, lease or exchange of all or substantially all of the property and assets of the corporation, otherwise than in the usual and regular course of its business, and other than a sale for cash where the shareholders' approval thereof is conditional upon the distribution of all or substantially all of the net proceeds of the sale to the shareholders in accordance with their respective interests within one year after the date of sale.

(2) A shareholder may not dissent as to less than all of the shares registered in his name; except that a shareholder holding as a fiduciary shares registered in his name for the benefit of more than one beneficiary or beneficial interest, may dissent as to less than all of the shares registered in such fiduciary's name so long as any dissent as to the shares held for any beneficiary or beneficial interest shall be made as to all the shares held by such fiduciary for such beneficiary or beneficial interest and, in the event of such dissent, such fiduciary's rights shall be determined as if the shares as to which he has dissented and his other shares were registered in the names of different shareholders.

(3) The provisions of this section shall not apply to the shareholders of the surviving corporation in a merger if a vote of the shareholders of such corporation is not necessary to authorize such merger.

[1963 c.479 §27]

57.435 [Repealed by 1953 c.549 §138]

57.437 Time of filing dissent and demand for payment; payment of fair value; effect of demand or failure to make demand. (1) Any shareholder electing to exercise

such right of dissent shall file with the corporation, prior to or at the meeting of shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action.

(2) If such proposed corporate action be approved by the required vote and such shareholder shall not have voted in favor thereof, such shareholder may, within 10 days after the date on which the vote was taken, or, if a corporation is to be merged without a vote of its shareholders into another corporation, any of its shareholders may, within 15 days after the plan of such merger shall have been mailed to such shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such shareholder's shares; and, if such proposed corporate action is effected, such corporation shall pay to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action.

(3) Any shareholder failing to make demand within the 10- or 15-day period, as the case may be, shall be bound by the terms of the proposed corporate action. Any shareholder making such demand shall thereafter be entitled only to payment as provided in ORS 57.437 to 57.450 and shall not be entitled to vote or to exercise any other rights of a shareholder.

[1963 c.479 §28 (1)]

57.440 [Repealed by 1953 c.549 §138]

57.442 Restoration of rights of shareholder. No demand made under ORS 57.437 may be withdrawn unless the corporation shall consent thereto. The right of such shareholder to be paid the fair value of his shares shall cease and his status as a shareholder shall thereupon be immediately restored, without prejudice to any corporate proceedings which may have been taken during the interim:

(1) If such demand shall be withdrawn upon consent; or

(2) If the proposed corporate action shall be abandoned or rescinded or the shareholders shall revoke the authority to effect such action; or

(3) If no demand or petition for the determination of fair value by a court shall have been made or filed within the time provided in ORS 57.437 to 57.450; or

(4) If a court of competent jurisdiction shall determine that such shareholder is not entitled to the relief provided by ORS 57.437 to 57.450.

[1963 c.479 §28 (2)]

57.445 Notice; offer of purchase; judicial determination of fair value. (1) Within 10 days after corporate action mentioned in ORS 57.432 is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting shareholder who has made demand as provided in ORS 57.437 to 57.450, and shall make a written offer to each such shareholder to pay for such shares at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation the shares of which the dissenting shareholder holds, as of the latest available date and not more than 12 months prior to the making of such offer, and a profit and loss statement of such corporation for the 12-month period ending on the date of such balance sheet.

(2) If, within 30 days after the date on which such corporate action was effected, the fair value of such shares is agreed upon between any such dissenting shareholder and the corporation, payment therefor shall be made within 90 days after the date on which such corporate action was effected, or such longer time as shall be mutually agreeable, upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in such shares.

(3) If, within such period of 30 days, a dissenting shareholder and the corporation do not so agree, then the corporation, within 30 days after receipt of written demand from any dissenting shareholder given within 60 days after the date on which such corporate action was effected, shall, or at its election at any time within such period of 60 days may, file a petition in any court of competent jurisdiction in the county in this state in which the registered office of the corporation is located, praying that the fair value of such shares be found and determined. If, in the case of a merger or consolidation, the

surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county in which the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as provided in ORS 57.437 to 57.450, any dissenting shareholder may do so in the name of the corporation within 60 days after the expiration of such 60-day period.

(4) All dissenting shareholders, wherever residing, other than any dissenting shareholder who shall previously have agreed with the corporation as to the fair value of his shares, shall be made parties to the proceeding as an action against their shares quasi in rem. A copy of the petition shall be served on each such dissenting shareholder who is a resident of this state and shall be served by registered or certified mail on each such dissenting shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares.

(5) The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof.

(6) The judgment shall be payable to each respective dissenting shareholder only upon and concurrently with the surrender to the corporation of the certificate or certificates representing such dissenting shareholder's shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares. The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

[1963 c.479 §28 (3), (4), (5), (6)]

57.450 Submission of certificates; effect of failure; rights of transferee; rights of corporation. (1) Within 20 days after demanding payment for his shares, each shareholder demanding payment shall submit the certificate or certificates representing his shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under ORS 57.437 to 57.450 unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct.

(2) If shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear similar notation, with the name of the original dissenting holder of such shares, and a transferee of such shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting shareholder had after making demand for payment of the fair value thereof.

(3) Shares acquired by a corporation pursuant to payment of the agreed value therefor or to payment of the judgment entered therefor, as provided in ORS 57.437 to 57.450, may be held and disposed of by such corporation as in the case of other treasury shares, except that, in the case of a merger or consolidation, they may be held and disposed of as the plan of merger or consolidation may otherwise provide.

[1963 c.479 §28 (7), (8)]

MERGER AND CONSOLIDATION

57.455 Procedure for merger. (1) Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

(2) The board of directors of each corporation shall, by resolution adopted by each such board, approve 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) The manner and basis of converting the shares of each merging corporation into shares or other securities or obligations of the surviving corporation.

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

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

[1953 c.549 §65]

57.460 Procedure for consolidation. (1) Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

(2) The board of directors of each corporation shall, by a resolution adopted by each such board, approve 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) The manner and basis of converting the shares of each corporation into shares or other securities or obligations of the new corporation.

(d) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

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

[1953 c.549 §66]

57.465 Approval by shareholders. (1) The board of directors of each corporation, upon approving such plan of merger or plan of consolidation, shall, by resolution, direct that the plan be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. Written or printed notice shall be given to each shareholder of record entitled to vote at such meeting, not less than 20 days before such meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders, and shall state the purpose of the meeting, whether the meeting be an annual or a special meeting. A copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice.

(2) At each such meeting, a vote of the shareholders shall be taken on the proposed plan of merger or consolidation. Each outstanding share of each such corporation shall be entitled to vote on the proposed plan of merger or consolidation, whether or not such share has voting rights under the provisions of the articles of incorporation of such corporation. The plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of each such corporation, unless any class of shares of any such corporation is entitled to vote as a class thereon, in which event, as to such corporation, the plan of merger or consolidation shall be approved upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon and of the total outstanding shares. Any class of shares of any such corporation shall be entitled to vote as a class if the plan of merger or consolidation, as the case may be, contains any provision which, if contained in a proposed amendment to articles of incorporation, would entitle such class of shares to vote as a class.

