

ASSEMBLY BILL

No. 1233

Introduced by Assembly Member Silva

February 27, 2009

An act to amend Sections 5047, 5047.5, 5062, 5063.5, 5132, 5150, 5151, 5211, 5212, 5213, 5220, 5222, 5231, 6610, 7132, 7150, 7151, 7211, 7212, 7213, 7220, 7222, 7231, 8610, 9132, 9151, 9211, 9212, 9213, 9220, 9222, 9241, 9680, 9916, 12233, 12241, 12242.5, 12330, 12331, 12351, 12352, 12353, 12360, 12362, 12371, 12630, 12694, 18360, and 24001.5 of, to add Sections 5039.5 and 12228.5 to, and to add Article 6 (commencing with Section 9260) to Chapter 2 of Part 4 of Division 2 of Title 1, the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1233, as introduced, Silva. Nonprofit and consumer cooperative corporations: nonprofit medical associations.

(1) Existing law, the Nonprofit Corporation Law, regulates the organization and operation of nonprofit public benefit corporations, nonprofit mutual benefit corporations, and nonprofit religious corporations. Existing law, the Consumer Cooperative Corporation Law, regulates the organization and operation of consumer cooperatives.

Under those laws, the term “director” is defined as a natural person, designated in the articles or bylaws or elected by the incorporators, as well as natural persons designated, elected or appointed by any other name or title to act as members of the governing body of the corporation.

This bill would specify that a person who does not have authority to act as a member of that governing body is not a director, but if the articles or bylaws provide that a natural person is a director or a member

of the governing body because he or she occupies a certain position, then that person is a director for all purposes.

Existing law authorizes the article of incorporation and bylaws of nonprofit corporations and consumer cooperatives to contain certain provisions, including, but not limited to, a provision requiring that an amendment or repeal of those articles or bylaws be approved in writing by a specified person or persons other than the board. Existing law also authorizes the articles or bylaws to provide for the designation or selection of directors by a specified person or persons rather than by election by a member or members and similarly to authorize a specified person or persons to remove a designated or selected director.

This bill would specify that these approval requirements and designation and selection, and removal entitlements are inapplicable in those circumstances when the specified person or persons have died or ceased to exist, the office or status that created the right or entitlement ceased to exist, or when the corporation has attempted and failed to obtain approval from the specified person or persons.

Under existing law, a majority of the number of directors, authorized in the articles or bylaws, constitutes a quorum for the transaction of business of a nonprofit corporation or a consumer cooperative.

This bill would, subject to certain limitations, authorize the articles or bylaws to require the presence of one or more specified directors in order to constitute a quorum of the board to transact business.

Existing law authorizes a board of a nonprofit corporation or a consumer cooperative to form one or more committees consisting of 2 or more directors to serve at the pleasure of the board and provides that these committees have the authority of the board.

This bill would prohibit a committee exercising the authority of the board from including, as members, persons who are not directors; however, the bill would authorize the board to create other committees with nondirectors that do not exercise the authority of the board.

Existing law requires a nonprofit corporation or consumer cooperative to have a chairman or a president or both, a secretary, a chief financial officer, and other officers as provided in the bylaws or determined by the board.

This bill would require such a corporation to have a chair, as defined, or a president or both, a secretary, a treasurer or a chief financial officer or both, and other officers as provided in the bylaws or determined by the board. The bill would also specify that if there is no chief financial officer, the treasurer is the chief financial officer.

Existing law authorizes a nonprofit corporation or consumer cooperative to elect to voluntarily wind up and dissolve by approval of a majority of the members, as defined, or by approval of the board and approval of the members, as defined.

This bill would authorize such a corporation meeting certain requirements, including the lack of a quorum, to elect to voluntarily wind up and dissolve, as specified.

Under existing law, certain public benefit corporations deemed to be private foundations, as defined, are subject to Federal Internal Revenue Code requirements.

This bill would make those requirements applicable to nonprofit religious corporations deemed to be a private foundation.

(2) Existing law prohibits a cause of action for monetary damages from arising against any director or officer of a nonprofit corporation or a nonprofit medical association, who serves without compensation, on account of any specified negligent act or omission if the nonprofit corporation or nonprofit medical association has a general liability insurance policy in a specified amount that is in force both at the time of the injury and at the time the claim is made.

This bill would instead prohibit those causes of action if these corporations or associations maintain a liability insurance policy that is applicable to the claim.

(3) Existing law regulates unincorporated associations. Existing law authorizes an unincorporated association to merge into a specified corporation, limited partnership, general partnership, or limited liability company.

This bill would authorize an unincorporated association to merge with one of these entities.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5039.5 is added to the Corporations Code,
- 2 to read:
- 3 5039.5. The term “chair” includes “chairperson,” “chairman,”
- 4 and “chairwoman.” All references in this division to “chairman”
- 5 shall be deemed to refer to “chair.”
- 6 SEC. 2. Section 5047 of the Corporations Code is amended to
- 7 read:

1 5047. Except where otherwise expressly provided, “directors”
2 means natural persons, designated in the articles or bylaws or
3 elected by the incorporators, and their successors and natural
4 persons designated, elected or appointed by any other name or title
5 to act as members of the governing body of the corporation. *A*
6 *person who does not have authority to act as a member of the*
7 *governing body of the corporation, including through voting rights*
8 *as a member of the governing body, is not a director as that term*
9 *is used in this division regardless of title. However, if the articles*
10 *or bylaws designate that a natural person is a director or a member*
11 *of the governing body of the corporation by reason of occupying*
12 *a specified position within or outside the corporation, that person*
13 *shall be a director for all purposes and shall have the same rights*
14 *and obligations, including voting rights, as the other directors.*