(3) After such approval by a vote of the shareholders of each corporation, 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.

[1953 c.549 §67]

57.470 Articles of merger or consolidation. (1) Upon such approval, 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) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(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 and charges have been paid as in this chapter 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.
[1953 c.549 §68]

57.475 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.
[1953 c.549 §69]

57.480 Effect of merger or consolidation. When such merger or consolidation has been effected:

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

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) 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 this chapter.

(4) Such surviving or new corporation shall thereupon and thereafter 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, including subscriptions to shares, 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.

(5) 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; and 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, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, 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; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the original articles of incorporation of the new corporation.

(7) The net surplus of the merging or consolidating corporations which was available for the payment of dividends immediately prior to such merger or consolidation, to the extent that such surplus is not transferred to stated capital by the issuance of shares or otherwise, shall continue to be available for the payment of dividends by such surviving or new corporation.
[1953 c.549 §70]

57.485 Merger or consolidation of domestic and foreign corporations. (1) One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(a) Each domestic corporation shall comply with the provisions of this chapter with respect to the merger or consolidation, as the case may be, of domestic corporations, and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(b) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than this state, it shall comply with the provisions of this chapter

with respect to foreign corporations if it is to transact business in this state, and, in every case, it shall file with the Corporation Commissioner of this state:

(A) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(B) An irrevocable appointment of the Corporation Commissioner of this state as its agent to accept service of process in any such proceeding; and

(C) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this chapter with respect to the rights of dissenting shareholders.

(2) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. 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 the same as in the case of the merger or consolidation of domestic corporations except in so far as the laws of such other state provide otherwise.

(3) 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.
[1953 c.549 §71; 1963 c.479 §20]

57.490 [1953 c.549 §72; repealed by 1963 c.479 §24]

57.495 Merger procedure for corporation owning at least 90 percent of other corporation. (1) Any corporation owning at least 90 percent of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least 90 percent of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares or other securities or obligations of the surviving corporation, or the cash or other consideration to be paid or delivered upon surrender of each share of the subsidiary corporation.

(2) A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(3) Articles of merger shall be executed in duplicate by the surviving corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of its officers signing such articles, and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

(4) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation, or upon the waiver thereof by the holders of all outstanding shares, duplicate originals of the articles of merger shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such articles conform to law, he shall, when all fees and charges have been paid as in this chapter prescribed:

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

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

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

(5) The certificate of merger, with the duplicate original of the articles of merger affixed thereto by the Corporation Commissioner, shall be returned to the surviving corporation or its representative.
[1963 c.479 §30]

57.500 Merger of foreign corporations. (1) Whenever a foreign corporation authorized to transact business in this state ceases to exist because of a statutory merger or

consolidation with any other foreign corporation, it shall, within 60 days after the effective date of such merger or consolidation, file with the Corporation Commissioner a certificate of the appropriate public officer of the state, territory or country under the laws of which it is organized, to the effect that such corporation has merged or consolidated and has thereby ceased to exist.

(2) There shall be no charge for filing the certificate.

[1963 c.492 §23]

57.505 [Repealed by 1953 c.549 §138]

SALE OF ASSETS

57.506 Sale or mortgage of assets in regular course of business. The sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation, when made in the usual and regular course of the business of the corporation, may be made upon such terms and conditions and for such considerations, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors; and in such case no authorization or consent of the shareholders shall be required.

[1953 c.549 §73]

57.510 [Repealed by 1953 c.549 §138]

57.511 Sale or mortgage of assets other than in regular course of business. A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, 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 other corporation, domestic or foreign, as may be authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written or printed notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the proposed sale, lease, exchange, mortgage, pledge or other disposition.

(3) At such meeting the shareholders 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. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such authorization shall require the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation, unless any class of shares is entitled to vote as a class thereon, in which event such authorization shall require the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon and of the total outstanding shares.

(4) After such authorization by a vote of shareholders, 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 shareholders.

[1953 c.549 §74]

57.515 [Repealed by 1953 c.549 §138]

57.516 [1953 c.549 §75; repealed by 1963 c.479 §25]

57.520 [Repealed by 1953 c.549 §138]

57.525 [Repealed by 1953 c.549 §138]

DISSOLUTION

57.526 Voluntary dissolution by incorporators. (1) A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its directors at any time within two years after the date of the issuance of its certificate of incorporation, in the following manner:

(a) Articles of dissolution shall be executed in duplicate by a majority of the directors, and verified by them, and shall set forth:

(A) The name of the corporation.

(B) The date of issuance of its certificate of incorporation.

(C) That none of its shares has been issued.

(D) That the corporation has not commenced business.

(E) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(F) That no debts of the corporation remain unpaid.

(G) That a majority of the directors elect that the corporation be dissolved.

(b) Duplicate originals of the articles of dissolution shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that the articles of dissolution conform to law, he shall, when all fees and charges have been paid as in this chapter 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 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 directors or their representative. Upon the issuance of such certificate of dissolution by the Corporation Commissioner, the existence of the corporation shall cease.
[1953 c.549 §76; 1963 c.492 §9]

57.530 [Amended by 1953 c.567 §1; repealed by 1953 c.549 §138]

57.531 Voluntary dissolution by consent of shareholders. (1) A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

(2) Upon the execution of such written consent, a statement of intent to dissolve 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:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the written consent signed by all shareholders of the corporation.

(e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.
[1953 c.549 §77]

57.535 [Repealed by 1953 c.549 §138]

57.536 Voluntary dissolution by act of corporation. A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

(1) The board of directors shall adopt a resolution directing that the question of dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(2) Written or printed notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

(3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Each outstanding share of the corporation shall be entitled to vote thereon, whether or not entitled to vote thereon by the provisions of the articles of incorporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the outstanding shares of the corporation, unless any class of shares is entitled to vote as a class thereon, in which event the resolution shall require for its adoption the affirmative vote of the holders of a majority of the outstanding shares of each class of shares entitled to vote as a class thereon, and of the total outstanding shares.

(4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verfied by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by

the shareholders authorizing the dissolution of the corporation.

(e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively.

[1953 c.549 §78]

57.540 [Renumbered 57.805]

57.541 Filing of statement of intent to dissolve. Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter prescribed:

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

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

(3) Return the other duplicate original to the corporation or its representative.

[1953 c.549 §79]

57.545 [Renumbered 57.807]

57.546 Effect of statement of intent to dissolve. Upon the filing by the Corporation Commissioner of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business, except as otherwise authorized by the board of directors to effect an orderly liquidation thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the Corporation Commissioner or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as in this chapter provided.

[1953 c.549 §80; 1963 c.492 §10]

57.550 [Repealed by 1953 c.549 §138]

57.551 Procedure after filing of statement of intent to dissolve. After the filing by the Corporation Commissioner of a statement of intent to dissolve:

(1) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(2) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this chapter.

[1953 c.549 §81]

57.555 [Repealed by 1953 c.549 §138]

57.556 Revocation of voluntary dissolution proceedings by consent of shareholders. By the written consent of all of its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution by the Corporation Commissioner, revoke voluntary dissolution proceedings theretofore taken, in the following manner: Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings 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) The names and respective addresses of its officers.

(3) The names and respective addresses of its directors.

(4) A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings.

(5) That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized.

[1953 c.549 §82]

57.560 Revocation of voluntary dissolution proceedings by act of corporation. By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the Corporation Commissioner, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

(1) The board of directors shall adopt a resolution directing that the question of such revocation be submitted to a vote at a special meeting of shareholders.

(2) 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 shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of a majority of the outstanding shares.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings 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:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.

(e) The number of shares outstanding.

(f) The number of shares voted for and against the resolution, respectively.
[1953 c.549 §83]

57.565 Filing of statement of revocation of voluntary dissolution proceedings. Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such statement conforms to law, he shall, when all fees and charges have been paid as in this chapter prescribed:

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

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

(3) Return the other duplicate original to the corporation or its representative.
[1953 c.549 §84]

57.570 Effect of statement of revocation of voluntary dissolution proceedings. Upon the filing by the Corporation Commissioner of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders of by act of the corporation, the revocation of the voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.
[1953 c.549 §85]

57.575 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, 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) That the Corporation Commissioner has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.

(3) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(4) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(5) 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.
[1953 c.549 §86]

57.580 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 and charges have been paid as in this chapter 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 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 shareholders, directors and officers as provided in this chapter.
[1953 c.549 §87]

57.585 Involuntary dissolution. (1) A corporation may be dissolved involuntarily by the Corporation Commissioner when:

(a) The corporation is delinquent one full year in filing its annual report or in paying any license fee or penalty; or

(b) The corporation has failed to appoint and maintain a registered agent in this state; 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.

(2) (a) No corporation shall be involuntarily dissolved unless the Corporation Commissioner has given the corporation not less than 60 days' notice of its delinquency or omission by certified mail addressed to its registered office or in care of one of its principal officers or directors, at the last-known address of such officer or director, as shown by the records of the Corporation Commissioner, and the corporation has failed prior to such involuntary dissolution to correct the neglect, omission or delinquency.

(b) Whenever a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission or delinquency as provided in this section, the Corporation Commissioner shall thereupon dissolve the corporation by issuing a certificate of involuntary dissolution, which shall include the fact of such involuntary dissolution and the date and cause thereof. The original of such certificate shall be placed in his office and a copy thereof mailed to the corporation at its registered office or in care of one of its principal officers or directors, at the last-known address of such officer or director, as shown by the records of the Corporation Commissioner. Upon the issuance of such certificate of involuntarily dissolution, the existence of the corporation shall cease, except for purposes otherwise provided by law.

(c) Any corporation dissolved by the Corporation Commissioner under the provisions of this section may be reinstated by the Corporation Commissioner at any time within 10 years from the date of the certificate of involuntary dissolution whenever it is established to the satisfaction of the Corporation Commissioner that in fact there was no cause for the dissolution, or whenever the neglect, omission or delinquency resulting in dissolution has been corrected and payment made of double the amount delinquent. Reinstatement shall not be authorized if the same or a deceptively similar corporate, limited partnership, reserved or registered name or assumed business name registered under ORS 648.010 is currently on file with the Corporation Commissioner, unless the corporation being reinstated contemporaneously amends its articles of incorporation to change its name to conform with the provisions of this chapter.

(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 under this section, nor any suit now pending or hereafter brought for any liability against the stockholders or officers thereof, or to revive any charter or corporations previously dissolved or annulled, 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 franchise of the corporation was procured through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law.

[1953 c.549 §88; 1963 c.492 §11; 1963 c.551 §24]

57.590 Venue and process. Any action by the Attorney General for the involuntary dissolution of a corporation shall be commenced either in the circuit court of the county in which the registered office of the corporation is situated, or in the Circuit Court of Marion County. Summons shall issue and be served as in other civil actions. If process is returned not found, the Attorney General shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The Attorney General may include in one notice the names of any number of corporations against which actions are then pending in the same court. The Attorney General shall cause a copy of such notice to be mailed to the corporation at its registered office within 10 days after the first publication thereof. The certificate of the Attorney General of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than 30 days after the first publication of such notice.

[1953 c.549 §89]

57.595 Jurisdiction of court to liquidate assets and business 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 shareholder when it is established:

(A) That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

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

(C) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(D) That the corporate assets are being misapplied or wasted.

(b) In an action by a creditor:

(A) When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

(B) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this chapter, to have its liquidation continued under the supervision of the court.

(d) 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), (b) or (c) 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 shareholders parties to any such action or proceeding unless relief is sought against them personally.

[1953 c.549 §90]

57.600 Procedure in liquidation of corporation by court. (1) In proceedings to liquidate the assets and business of a corporation the court shall have 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, including all amounts owing to the corporation by shareholders on account of any unpaid portion of the consideration for the issuance of shares. 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 assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(3) 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.

(4) 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 such corporation. The court appointing such receiver shall, for the purposes of this chapter, have exclusive jurisdiction of the corporation and its property, wherever situated.
[1953 c.549 §91]

57.605 [Amended by 1953 c.549 §138; renumbered 57.809]

57.606 Filing of claims in liquidation proceedings. In proceedings to liquidate the assets and business of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.
[1953 c.549 §92]

57.610 [Repealed by 1953 c.549 §138]

57.611 Discontinuance of liquidation proceedings. The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.
[1953 c.549 §93]

57.615 [Repealed by 1953 c.549 §138]

57.616 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 to its shareholders, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts and obligations, 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.
[1953 c.549 §94]

57.620 Filing of decree of dissolution. In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the Corporation Commissioner. No fee shall be charged by the Corporation Commissioner for the filing thereof.
[1953 c.549 §95]

57.625 Deposit with State Land Board of amount due certain shareholders. Upon the involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder 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, and within six months after the final dividend in such liquidation or winding up is payable, deposited with the State Land Board. The receiver or other liquidating agent shall prepare in duplicate and under oath a statement containing the names and last-known addresses of the persons entitled to such funds. One of such statements shall be filed with the State Land Board and another with the Corporation Commissioner. Said funds shall thereupon escheat to and become the property of the State of Oregon and shall become a part of the Common School Fund of the state. The owner, his or her heirs or personal representatives, may reclaim any funds so deposited in the manner provided for estates which have escheated to the state.

[1953 c.549 §96; 1957 c.670 §29]

Note: See notes for ORS 98.302 and 98.991.

57.630 Survival of remedy after dissolution. (1) The dissolution of a corporation shall not take away or impair any remedy available to or against such corporation, its directors, officers or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution, if action or other proceeding thereon is commenced within five years after the date of issuance of a certificate of dissolution or filing of a decree of dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of five years so as to extend its period of duration.

(2) Whenever any such corporation is the owner of real or personal property, or claims any interest or lien whatsoever in any real or personal property, such corporation shall continue to exist during such five-year period for the purpose of conveying, transferring and releasing such real or personal property or interest or lien therein, and such corporation shall continue after the expiration of such five-year period to exist as a body corporate for the purpose of being made a party to, and being sued in any action, suit or proceeding against it involving the title to any such real or personal property or any interest therein, and not otherwise; and any such action, suit or proceeding may be instituted and maintained against any such corporation as might have been had prior to the expiration of said five-year period. This section shall not be construed as affecting or suspending any statute of limitations applicable to any suit, action or proceeding instituted hereunder.