15 SEC. 3. Section 5047.5 of the Corporations Code is amended
16 to read:

17 5047.5. (a) The Legislature finds and declares that the services
18 of directors and officers of nonprofit corporations who serve
19 without compensation are critical to the efficient conduct and
20 management of the public service and charitable affairs of the
21 people of California. The willingness of volunteers to offer their
22 services has been deterred by a perception that their personal assets
23 are at risk for these activities. The unavailability and unaffordability
24 of appropriate liability insurance makes it difficult for these
25 corporations to protect the personal assets of their volunteer
26 decisionmakers with adequate insurance. It is the public policy of
27 this state to provide incentive and protection to the individuals
28 who perform these important functions.

29 (b) Except as provided in this section, no cause of action for
30 monetary damages shall arise against any person serving without
31 compensation as a director or officer of a nonprofit corporation
32 subject to Part 2 (commencing with Section 5110), Part 3
33 (commencing with Section 7110), or Part 4 (commencing with
34 Section 9110) of this division on account of any negligent act or
35 omission occurring (1) within the scope of that person’s duties as
36 a director acting as a board member, or within the scope of that
37 person’s duties as an officer acting in an official capacity; (2) in
38 good faith; (3) in a manner that the person believes to be in the
39 best interest of the corporation; and (4) is in the exercise of his or
40 her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit corporations organized to provide religious, charitable, literary, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit corporation maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the corporation's annual budget is less than fifty thousand dollars (\$50,000), the minimum required amount is five hundred thousand dollars (\$500,000).

(2) If the corporation's annual budget equals or exceeds fifty thousand dollars (\$50,000), the minimum required amount is one million dollars (\$1,000,000).

This section applies only if the claim against the director or officer ~~may~~ *can* also be made directly against the corporation and a general liability insurance policy is in force both at the time of injury and at the time the claim against the corporation is made, so that a policy is applicable to the claim. If a general liability *that* policy is found to cover the damages caused by the director or officer, no cause of action as provided in this section shall be maintained against the director or officer.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit corporation for any negligent act or omission of a director, officer, employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any corporation that unlawfully restricts membership, services, or benefits conferred on the basis of political affiliation, age, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

(i) This section does not apply to any volunteer director or officer who receives compensation from the corporation in any other capacity, including, but not limited to, as an employee.

SEC. 4. Section 5062 of the Corporations Code is amended to read:

5062. “Officer’s certificate” means a certificate signed and verified by the ~~chairman~~ *chair* of the board, the president or any vice president and by the secretary, the chief financial officer, the treasurer or any assistant secretary or assistant treasurer.

SEC. 5. Section 5063.5 of the Corporations Code is amended to read:

5063.5. “Other business entity” means a domestic or foreign limited liability company, limited partnership, general partnership, business trust, real estate investment trust, unincorporated association ~~(other than a nonprofit association)~~, or a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance as set forth in Article 16 (commencing with Section 1550) of Chapter 3 of Part 2 of Division 1 of the Insurance Code. As used herein, “general partnership” means a “partnership” as defined in subdivision ~~(7)~~ (9) of Section 16101; “business trust” means a business organization formed as a trust; “real estate investment trust” means a “real estate investment trust” as defined in subsection (a) of Section 856 of the Internal Revenue Code of 1986, as amended; and “unincorporated association” has the meaning set forth in Section 18035.

SEC. 6. Section 5132 of the Corporations Code is amended to read:

5132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation’s existence to a specified date.

1 (2) In the case of a subordinate corporation instituted or created
2 under the authority of a head organization, a provision setting forth
3 either or both of the following:

4 (i) That the subordinate corporation shall dissolve whenever its
5 charter is surrendered to, taken away by, or revoked by the head
6 organization granting it.

7 (ii) That in the event of its dissolution pursuant to an article
8 provision allowed by subdivision (a), paragraph (2), clause (i), of
9 this section, or, in the event of its dissolution for any reason, any
10 assets of the corporation after compliance with the applicable
11 provisions of Chapters 15 (commencing with Section 6510), 16
12 (commencing with Section 6610) and 17 (commencing with
13 Section 6710) shall be distributed to the head organization.

14 (b) Nothing contained in subdivision (a) shall affect the
15 enforceability, as between the parties thereto, of any lawful
16 agreement not otherwise contrary to public policy.

17 (c) The articles of incorporation may set forth any or all of the
18 following provisions:

19 (1) The names and addresses of the persons appointed to act as
20 initial directors.

21 (2) The classes of members, if any, and if there are two or more
22 classes, the rights, privileges, preferences, restrictions and
23 conditions attaching to each class.

24 (3) A provision ~~which~~ *that* would allow any member to have
25 more or less than one vote in any election or other matter presented
26 to the members for a vote.