(3) For the purpose of service of any process, notice or demand within the prescribed time following such dissolution, the Corporation Commissioner shall be an agent of the dissolved corporation upon whom service may be made in the manner prescribed in ORS 57.075.

[1953 c.549 §97; 1963 c.479 §21]

57.635 to 57.650 [Reserved for expansion]

FOREIGN CORPORATIONS

57.655 Admission of foreign corporation. (1) No foreign corporation shall have the right to transact business in this state until it shall have 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 the Oregon Business Corporation Act to transact in this state any business which a corporation organized under such Act 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 this chapter 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 this chapter, 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 shareholders or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for

the transfer, exchange and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders, whether by mail or through employes or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

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

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

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.
[1953 c.549 §98]

57.660 Powers of foreign corporation. A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as in this chapter otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.
[1953 c.549 §99]

57.665 Corporate name of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:

(1) Shall contain the word "corporation," "company," "incorporated" or "limited," or shall contain an abbreviation of one of such words, or such corporation shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(2) 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 or that it is authorized or empowered to conduct the business of banking or insurance.

(3) Shall not be the same as, or deceptively similar to, any other corporate, limited partnership, reserved or registered name currently on file with the Corporation Commissioner, or an assumed business name registered as provided in ORS 648.010.

(4) Shall be transliterated into letters of the English alphabet, if it is not in English.
[1953 c.549 §100; 1963 c.492 §12; 1963 c.551 §25]

57.670 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.
[1953 c.549 §101]

57.675 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. The application shall set forth:

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

(b) If the name of the corporation does not contain the word "corporation," "company," "incorporated" or "limited," or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state. If the name of the corporation is not in letters of the English alphabet, then the transliteration of the name of the corporation for use in this state.

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

(d) 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.

(e) 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.

(f) A brief statement of the character of business which it proposes to pursue in the transaction of business in this state.

(g) The names and respective addresses,

including street and number, if any, of the president and secretary of the corporation.

(h) 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 and to determine and assess the fees and charges prescribed in ORS 57.761 to 57.769.

(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.
[1953 c.549 §102; 1961 c.180 §1; 1963 c.492 §13]

57.680 Filing of application for certificate of authority. (1) The foreign corporation shall deliver to the Corporation Commissioner duplicate originals of the application of the corporation for a certificate of authority, and a certificate of the public officer of the state, territory or country having custody of the original articles of incorporation or of the Act creating that corporation, or by a public officer authorized by the law of that state, territory or country to make such a certificate, to the effect that the corporation is an existing corporation in good standing in the state, territory or country of its incorporation.

(2) If, according to law, a certificate of authority to transact business in this state should be issued to such corporation, the Corporation Commissioner shall, when all fees and charges have been paid as prescribed in ORS 57.761 to 57.769:

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

(b) File in his office one of such duplicate originals of the application, attaching thereto the certificate of the public officer required by subsection (1) of this section.

(c) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

(3) The certificate of authority with the duplicate original of the application affixed thereto by the Corporation Commissioner shall be returned to the corporation or its representative.
[1953 c.549 §103; 1961 c.180 §2]

57.685 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 this chapter.
[1953 c.549 §104]

57.690 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 place of business in this state.

(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, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office.
[1953 c.549 §105]

57.695 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 this chapter, he shall file such statement in his

office. The filing of such statement shall immediately terminate the existing registered office or agent, or both, as the case may be, and establish the newly appointed registered office or agent, or both, as the case may be, of the corporation.

(3) Any registered agent of a foreign corporation may resign as agent upon filing a signed statement with the Corporation Commissioner. The resignation shall become effective 30 days after the filing of the signed statement, unless the corporation shall sooner appoint a successor registered agent as provided in this section, thereby terminating the capacity of such agent. Upon the filing of the signed statement, the Corporation Commissioner shall forthwith notify the corporation of the filing of such statement and the effect thereof, which notice shall be addressed to the corporation at its principal office as shown by the records of the Corporation Commissioner.
[1953 c.549 §106; 1963 c.492 §14]

57.700 Service of process on foreign corporation. (1) The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) The Corporation Commissioner shall be an agent of a foreign corporation upon whom any process, notice or demand may be served, if:

(a) The corporation is authorized to transact business in this state, and

(A) It fails to appoint or maintain a registered agent in this state, or

(B) Its registered agent cannot with reasonable diligence be found at the registered office, or

(C) The corporation's certificate of authority has been suspended or revoked;

(b) The corporation is transacting business in this state without being authorized as provided in this chapter;

(c) The corporation has been authorized to transact business in this state and has withdrawn and consented to service on the Corporation Commissioner as prescribed in this chapter;

(d) The corporation has transacted business in this state without being authorized to do so, has ceased to transact business and has become subject to service on the Corporation Commissioner as prescribed in this chapter;

(e) The corporation is a nonresident issuer of securities and has filed a consent to service under ORS 59.211 in connection with its application for registration of such securities; or

(f) The corporation is the surviving or new corporation following a merger or consolidation with a domestic corporation and, in connection therewith, has appointed the Corporation Commissioner its agent for service as prescribed in this chapter.

(3) Service on the Corporation Commissioner of any such process, notice or demand shall be made by delivery to him or a clerk on duty in any office of the Corporation Commissioner, duplicate copies of such process, notice or demand, with duplicate copies of any papers required by law to be delivered in connection with such service. When the corporation served is not authorized to transact business in this state and was not authorized to transact business in this state at the time the transaction, event or occurrence upon which the suit or proceeding is based occurred, the process, notice or demand shall show on its face the principal office or place of business of the corporation.

(4) When the Corporation Commissioner is served with any process, notice or demand, he shall immediately cause one of the copies thereof, with any accompanying papers, to be forwarded by registered mail to the corporation:

(a) At the principal office or place of business of the corporation, as shown on the face of the process, notice or demand, where such inclusion is required by this section; or

(b) At the address filed with the Corporation Commissioner by a nonresident issuer of securities or a surviving or new corporation following a merger of a domestic and a foreign corporation; or

(c) In cases not covered by any of the above, at the last-known post-office address of its principal office in the state or country under the laws of which it is incorporated, as shown by the records on file in the office of the Corporation Commissioner.

(5) The Corporation Commissioner shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(6) Nothing herein contained shall limit

or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law, or enlarge the purposes for which service on the Corporation Commissioner is permitted where such purposes are limited by other provisions of law.
[1953 c.549 §107; 1963 c.479 §22]

57.705 [Repealed by 1953 c.549 §138]

57.706 [1953 c.549 §108; repealed by 1961 c.180 §10]

57.710 [Repealed by 1953 c.549 §138]

57.711 [1953 c.549 §109; repealed by 1961 c.180 §10]

57.715 [Repealed by 1953 c.549 §138]

57.716 Amended certificate of authority. (1) If a foreign corporation authorized to transact business in this state changes its corporate name, it shall procure an amended certificate of authority by making application therefor to the Corporation Commissioner.

(2) The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the Corporation Commissioner, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.
[1953 c.549 §110; 1963 c.492 §15]

57.720 [Repealed by 1953 c.549 §138]

57.721 Withdrawal of foreign corporation. (1) A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Corporation Commissioner a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Corporation Commissioner an application for withdrawal, which shall set forth:

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

(b) That the corporation is not transacting business in this state.

(c) That the corporation surrenders its authority to transact business in this state.

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process, notice or demand, and consents that service of process, notice or demand, in any action, suit or proceeding based upon any transaction, event or occurrence which took place in this state prior to the issuance of the certificate of withdrawal, may thereafter be made on such corporation by service thereof on the Corporation Commissioner.

(e) A post-office address, including street and number, if any, to which the Corporation Commissioner may mail a copy of any process against the corporation that may be served on him.

(f) Such additional information as may be necessary or appropriate in order to enable the Corporation Commissioner to determine and assess any unpaid fees or charges payable by such foreign corporation as in this chapter prescribed.

(2) The application for withdrawal shall be made on forms prescribed and furnished by the Corporation Commissioner and shall be executed 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 the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

(3) A foreign corporation which transacted business in this state without being authorized to do so as provided in this chapter will be subject to service after it has ceased to transact business in this state in the same manner as though it had been authorized to transact business, had later withdrawn, and, in connection with such withdrawal, had filed a consent to service in the manner required by paragraph (d) of subsection (1) of this section.
[1953 c.549 §111; 1963 c.479 §23]

57.725 [Repealed by 1953 c.549 §138]

57.726 Filing of application for withdrawal. (1) Duplicate originals of such application for withdrawal shall be delivered to the Corporation Commissioner. If the Corporation Commissioner finds that such application conforms to the provisions of this chapter, he shall, when all fees and charges have been paid as in this chapter 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 withdrawal to

which he shall affix the other duplicate original.

(2) The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the Corporation Commissioner, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this state shall cease.

[1953 c.549 §112]

57.730 [Repealed by 1953 c.549 §138]

57.731 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 when:

(a) The corporation is delinquent one full year in filing its annual report or in paying any license fee or penalty; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by ORS 57.690; 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 this chapter; 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 this chapter; or

(e) The corporation has failed to amend its certificate of authority as required by ORS 57.716; or

(f) The corporation has failed to file a certificate of merger or consolidation when required by ORS 57.500.

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

(a) The Corporation Commissioner has given the corporation not less than 60 days' notice of the neglect, omission, misrepresentation or delinquency by certified mail addressed to its registered office in this state, or its principal office in its home state; and

(b) The corporation has failed prior to revocation to correct the neglect, omission, misrepresentation or delinquency.

[1953 c.549 §113; 1961 c.180 §3; 1963 c.492 §16]

57.735 Procedure for revoking certificate of authority. (1) Whenever a corporation has given cause for revocation of its certificate of authority as provided in ORS 57.731 and has failed to correct the neglect, omission, misrepresentation or delinquency, the Corporation Commissioner shall thereupon revoke the right of such corporation to transact business in this state by issuing a certificate of revocation, which shall include the fact of such revocation and the date and cause thereof. The original of such certificate shall be filed in his office and a copy thereof mailed to the corporation at its registered office in this state or its principal office in its home state.

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

(3) After the issuance of a certificate of revocation, all powers conferred by law upon such foreign corporation shall cease.

(4) Whenever it is established to the satisfaction of the Corporation Commissioner that any foreign corporation whose certificate of authority has been revoked as provided in this section has not in fact given cause for revocation of its certificate of authority, the Corporation Commissioner shall issue a certificate restoring the corporation to all it former rights and privileges in the same manner as the certificate of revocation was issued as provided in this section.

(5) If any foreign corporation authorized to transact business in this state has such right revoked in the manner provided in this section, the Corporation Commissioner may at any time, upon payment by such foreign corporation of double the amount delinquent, reinstate the corporation and restore it to all its franchises and privileges. Upon such correction or payment, the Corporation Commissioner shall issue his certificate entitling the foreign corporation to resume its business and its franchises. Reinstatement shall not be authorized if the same or a deceptively similar corporate, limited partnership, reserved or registered name is currently on file with the Corporation Commissioner, unless the foreign corporation being reinstated contemporaneously amends its certificate of authority to change the name it shall use in this state to conform with the provisions of this chapter.

(6) 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 licenses and taxes imposed by any law of this state.

(7) Nothing contained in this section shall be construed to affect any suit brought for any liability against the stockholders or officers of any foreign corporation, or to revive any charter of foreign corporations previously dissolved or annulled, or to make valid any defective organization of any foreign corporations.

(8) 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 provided in this section may be brought or prosecuted in the name of the 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 not been revoked.
[1953 c.549 §114; 1963 c.492 §17]

57.740 Application to corporations authorized to transact business in this state on December 31, 1953. Foreign corporations which are duly authorized to transact business in this state on December 31, 1953, for a purpose or purposes for which a corporation might secure such authority under this chapter, 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 this chapter, and from December 31, 1953, 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 this chapter.
[1953 c.549 §115]

57.745 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 certificate of authority. Nor shall any action, suit or proceeding 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 of 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.

(3) A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority in an amount equal to all fees and charges which would have been imposed by this chapter upon such corporation had it duly applied for and received a certificate of authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay such fees and charges. The Attorney General shall bring proceedings to recover all amounts due this state under the provisions of this section.
[1953 c.549 §116]

57.750 [Reserved for expansion]

ANNUAL REPORTS

57.755 Annual statement 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 57.757, an annual statement setting forth:

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

(b) The address 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 of its principal office in the state or country under the laws of which it is incorporated.

(c) The names and respective addresses, including street and number, if any, of the president and secretary of the corporation.

(d) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par

value of shares, shares without par value, and series, if any, within a class.

(e) A brief statement of the character of the business in which the corporation is actually engaged in this state.

(f) A statement of the aggregate number of shares subscribed, but not paid up, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(g) A statement of the aggregate number of paid-up shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.

(h) Paragraphs (d), (f) and (g) of this subsection shall not apply to foreign corporations.

(2) Such annual statement shall be made on forms prescribed and furnished by the Corporation Commissioner, and the information therein contained shall be given as of 30 days before the anniversary of the corporation. It shall be executed by an officer of the corporation, 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.

[1953 c.549 §117; 1957 c.563 §1; 1959 c.244 §2; 1963 c.492 §18]

57.757 Filing of annual statement of domestic and foreign corporations. Such annual statement of a domestic or foreign corporation shall be delivered to the Corporation Commissioner before the sixteenth day of the second calendar month following each anniversary of the corporation. If the Corporation Commissioner finds that such statement conforms to the requirements of this chapter, he shall file the same. If he finds that it does not so conform, he shall return the same to the corporation for any necessary corrections. In this event the penalties prescribed under ORS 57.779 for failure to file such statement within the time provided under this section shall not apply, if such statement 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.