27 (4) A provision that requires an amendment to the articles, as
28 provided in subdivision ~~(e)~~ (a) of Section 5812, or to the bylaws,
29 and any amendment or repeal of that amendment, to be approved
30 in writing by a specified person or persons other than the board or
31 the members. *However, this approval requirement, unless the*
32 *articles specify otherwise, shall not apply if any of the following*
33 *circumstances exist:*

34 (A) *The specified person or persons have died or ceased to exist.*

35 (B) *If the right of the specified person or persons to approve is*
36 *in the capacity of an officer, trustee, or other status and the office,*
37 *trust, or status has ceased to exist.*

38 (C) *If the corporation has a specific proposal for amendment*
39 *or repeal, and the corporation has provided written notice of that*
40 *proposal, including a copy of the proposal, to the specified person*

1 *or persons at the most recent address for each of them, based on*
2 *the corporation's records, and the corporation has not received*
3 *written approval or nonapproval within the period specified in the*
4 *notice, which shall not be less than 10 nor more than 30 days*
5 *commencing at least 20 days after the notice has been provided.*

6 (5) Any other provision, not in conflict with law, for the
7 management of the activities and for the conduct of the affairs of
8 the corporation, including any provision ~~which~~ *that* is required or
9 permitted by this part to be stated in the bylaws.

10 SEC. 7. Section 5150 of the Corporations Code is amended to
11 read:

12 5150. (a) Except as provided in subdivision (c), and Sections
13 5151, 5220, 5224, 5512, 5613, and 5616, bylaws may be adopted,
14 amended or repealed by the board unless the action would
15 materially and adversely affect the rights of members as to voting
16 or transfer.

17 (b) Bylaws may be adopted, amended or repealed by approval
18 of members (Section 5034); provided, however, that such adoption,
19 amendment or repeal also requires approval by the members of a
20 class if ~~such~~ *that* action would materially and adversely affect the
21 rights of that class as to voting or transfer in a manner different
22 than ~~such~~ *that* action affects another class.

23 (c) The articles or bylaws may restrict or eliminate the power
24 of the board to adopt, amend or repeal any or all bylaws, subject
25 to subdivision (e) of Section 5151.

26 (d) Bylaws may also provide that repeal or amendment of those
27 bylaws, or the repeal or amendment of specified portions of those
28 bylaws, may occur only with the approval in writing of a specified
29 person or persons other than the board or members. *However, this*
30 *approval requirement, unless the bylaws specify otherwise, shall*
31 *not apply if any of the following circumstances exist:*

32 (1) *The specified person or persons have died or ceased to exist.*

33 (2) *If the right of the specified person or persons to approve is*
34 *in the capacity of an officer, trustee, or other status and the office,*
35 *trust, or status has ceased to exist.*

36 (3) *If the corporation has a specific proposal for amendment*
37 *or repeal, and the corporation has provided written notice of that*
38 *proposal, including a copy of the proposal, to the specified person*
39 *or persons at the most recent address for each of them, based on*
40 *the corporation's records, and the corporation has not received*

1 *written approval or nonapproval within the period specified in the*
2 *notice, which shall not be less than 10 nor more than 30 days*
3 *commencing at least 20 days after the notice has been provided.*

4 SEC. 8. Section 5151 of the Corporations Code is amended to
5 read:

6 5151. (a) The bylaws shall set forth (unless ~~such~~ *that* provision
7 is contained in the articles, in which case it may only be changed
8 by an amendment of the articles) the number of directors of the
9 corporation, ~~or the method of determining the number of directors~~
10 *of the corporation*, or that the number of directors shall be not less
11 than a stated minimum nor more than a stated maximum with the
12 exact number of directors to be fixed, within the limits specified,
13 by approval of the board or the members (Section 5034), in the
14 manner provided in the bylaws, subject to subdivision (e) ~~of~~
15 ~~Section 5151~~. The number or minimum number of directors may
16 be one or more.

17 (b) Once members have been admitted, a bylaw specifying or
18 changing a fixed number of directors or the maximum or minimum
19 number or changing from a fixed to a variable board or vice versa
20 may only be adopted by approval of the members (Section 5034).

21 (c) The bylaws may contain any provision, not in conflict with
22 law or the articles, for the management of the activities and for
23 the conduct of the affairs of the corporation, including but not
24 limited to:

25 (1) Any provision referred to in subdivision (c) of Section 5132.

26 (2) The time, place and manner of calling, conducting and giving
27 notice of members', directors' and committee meetings, or of
28 conducting mail ballots.

29 (3) The qualifications, duties and compensation of directors;
30 the time of their election; and the requirements of a quorum for
31 directors' and committee meetings.

32 (4) The appointment and authority of committees.

33 (5) The appointment, duties, compensation and tenure of
34 officers.

35 (6) The mode of determination of members of record.

36 (7) The making of reports and financial statements to members.

37 (8) Setting, imposing and collecting dues, assessments and
38 admission fees.

1 (d) The bylaws may provide for the manner of admission,
2 withdrawal, suspension, and expulsion of members, consistent
3 with the requirements of Section 5341.

4 (e) The bylaws may require, for any or all corporate actions
5 (except as provided in paragraphs (1) and (2) of subdivision (a) of
6 Section 5222, subdivision (c) of Section 5616, and Section 6610),
7 the vote of a larger proportion of, or all of, the members or the
8 members of any class, unit, or grouping of members, or the vote
9 of a larger proportion of, or all of, the directors, than is otherwise
10 required by this part. Such a provision in the bylaws requiring such
11 greater vote shall not be altered, amended or repealed except by
12 such greater vote, unless otherwise provided in the bylaws.

13 (f) The bylaws may contain a provision limiting the number of
14 members, in total or of any class, which the corporation is
15 authorized to admit.