[1953 c.549 §118; 1955 c.195 §1; 1957 c.331 §1; 1959 c.244 §3]

57.760 [Repealed by 1953 c.549 §138]

FEES AND CHARGES

57.761 Fees for filing documents and issuing certificates. (1) The Corporation Commissioner shall charge and collect for:

(a) Filing articles of incorporation, a filing fee as set out in this section; and such corporation shall at the same time pay the annual license fee prescribed in ORS 57.767. The filing fee shall be graduated, in accordance with the authorized shares of the corporation named in its articles of incorporation, as follows:

If authorized shares exceed	But do not exceed	Fee
$ 0	$ 5,000	$ 10
5,000	10,000	15
10,000	25,000	20
25,000	50,000	30
50,000	100,000	50
100,000	250,000	75
250,000	500,000	100
500,000	1,000,000	125

If the authorized shares exceed $1,000,000, a fee of $200.

For the purpose of determining the amount of the organization fee payable by any corporation having shares of stock without nominal or par value, but for no other purpose, such shares of stock shall be deemed equivalent to shares having a par value of $10 each.

(b) (A) Filing articles of amendment, or articles of merger which provide for an increase of the authorized shares of any domestic corporation, a fee which is equivalent to the filing fee paid by a corporation whose authorized shares equal the newly increased authorized shares of the filing corporation, less the filing fee already paid by the filing corporation.

(B) The filing corporation also shall pay to the Corporation Commissioner an annual license fee which shall be equivalent to the annual license fee paid by a corporation whose authorized shares equal the newly increased authorized shares of the filing corporation, less the annual license fee already paid by the filing corporation. Corporations required to pay this increased annual license fee shall pay it for the period until the next anniversary of such corporation.

(C) Filing amended articles of incorporation decreasing the authorized shares does not reduce the annual license fee of any corporation filing it until the next anniversary.

(D) Every corporation which files amended articles of incorporation or articles of merger shall upon each filing pay to the Corporation Commissioner a minimum fee of

$5 where there is no increase in authorized capitalization.

(c) Filing articles of consolidation and issuing a certificate of consolidation, the same fees as prescribed in paragraph (a) of subsection (1) of this section.

(d) Filing an application to reserve a corporate name, $5.

(e) Filing a notice of transfer of a reserved corporate name, $5.

(f) Filing a statement of the establishment of a series of shares, $5.

(g) Filing a statement of cancellation of shares, $5.

(h) Filing a statement of reduction of stated capital, $5.

(i) Filing a statement of intent to dissolve, $1.

(j) Filing a statement of revocation of voluntary dissolution proceedings, $1.

(k) Filing articles of dissolution, $5.

(L) Filing an application of a foreign corporation for a certificate of authority to transact business and issuing a certificate of authority, $50.

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

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

(o) Filing any other statement or report, except an annual statement, of a domestic or foreign corporation, $1.

(2) The Corporation Commissioner shall not file any document relating to any corporation, domestic or foreign, organized under or subject to the provisions of this chapter, until all fees and charges required to be paid in connection therewith shall have been paid to him or while the corporation is in default in the payment of any fees, charges or penalties required by this chapter to be paid by or assessed against it.

[1953 c.549 §119; 1959 c.244 §4; 1961 c.180 §4]

57.765 [Repealed by 1953 c.549 §138]

57.766 Miscellaneous charges. The Corporation Commissioner shall charge and collect:

(1) For furnishing a certified copy of any document, instrument or paper relating to a corporation, 50 cents per page, or fraction thereof, and $2 for the certificate and affixing the seal thereto.

(2) For every document, certificate or instrument upon which the commissioner is required to affix his official seal, he shall collect a fee of $2, where no other fee is specifically exacted therefor.

(3) At the time of any service of process on him as resident agent of a corporation, $4, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

[1953 c.549 §120; 1957 c.226 §1]

57.767 License fees payable by domestic corporations. (1) Every domestic corporation shall pay an annual license fee in proportion to the amount of its authorized capital stock. This fee shall be equal to the filing fee prescribed in this chapter. The amount of the authorized capital stock of every corporation shall be determined by its articles of incorporation, or amendments or supplementary articles of incorporation filed with the Corporation Commissioner. The annual license fee required by this section shall be paid in advance before the sixteenth day of the second calendar month following each anniversary of the corporation, except as provided by subsection (1) of ORS 57.761. If the corporation shall file articles of dissolution before the sixteenth day of the second calendar month following an anniversary, then the annual license fee for that year shall not be required.

(2) Every corporation formed or organized under the laws of the State of Oregon, for the purpose of engaging in the business of mining for any of the precious metals, coal or prospecting or operating for oil or operating an oil well and whose business it is to engage in that business in Oregon only, shall annually furnish to the Corporation Commissioner, upon blanks to be supplied by him for that purpose, a correct statement sworn to by one of its officers before some officer authorized to administer oaths. This statement shall be filed at a time determined under ORS 57.757. It shall set forth in detail the name of the corporation, the location of its principal office, the names of the president, secretary and treasurer thereof, with the postoffice address of each, the amount of the authorized capital stock, the number of shares and the par value of each share, the amount of capital stock subscribed, the amount of capital stock issued, the amount of capital stock paid up, and the amount of its properties in this state and where they are located. The statement shall also state in

general terms the amount of work done and improvements made on its properties since the time of filing the last annual report, the amount and value of the annual output or products of the mines, coal or wells of the corporation in the year before its current and after its last preceding anniversary, and that the corporation is not engaged in or transacting any other business except that of locating, prospecting, developing or operating mines for precious metals, coal or wells for oil in Oregon. Any such mining or oil corporation whose annual output or products do not exceed in value the sum of $1,000 shall, if the statement required under this subsection is properly filed within the prescribed time, be exempt from the payment of the annual license fee as provided by subsection (1) of this section; but instead it shall pay an annual license fee of $10 at a time determined under subsection (1) of this section. However, no such corporation shall be required to make such statement if it files the statement required by ORS 57.755 and pays the annual license fee required by subsection (1) of this section.

(3) If any fee required under this section is not paid before the sixteenth day of the second calendar month following the anniversary, then interest at the rate of six percent a year shall be collected by the Corporation Commissioner after the fifteenth day of the second calendar month following the anniversary until payment is received.
[1953 c.549 §121; 1957 c.344 §1; 1959 c.244 §5]

57.769 License fees payable by foreign corporations. Every foreign corporation, joint stock company or association doing business in this state, pursuant to this chapter, shall pay in advance to the Corporation Commissioner an annual license fee of $200 when its certificate of authority is issued under ORS 57.680, and thereafter before the sixteenth day of the second calendar month following each anniversary. If the fee is not so paid, then interest at the rate of six percent a year shall be collected by the Corporation Commissioner after the fifteenth day of the second calendar month following the anniversary until payment is received. However, nothing in this section shall be construed to impose any annual license fee upon any corporation, all of the issued capital stock of which is beneficially owned by the United States, either directly or through the medium of another corporation wholly owned by the United States.
[1953 c.549 §122; 1959 c.244 §6]

57.770 [Repealed by 1953 c.549 §138]

57.775 [Repealed by 1953 c.549 §138]

MISCELLANEOUS PROVISIONS

57.776 Powers of Corporation Commissioner. The Corporation Commissioner shall have the power and authority reasonably necessary to enable him to administer this chapter efficiently and to perform the duties therein imposed upon him.
[1953 c.549 §125]

57.778 Appeal from Corporation Commissioner. (1) If the Corporation Commissioner shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter 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. Such person or corporation, in addition to any other legal remedy which may be available, shall have the right to appeal from such order to the Circuit Court of Marion County by filing with the clerk of such court a petition setting forth a copy of the articles or other documents sought to be filed and a copy of the written disapproval thereof by the Corporation Commissioner and by executing a bond in the penal sum of $500 to the State of Oregon, with sufficient surety, to be approved by the court, conditioned upon the faithful prosecution of such appeal to final judgment and the payment of all costs as shall be adjudged against the appellant. Such petition shall stand as appellant's complaint and be served upon the Corporation Commissioner in the manner provided by law. The court shall either sustain the action of the commissioner, or direct him to take such action as the court may deem proper.