16 SEC. 9. Section 5211 of the Corporations Code is amended to
17 read:

18 5211. (a) Unless otherwise provided in the articles or in the
19 bylaws, all of the following apply:

20 (1) Meetings of the board may be called by the chair of the
21 board or the president or any vice president or the secretary or any
22 two directors.

23 (2) Regular meetings of the board may be held without notice
24 if the time and place of the meetings are fixed by the bylaws or
25 the board. Special meetings of the board shall be held upon four
26 days' notice by first-class mail or 48 hours' notice delivered
27 personally or by telephone, including a voice messaging system
28 or by electronic transmission by the corporation (Section 20). The
29 articles or bylaws may not dispense with notice of a special
30 meeting. A notice, or waiver of notice, need not specify the purpose
31 of any regular or special meeting of the board.

32 (3) Notice of a meeting need not be given to a director who
33 provides a waiver of notice or consent to holding the meeting or
34 an approval of the minutes thereof in writing, whether before or
35 after the meeting, or who attends the meeting without protesting,
36 prior thereto or at its commencement, the lack of notice to that
37 director. These waivers, consents and approvals shall be filed with
38 the corporate records or made a part of the minutes of the meetings.

39 (4) A majority of the directors present, whether or not a quorum
40 is present, may adjourn any meeting to another time and place. If

1 the meeting is adjourned for more than 24 hours, notice of an
2 adjournment to another time or place shall be given prior to the
3 time of the adjourned meeting to the directors who were not present
4 at the time of the adjournment.

5 (5) Meetings of the board may be held at a place within or
6 without the state that has been designated in the notice of the
7 meeting or, if not stated in the notice or there is no notice,
8 designated in the bylaws or by resolution of the board.

9 (6) Members of the board may participate in a meeting through
10 use of conference telephone, electronic video screen
11 communication or electronic transmission by and to the corporation
12 (Sections 20 and 21). Participation in a meeting through use of
13 conference telephone or electronic video screen communication
14 pursuant to this subdivision constitutes presence in person at that
15 meeting as long as all members participating in the meeting are
16 able to hear one another. Participation in a meeting through use
17 of electronic transmission by and to the corporation, other than
18 conference telephone and electronic video screen communication,
19 pursuant to this subdivision constitutes presence in person at that
20 meeting if both of the following apply:

21 (A) Each member participating in the meeting can communicate
22 with all of the other members concurrently.

23 (B) Each member is provided the means of participating in all
24 matters before the board, including, without limitation, the capacity
25 to propose, or to interpose an objection to, a specific action to be
26 taken by the corporation.

27 (7) A majority of the number of directors authorized in *or*
28 *pursuant to* the articles or bylaws constitutes a quorum of the board
29 for the transaction of business. *The articles or bylaws may require*
30 *the presence of one or more specified directors in order to*
31 *constitute a quorum of the board to transact business, as long as*
32 *the death of a director or the death or nonexistence of the person*
33 *or persons otherwise authorized to appoint or designate that*
34 *director does not prevent the corporation from transacting business*
35 *in the normal course of events.* The articles or bylaws may not
36 provide that a quorum shall be less than one-fifth the number of
37 directors authorized in *or pursuant to* the articles or bylaws, or
38 less than two, whichever is larger, unless the number of directors
39 authorized in *or pursuant to* the articles or bylaws is one, in which
40 case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or *the* bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For purposes of this subdivision only, “all members of the board” does not include an “interested director” as defined in Section 5233.

(c) *Each director present and voting at a meeting shall have one vote on each matter presented to the board of directors for action at that meeting. No director may vote at any meeting by proxy.*

(e)

(d) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

SEC. 10. Section 5212 of the Corporations Code is amended to read:

5212. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to ~~such~~ committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in *or pursuant to* the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of ~~such a~~

1 committee or committees. The board may appoint one or more
2 directors as alternate members of any committee, who may replace
3 any absent member at any meeting of the committee. Any ~~such~~
4 committee, to the extent provided in the resolution of the board or
5 in the bylaws, shall have all the authority of the board, except with
6 respect to:

7 (1) The approval of any action for which this part also requires
8 approval of the members (Section 5034) or approval of a majority
9 of all members (Section 5033), *regardless of whether the*
10 *corporation has members.*

11 (2) The filling of vacancies on the board or in any committee
12 which has the authority of the board.

13 (3) The fixing of compensation of the directors for serving on
14 the board or on any committee.

15 (4) The amendment or repeal of bylaws or the adoption of new
16 bylaws.

17 (5) The amendment or repeal of any resolution of the board
18 which by its express terms is not so amendable or repealable.

19 (6) The appointment of committees of the board or the members
20 thereof.

21 (7) The expenditure of corporate funds to support a nominee
22 for director after there are more people nominated for director than
23 can be elected.

24 (8) The approval of any self-dealing transaction except as
25 provided in paragraph (3) of subdivision (d) of Section 5233.

26 (b) ~~Subdivision (a) shall not apply to any committee which does~~
27 ~~not exercise the authority of the board. A committee exercising the~~
28 *authority of the board shall not include as members persons who*
29 *are not directors. However, the board may create other committees*
30 *that do not exercise the authority of the board and these other*
31 *committees may include persons who are not directors.*

32 (c) Unless the bylaws otherwise provide, the board may delegate
33 to any committee powers as authorized by Section 5210, but may
34 not delegate the powers set forth in paragraphs (1) ~~through to~~ (8),
35 *inclusive, of subdivision (a) of this section.*

36 SEC. 11. Section 5213 of the Corporations Code is amended
37 to read:

38 5213. (a) A corporation shall have a ~~chairman~~ *chair of the its*
39 *board, who may be given the title chair of the board, chairperson*
40 *of the board, chairman of the board, or chairwoman of the board,*

1 or a president or both, a secretary, a *treasurer or a* chief financial
2 officer *or both*, and ~~such any~~ other officers with ~~such any~~ titles
3 and duties as shall be stated in the bylaws or determined by the
4 board and as may be necessary to enable it to sign instruments.
5 The president, or if there is no president the ~~chairman~~ *chair* of the
6 board, is the general manager and chief executive officer of the
7 corporation, unless otherwise provided in the articles or bylaws.
8 *Unless otherwise specified in the articles or the bylaws, if there is*
9 *no chief financial officer, the treasurer is the chief financial officer*
10 *of the corporation.* Any number of offices may be held by the same
11 person unless the articles or bylaws provide otherwise, except that
12 ~~neither the secretary nor, the treasurer, or the chief financial officer~~
13 ~~may not serve concurrently as the president or chairman chair~~ of
14 the board.

15 (b) Except as otherwise provided by the articles or bylaws,
16 officers shall be chosen by the board and serve at the pleasure of
17 the board, subject to the rights, if any, of an officer under any
18 contract of employment. Any officer may resign at any time upon
19 written notice to the corporation without prejudice to the rights, if
20 any, of the corporation under any contract to which the officer is
21 a party.

22 (c) If the articles or bylaws provide for the election of any
23 officers by the members, the term of office of the elected officer
24 shall be one year unless the articles or bylaws provide for a
25 different term which shall not exceed three years.

26 SEC. 12. Section 5220 of the Corporations Code is amended
27 to read:

28 5220. (a) Except as provided in subdivision (d), directors shall
29 be elected for the terms, not longer than four years, as are fixed in
30 the articles or bylaws. However, the terms of directors of a
31 corporation without members may be up to six years. In the absence
32 of any provision in the articles or bylaws, the term shall be one
33 year. The articles or bylaws may provide for staggering the terms
34 of directors by dividing the total number of directors into groups
35 of one or more directors. The terms of office of the several groups
36 and the number of directors in each group need not be uniform.
37 No amendment of the articles or bylaws may extend the term of a
38 director beyond that for which the director was elected, nor may
39 any bylaw provision increasing the terms of directors be adopted
40 without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, *unless the director has been removed from office.*

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members *or the board.* Those directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided in the bylaws, to the consent of the person or persons entitled to designate or select the director or directors. *Unless otherwise provided in the articles or bylaws, the entitlement to designate or select the director or directors shall not apply if any of the following circumstances exist:*

(1) *The specified person or persons have died or ceased to exist.*

(2) *If the entitlement of the person or persons to designate is in the capacity of an officer, trustee, or other status and the office, trust, or status has ceased to exist. After this cessation, the members or, if there are no members, the board shall succeed to this entitlement to designate or select the director or directors.*

(e) If a corporation has not issued memberships and (1) all the directors resign, die, or become incompetent, or (2) a corporation's initial directors have not been named in the articles and all incorporators resign, die, or become incompetent before the election of the initial directors, the superior court of any county may appoint directors of the corporation upon application by any party in interest.

SEC. 13. Section 5222 of the Corporations Code is amended to read:

5222. (a) Subject to subdivisions (b) and (f), any or all directors may be removed without cause if:

1 (1) In a corporation with fewer than 50 members, the removal
2 is approved by a majority of all members (Section 5033).

3 (2) In a corporation with 50 or more members, the removal is
4 approved by the members (Section 5034).

5 (3) In a corporation with no members, the removal is approved
6 by a majority of the directors then in office.

7 (b) Except for a corporation having no members pursuant to
8 Section 5310:

9 (1) In a corporation in which the articles or bylaws authorize
10 members to cumulate their votes pursuant to subdivision (a) of
11 Section 5616, no director may be removed (unless the entire board
12 is removed) if the votes cast against removal, or not consenting in
13 writing to the removal, would be sufficient to elect the director if
14 voted cumulatively at an election at which the same total number
15 of votes were cast (or, if the action is taken by written ballot, all
16 memberships entitled to vote were voted) and the entire number
17 of directors authorized at the time of the director's most recent
18 election were then being elected.

19 (2) If by the provisions of the articles or bylaws the members
20 of any class, voting as a class, are entitled to elect one or more
21 directors, any director so elected may be removed only by the
22 applicable vote of the members of that class.

23 (3) If by the provisions of the articles or bylaws the members
24 within a chapter or other organizational unit, or region or other
25 geographic grouping, voting as such, are entitled to elect one or
26 more directors, any director so elected may be removed only by
27 the applicable vote of the members within the organizational unit
28 or geographic grouping.

29 (c) Any reduction of the authorized number of directors or any
30 amendment reducing the number of classes of directors does not
31 remove any director prior to the expiration of the director's term
32 of office *unless the reduction or any amendment also provides for*
33 *the removal of one or more specified directors.*

34 (d) Except as provided in this section and Sections 5221 and
35 5223, a director may not be removed prior to the expiration of the
36 director's term of office.