(2) This section shall likewise be applicable if the Corporation Commissioner shall revoke the certificate of authority to transact business in this state of any foreign corporation pursuant to the provisions of this chapter. In such event the petition of such foreign corporation shall set forth a copy of its certificate of authority to transact business in this state and a copy of the notice of revocation given by the Corporation Commissioner.

(3) The judgment of the circuit court as

provided herein may be appealed to the Supreme Court of the State of Oregon in the same manner as an appeal from a suit in equity.
[1953 c.549 §126]

57.779 Sanctions and disabilities imposed on delinquent corporations. (1) Each corporation, domestic or foreign, which fails or refuses to pay any tax or fee required by this chapter, or which fails or refuses to file any annual statement, at the times provided for in this chapter, or fails to amend same when required to do so by the Corporation Commissioner in case it is incomplete, irregular or unsatisfactory, shall pay a penalty of $5 for each delinquency.

(2) No domestic or foreign corporation delinquent in any of the respects as set forth in subsection (1) hereof, unless an appeal is pending with respect thereto under the provisions of this chapter, shall be permitted to maintain any suit, action or proceedings in any court while such delinquency continues. A plea that the corporation has not paid the tax or fee which is then due and payable, or has failed to file the annual statements, may be interposed at any time before trial upon the merits, and if issue is joined upon such plea, it shall be tried first. Such a plea cannot be made by the delinquent corporation. The certificate of the Corporation Commissioner under the seal of the Corporation Division that any corporation is in default in the payment of any tax or license fee or in the filing of any annual statement shall be prima facie evidence of such delinquency in any court of justice or before any board, commission, magistrate, officer or inferior tribunal. Such evidence may be overcome, however, by a like certificate that any delinquency theretofore existing has been corrected and cured since the issuance of the certificate of delinquency.

(3) While such delinquency of any corporation continues the right of the corporation to transact business is deemed to be in abeyance and shall be suspended, but this delinquency shall not operate to impair or delay the right of any other person, firm or corporation. In all cases of suspension of such right to transact business, the directors or managers of the affairs of any delinquent organization mentioned above whose right to do business may be suspended, or any other person who may be appointed by any court of competent jurisdiction to perform that duty, are deemed to be trustees of the corporation and of the stockholders or members of the corporation. They are also deemed to have full power to settle the affairs of the corporation and to maintain or defend any action or proceeding then pending in behalf of, or against it, or to take legal proceedings necessary to fully settle its affairs. These trustees may be sued in any court of this state after such suspension, by any person having a claim against any of such corporations. However, no suit or action pending against any such corporation at the time of such suspension shall abate; but it may be prosecuted to final judgment, and may be enforced by execution with the same effect and in like manner as though no delinquency or suspension had occurred; provided further, that where judgment has been entered against such corporation prior to the delinquency or suspension, an execution may be issued thereon, and its property, or property that may come into the hands of any trustee for it, may be levied upon, seized and sold to satisfy the judgment with like effect as though the suspension had not occurred.
[1953 c.549 §123; 1955 c.184 §1]

57.780 [Repealed by 1953 c.549 §138]

57.781 Certificates and certified copies to be received in evidence. All certificates issued by the Corporation Commissioner in accordance with the provisions of this chapter, and all copies of documents filed in his office in accordance with the provisions of this chapter when certified by him shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts therein stated. A certificate by the Corporation Commissioner under the seal of the Corporation Division of the Department of Commerce, State of Oregon, as to the existence or nonexistence of the facts relating to corporations which would appear from the presence or absence of documents filed in his office or the compliance or noncompliance with provisions of this chapter, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or nonexistence of the facts stated therein.
[1953 c.549 §127]

Note: See note following 57.004.

57.783 Forms to be furnished by Corporation Commissioner. All reports required by this chapter 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 this chapter, shall not be mandatory.
[1953 c.549 §128]

57.785 [Repealed by 1953 c.549 §138]

57.786 Greater voting requirements. Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater proportion of the shares, or of any class or series thereof, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control.
[1953 c.549 §129]

57.788 Waiver of notice. Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a 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.
[1953 c.549 §130]

57.790 [Repealed by 1953 c.549 §138]

57.791 Action by shareholders or directors without a meeting. Any action required by this chapter to be taken at a meeting of the shareholders or directors of a corporation, or any other action which may be taken at a meeting of the shareholders 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 shareholders or directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of such shareholders or directors, and may be stated as such in any articles or document filed with the Corporation Commissioner under this chapter.
[1953 c.549 §131]

57.793 Liability for unauthorized assumption of corporate powers. All persons who assume to act as a corporation without the authority of a certificate of incorporation issued by the Corporation Commissioner, shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.
[1953 c.549 §132]

57.795 [Repealed by 1953 c.549 §138]

57.796 Application to corporations existing on December 31, 1953. (1) The provisions of the Oregon Business Corporation Act shall apply to the fullest extent permitted by the laws and Constitution of the United States and of the State of Oregon, to all existing corporations organized under any general Act of this state.

(2) Nothing contained in the Oregon Business Corporation Act shall be construed to repeal or to amend the present statutes relating to banks and trust companies, insurance, casualty and surety companies, cooperative associations, industrial loan companies, credit unions, building and savings and loan associations, nonprofit corporations, and other corporations for which special regulation, different from the general private business corporation laws of this state, has existed prior to December 31, 1953.
[1953 c.549 §133]

57.797 Corporations incorporated prior to December 31, 1953, under special Acts may incorporate under Oregon Business Corporation Act. The stockholders of any private incorporation heretofore incorporated by any special Act of the legislature may at any time hereafter, while such corporation exists, incorporate themselves under the Oregon Business Corporation Act, in the mode herein prescribed, for the purpose of carrying on the enterprise, business, pursuit or occupation for which they may have been specially incorporated; and the filing of the articles of incorporation shall be deemed a surrender of such special incorporation, but not of any vested right thereunder, and thereafter such corporation shall have the powers and privileges, and be subject to the liabilities and limitations, provided by the Oregon Business Corporation Act, and not otherwise.
[1953 c.549 §140]

57.798 Effect of amendment or repeal of Oregon Business Corporation Act. The Oregon Business Corporation Act may be amended, repealed or modified, but such amendment, repeal or modification shall not take away or impair any remedy for any liability which shall have been previously incurred.
[1953 c.549 §134; 1961 c.142 §1]