37 (e) If a director removed under this section or Section 5221 or
38 5223 was chosen by designation pursuant to subdivision (d) of
39 Section 5220, then:

1 (1) If a different person may be designated pursuant to a
2 governing article or bylaw provision, the new designation shall be
3 made.

4 (2) If the governing article or bylaw provision contains no
5 provision under which a different person may be designated, the
6 governing article or bylaw provision shall be deemed repealed.

7 (f) If by the provisions of the articles or bylaws a person or
8 persons are entitled to designate one or more directors, then:

9 (1) Unless otherwise provided in the articles or bylaws at the
10 time of designation, any director so designated may be removed
11 without cause by the designating person or persons.

12 (2) Any director so designated may only be removed under
13 subdivision (a) with the written consent of the designating person
14 or persons.

15 (3) *Unless otherwise provided in the articles or bylaws, the*
16 *right to remove shall not apply if any of the following*
17 *circumstances exist:*

18 (A) *The person or persons entitled to that right have died or*
19 *ceased to exist.*

20 (B) *If that right to remove is in the capacity of an officer, trustee,*
21 *or other status, and the office, trust, or status has ceased to exist.*
22 *After this cessation, the members or, if there are no members, the*
23 *board shall succeed to this right to remove.*

24 SEC. 14. Section 5231 of the Corporations Code is amended
25 to read:

26 5231. (a) A director shall perform the duties of a director,
27 including duties as a member of any committee of the board upon
28 which the director may serve, in good faith, in a manner ~~such~~ *that*
29 director believes to be in the best interests of the corporation and
30 with such care, including reasonable inquiry, as an ordinarily
31 prudent person in a like position would use under similar
32 circumstances.

33 (b) In performing the duties of a director, a director shall be
34 entitled to rely on information, opinions, reports or statements,
35 including financial statements and other financial data, in each
36 case prepared or presented by:

37 (1) One or more officers or employees of the corporation
38 whom the director believes to be reliable and competent in the
39 matters presented;

1 (2) Counsel, independent accountants or other persons as to
2 matters which the director believes to be within ~~such~~ *that*
3 person's professional or expert competence; or

4 (3) A committee ~~of the board~~ upon which the director does
5 not serve *that is composed exclusively of any or any combination*
6 *of directors, persons described in paragraph (1), or persons*
7 *described in paragraph (2),* as to matters within ~~its~~ *the*
8 committee's designated authority, which committee the director
9 believes to merit confidence, so long as, in any ~~such~~ case, the
10 director acts in good faith, after reasonable inquiry when the
11 need therefor is indicated by the circumstances and without
12 knowledge that would cause ~~such~~ *that* reliance to be unwarranted.

13 (c) Except as provided in Section 5233, a person who performs
14 the duties of a director in accordance with subdivisions (a) and (b)
15 shall have no liability based upon any alleged failure to discharge
16 the person's obligations as a director, including, without limiting
17 the generality of the foregoing, any actions or omissions which
18 exceed or defeat a public or charitable purpose to which a
19 corporation, or assets held by it, are dedicated.

20 SEC. 15. Section 6610 of the Corporations Code is amended
21 to read:

22 6610. (a) Any corporation may elect voluntarily to wind up
23 and dissolve (1) by approval of a majority of all members (Section
24 5033) or (2) by approval of the board and approval of the members
25 (Section 5034).

26 (b) Any corporation which comes within one of the following
27 descriptions may elect by approval of the board to wind up and
28 dissolve:

29 (1) A corporation which has been adjudicated a bankrupt.

30 (2) A corporation which has disposed of all of its assets and has
31 not conducted any activity for a period of five years immediately
32 preceding the adoption of the resolution electing to dissolve the
33 corporation.

34 (3) A corporation which has no members.

35 (4) A corporation which is required to dissolve under provisions
36 of its articles adopted pursuant to subdivision (a), paragraph (2),
37 clause (i), of Section 5132.

38 (c) *If a corporation comes within one of the descriptions in*
39 *subdivision (b) and the number of directors then in office is less*

1 *than a quorum, the corporation may elect to voluntarily wind up*
2 *and dissolve by any of the following:*

3 *(1) The unanimous consent of the directors then in office.*

4 *(2) The affirmative vote of a majority of the directors then in*
5 *office at a meeting held pursuant to waiver of notice by those*
6 *directors complying with subdivision (a) of Section 5211.*

7 *(3) The vote of a sole remaining director.*

8 *(d) If a corporation elects to voluntarily wind up and dissolve*
9 *pursuant to subdivision (c), references to the board in this chapter*
10 *and Chapter 17 (commencing with Section 6710) shall be deemed*
11 *to be to a board consisting solely of those directors or that sole*
12 *director and action by the board shall require at least the same*
13 *consent or vote as would be required under subdivision (c) for an*
14 *election to wind up and dissolve.*

15 SEC. 16. Section 7132 of the Corporations Code is amended
16 to read:

17 7132. (a) The articles of incorporation may set forth any or
18 all of the following provisions, which shall not be effective unless
19 expressly provided in the articles:

20 (1) A provision limiting the duration of the corporation's
21 existence to a specified date.

22 (2) A provision conferring upon the holders of any evidences
23 of indebtedness, issued or to be issued by a corporation the right
24 to vote in the election of directors and on any other matters on
25 which members may vote under this part even if the corporation
26 does not have members.

27 (3) A provision conferring upon members the right to determine
28 the consideration for which memberships shall be issued.

29 (4) In the case of a subordinate corporation instituted or created
30 under the authority of a head organization, a provision setting forth
31 either or both of the following:

32 (i) That the subordinate corporation shall dissolve whenever its
33 charter is surrendered to, taken away by, or revoked by the head
34 organization granting it.

35 (ii) That in the event of its dissolution pursuant to an article
36 provision allowed by subdivision (a), paragraph (4), clause (i), of
37 this section, or, in the event of its dissolution for any reason, any
38 assets of the corporation after compliance with the applicable
39 provisions of Chapters 15 (commencing with Section 8510), 16

1 (commencing with Section 8610), and 17 (commencing with
2 Section 8710) shall be distributed to the head organization.

3 (b) Nothing contained in subdivision (a) shall affect the
4 enforceability, as between the parties thereto, of any lawful
5 agreement not otherwise contrary to public policy.

6 (c) The articles of incorporation may set forth any or all of the
7 following provisions:

8 (1) The names and addresses of the persons appointed to act as
9 initial directors.

10 (2) Provisions concerning the transfer of memberships, in
11 accordance with Section 7320.

12 (3) The classes of members, if any, and if there are two or more
13 classes, the rights, privileges, preferences, restrictions and
14 conditions attaching to each class.

15 (4) A provision which would allow any member to have more
16 or less than one vote in any election or other matter presented to
17 the members for a vote.

18 (5) A provision that requires an amendment to the articles, as
19 *provided in subdivision (a) of Section 7812*, or to the bylaws, and
20 any amendment or repeal of that amendment, to be approved in
21 writing by a specified person or persons other than the board or
22 the members. *However, this approval requirement, unless the*
23 *articles specify otherwise, shall not apply if any of the following*
24 *circumstances exist:*

25 (A) *The specified person or persons have died or ceased to exist.*

26 (B) *If the right of the specified person or persons to approve is*
27 *in the capacity of an officer, trustee, or other status and the office,*
28 *trust, or status has ceased to exist.*

29 (C) *If the corporation has a specific proposal for amendment*
30 *or repeal, and the corporation has provided written notice of that*
31 *proposal, including a copy of the proposal, to the specified person*
32 *or persons at the most recent address for each of them, based on*
33 *the corporation's records, and the corporation has not received*
34 *written approval or nonapproval within the period specified in the*
35 *notice, which shall not be less than 10 nor more than 30 days*
36 *commencing at least 20 days after the notice has been provided.*

37 (6) Any other provision, not in conflict with law, for the
38 management of the activities and for the conduct of the affairs of
39 the corporation, including any provision which is required or
40 permitted by this part to be stated in the bylaws.

1 SEC. 17. Section 7150 of the Corporations Code is amended
2 to read:

3 7150. (a) Except as provided in subdivision (c) and Sections
4 7151, 7220, 7224, 7512, 7613, and 7615, bylaws may be adopted,
5 amended or repealed by the board unless the action would:

6 (1) Materially and adversely affect the rights of members as to
7 voting, dissolution, redemption, or transfer;

8 (2) Increase or decrease the number of members authorized in
9 total or for any class;

10 (3) Effect an exchange, reclassification or cancellation of all or
11 part of the memberships; or

12 (4) Authorize a new class of membership.

13 (b) Bylaws may be adopted, amended or repealed by approval
14 of the members (Section 5034); provided, however, that such
15 adoption, amendment or repeal also requires approval by the
16 members of a class if such action would:

17 (1) Materially and adversely affect the rights, privileges,
18 preferences, restrictions or conditions of that class as to voting,
19 dissolution, redemption, or transfer in a manner different than such
20 action affects another class;

21 (2) Materially and adversely affect such class as to voting,
22 dissolution, redemption, or transfer by changing the rights,
23 privileges, preferences, restrictions or conditions of another class;

24 (3) Increase or decrease the number of memberships authorized
25 for such class;

26 (4) Increase the number of memberships authorized for another
27 class;

28 (5) Effect an exchange, reclassification or cancellation of all or
29 part of the memberships of such class; or

30 (6) Authorize a new class of memberships.

31 (c) The articles or bylaws may restrict or eliminate the power
32 of the board to adopt, amend or repeal any or all bylaws, subject
33 to subdivision (e) of Section 7151.

34 (d) Bylaws may also provide that the repeal or amendment of
35 those bylaws, or the repeal or amendment of specified portions of
36 those bylaws, may occur only with the approval in writing of a
37 specified person or persons other than the board or members.
38 *However, this approval requirement, unless the bylaws specify*
39 *otherwise, shall not apply if any of the following circumstances*
40 *exist:*

1 (1) *The specified person or persons have died or ceased to exist.*

2 (2) *If the right of the specified person or persons to approve is*
3 *in the capacity of an officer, trustee, or other status and the office,*
4 *trust, or status has ceased to exist.*

5 (3) *If the corporation has a specific proposal for amendment*
6 *or repeal, and the corporation has provided written notice of that*
7 *proposal, including a copy of the proposal, to the specified person*
8 *or persons at the most recent address for each of them, based on*
9 *the corporation's records, and the corporation has not received*
10 *written approval or nonapproval within the period specified in the*
11 *notice, which shall not be less than 10 nor more than 30 days*
12 *commencing at least 20 days after the notice has been provided.*

13 SEC. 18. Section 7151 of the Corporations Code is amended
14 to read:

15 7151. (a) The bylaws shall set forth (unless such provision is
16 contained in the articles, in which case it may only be changed by
17 an amendment of the articles) the number of directors of the
18 corporation~~;~~, *or the method of determining the number of directors*
19 *of the corporation*, or that the number of directors shall be not less
20 than a stated minimum nor more than a stated maximum with the
21 exact number of directors to be fixed, within the limits specified,
22 by approval of the board or the members (Section 5034), in the
23 manner provided in the bylaws, subject to subdivision (e)—~~of~~
24 ~~Section 7151~~. The number or minimum number of directors may
25 be one or more.