57.799 Effect of repeal of prior Acts. The repeal of a prior Act by chapter 549,

Oregon Laws 1953, shall not affect any right accrued or established, or any liability or penalty incurred, under the provisions of such Act, prior to the repeal thereof.
[1953 c.549 §135]

57.800 [Repealed by 1953 c.549 §138]

57.805 Issuance of one certificate to certain owners of capital stock. At the request of any holder of two or more certificates of the capital stock of any corporation organized under the laws of this state, such corporation shall, upon the surrender of the certificates, issue to the holder of such capital stock one certificate for all shares of stock of any one class in such corporation owned by the stockholder if the number of such shares owned by the stockholder in the particular class equals or exceeds 100.
[Formerly 57.540]

57.807 [Formerly 57.545; repealed by 1955 c.200 §5]

57.809 [Formerly 57.605; repealed by 1955 c.200 §5]

57.811 Certain de facto corporations made legal corporations. Any corporation organized under the laws of this state prior to August 2, 1951, which has maintained its corporate existence, and is now a de facto corporation engaged in the pursuits for which it was organized, and which has filed and recorded its articles of incorporation with either the Corporation Commissioner or the clerk of the county of its organization, but not with both; or which has filed and recorded its articles as provided by law but has not had them properly acknowledged, hereby is declared to be a legal corporation having the same status as though it had complied with such requirements of law.
[Formerly 57.015]

57.815 Foreign utilities, powers of; leasing of railroads by foreign corporations. (1) Any foreign corporation incorporated for the purpose of constructing, or constructing and operating, or for the purpose of or with the power of acquiring and operating, any railway, macadamized road, plank road, clay road, canal or bridge, or for the purpose of conducting water, gas or other substance by means of pipes laid under the ground, shall, on compliance with the laws of this state for the regulation of foreign corporations transacting business therein, have the same rights, powers and privileges in the exercise of the rights of eminent domain, collection of tolls and other prerogative franchises, and in the control, management and disposition of their business franchises and property, as are possessed by corporations organized for similar purposes under the general incorporation laws of this state.

(2) However, in the case of the leasing of any line of railroad incorporated under the laws of this state by a foreign corporation, the State of Oregon reserves to itself, through its Legislative Assembly, and in such manner as it shall determine, the right, power and authority to prescribe the rate to be charged for the transportation of persons and property on such leased lines, and also to prescribe and make such police regulations for the government of such roads as it may from time to time determine.
[Formerly 60.100]

57.820 Activities of certain foreign corporations concerning notes secured by realty. (1) Subject to subsection (1) of ORS 57.822, any foreign bank, foreign trust company or foreign insurance company, interinsurance or reciprocal exchange, without being authorized to transact business in this state, may take, acquire, hold and enforce notes secured by real estate mortgages or trust deeds and make commitments to purchase such notes.

(2) Such foreign bank, foreign trust company, foreign insurance company or interinsurance or reciprocal exchange shall have the right to foreclose said mortgages and trust deeds acquired pursuant to subsection (1) of this section in the courts of this state, to acquire the mortgaged property, to hold, own and operate said property for a period not exceeding five years and dispose of said property so acquired.

(3) The activities authorized by subsections (1) and (2) of this section by such bank, trust company, insurance company, interinsurance or reciprocal exchange shall not constitute transacting business in this state for the purposes of this chapter.
[1953 c.717 §1; 1963 c.492 §19]

57.822 Prerequisites to engaging in activities authorized by ORS 57.820. (1) Before any foreign bank, foreign trust company, foreign insurance company, interinsurance or reciprocal exchange engages in any of the activities described in ORS 57.820, such bank, trust company or insurance company, interinsurance or reciprocal exchange shall first file with the Corporation Commissioner a statement signed by its president, secretary, treasurer or general manager that

it constitutes the Corporation Commissioner its attorney for service of process, and shall pay an annual license fee of $200. The statement shall include the address of the principal place of business of such bank, trust company, insurance company, interinsurance or reciprocal exchange.

(2) The Corporation Commissioner shall, upon service of process upon him, as authorized by subsection (1) of this section, immediately forward all documents served upon him by registered mail to the principal place of business of such bank, trust company, insurance company, interinsurance or reciprocal exchange.
[1953 c.717 §2]

57.824 Taxation of foreign corporations by reason of activities authorized by ORS 57.820. The engaging in the activities authorized by ORS 57.820 by any foreign bank, foreign trust company or foreign insurance company, interinsurance or reciprocal exchange shall not subject such bank, trust company or insurance company, interinsurance or reciprocal exchange to any tax, license fee or charge, except as provided in ORS 57.822, for the privilege of doing business within the State of Oregon or to any tax measured by net or gross income; provided, however, that in the event any such foreign bank, foreign trust company, foreign insurance company, interinsurance or reciprocal exchange shall acquire any real property covered by said mortgages or trust deed, all income accruing to such foreign bank, foreign trust company, foreign insurance company, interinsurance or reciprocal exchange solely from the ownership, sale or other disposal of such real property shall be subject to taxation in the same manner and on the same basis as income of corporations doing business in the State of Oregon.
[1953 c.717 §3]

57.826 to 57.848 [Reserved for expansion]

57.850 Certain tax information available to Corporation Commissioner. Notwithstanding ORS 314.835, the State Tax Commission shall furnish to the Corporation Commissioner the names and addresses of corporations filing corporation excise tax or income tax returns. The Corporation Commissioner shall use the names and addresses in the enforcement of this chapter, and he shall not otherwise divulge or make known such information.
[1959 c.244 §12]

57.852 to 57.988 [Reserved for expansion]

PENALTIES

57.990 [Repealed by 1953 c.549 §138]

57.991 Penalty for signing or filing false statements. Any officer or director who shall sign or cause to be filed with the Corporation Commissioner on behalf of any corporation subject to the Oregon Business Corporation Act any articles, certificate, report, statement, application or any other document required or permitted to be so filed under such Act, known to such director or officer to be false or misleading in any material respect shall be punished, upon conviction, by imprisonment in the county jail not more than one year or by fine not exceeding $1,000.
[1953 c.549 §124]

57.992 Penalty for exercising power of a dissolved corporation. Any person or persons who shall exercise or attempt to exercise any power of a dissolved corporation, except those specifically preserved by this chapter, shall be guilty of a misdemeanor and shall be punished, upon conviction, by imprisonment not exceeding one year, or a fine not exceeding $1,000, or both.
[1953 c.549 §88]

57.993 Penalty for exercising power of foreign corporation after revocation of authority. Violation of subsection (2) of ORS 57.735 is punishable, upon conviction, by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.
[1953 c.549 §114]

57.994 Penalty for doing business for unlicensed foreign corporation. Any person or agent who conducts and carries on business within the limits of this state for or in the name of any foreign corporation not duly licensed or qualified to transact business within this state shall, upon conviction, be punished by a fine not exceeding $200 or by imprisonment in the county jail for a term not exceeding three months, or both.
[1953 c.549 §139]

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, 1963.

Sam R. Haley
Legislative Counsel