26 (b) Once members have been admitted, a bylaw specifying or
27 changing a fixed number of directors or the maximum or minimum
28 number or changing from a fixed to a variable board or vice versa
29 may only be adopted by approval of the members (Section 5034).

30 (c) The bylaws may contain any provision, not in conflict with
31 law or the articles, for the management of the activities and for
32 the conduct of the affairs of the corporation, including but not
33 limited to:

34 (1) Any provision referred to in subdivision (c) of Section 7132.

35 (2) The time, place and manner of calling, conducting and giving
36 notice of members', directors' and committee meetings, or of
37 conducting mail ballots.

38 (3) The qualifications, duties and compensation of directors;
39 the time of their election; and the requirements of a quorum for
40 directors' and committee meetings.

1 (4) The appointment of committees, composed of directors or
2 nondirectors or both, by the board or any officer and the authority
3 of any such committees.

4 (5) The appointment, duties, compensation and tenure of
5 officers.

6 (6) The mode of determination of members of record.

7 (7) The making of reports and financial statements to members.

8 (8) Setting, imposing and collecting dues, assessments, and
9 admission and transfer fees.

10 (d) The bylaws may provide for the manner of admission,
11 withdrawal, suspension, and expulsion of members, consistent
12 with the requirements of Section 7341.

13 (e) The bylaws may require, for any or all corporate actions
14 (except as provided in paragraphs (1) and (2) of subdivision (a) of
15 Section 7222, subdivision (c) of Section 7615, and Section 8610)
16 the vote of a larger proportion of, or all of, the members or the
17 members of any class, unit, or grouping of members or the vote
18 of a larger proportion of, or all of, the directors, than is otherwise
19 required by this part. Such a provision in the bylaws requiring such
20 greater vote shall not be altered, amended or repealed except by
21 such greater vote, unless otherwise provided in the bylaws.

22 (f) The bylaws may contain a provision limiting the number of
23 members, in total or of any class, which the corporation is
24 authorized to admit.

25 SEC. 19. Section 7211 of the Corporations Code is amended
26 to read:

27 7211. (a) Unless otherwise provided in the articles or in the
28 bylaws, all of the following apply:

29 (1) Meetings of the board may be called by the chair of the
30 board or the president or any vice president or the secretary or any
31 two directors.

32 (2) Regular meetings of the board may be held without notice
33 if the time and place of the meetings are fixed by the bylaws or
34 the board. Special meetings of the board shall be held upon four
35 days' notice by first-class mail or 48 hours' notice delivered
36 personally or by telephone, including a voice messaging system
37 or by electronic transmission by the corporation (Section 20). The
38 articles or bylaws may not dispense with notice of a special
39 meeting. A notice, or waiver of notice, need not specify the purpose
40 of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who provided a waiver of notice or consent to holding the meeting or an approval of the minutes thereof in writing, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or electronic transmission by and to the corporation (Sections 20 and 21). Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, pursuant to this subdivision constitutes presence in person at that meeting if both of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(7) A majority of the number of directors authorized in or pursuant to the articles or bylaws constitutes a quorum of the board for the transaction of business. *The articles or bylaws may require the presence of one or more specified directors in order to constitute a quorum of the board to transact business, as long as*

the death of a director or the death or nonexistence of the person or persons otherwise authorized to appoint or designate that director does not prevent the corporation from transacting business in the normal course of events. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in *or pursuant to* the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in *or pursuant to* the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or *the* bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For purposes of this subdivision only, “all members of the board” does not include an “interested director” as defined in Section 5233, insofar as it is made applicable pursuant to Section 7238.

(c) *Each director present and voting at a meeting shall have one vote on each matter presented to the board of directors for action at that meeting. No director may vote at any meeting by proxy.*

(e)

(d) This section applies also to incorporators, to committees of the board, and to action by those incorporators or committees *mutatis mutandis*.

SEC. 20. Section 7212 of the Corporations Code is amended to read:

7212. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to ~~such~~ committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in *or pursuant to* the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of ~~such a~~ committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any ~~such~~ committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(1) The approval of any action for which this part also requires approval of the members (Section 5034) or approval of a majority of all members (Section 5033), *regardless of whether the corporation has members.*

(2) The filling of vacancies on the board or in any committee which has the authority of the board.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(8) With respect to any assets held in charitable trust, the approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233.

~~(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board. A committee exercising the authority of the board shall not include as members persons who~~

1 *are not directors. However, the board may create other committees*
 2 *that do not exercise the authority of the board and these other*
 3 *committees may include persons who are not directors.*

4 (c) Unless the bylaws otherwise provide, the board may delegate
 5 to any committee, appointed pursuant to paragraph (4) of
 6 subdivision (c) of Section 7151 or otherwise, powers as authorized
 7 by Section 7210, but may not delegate the powers set forth in
 8 paragraphs (1) through to (8), inclusive, of subdivision (a) of this
 9 section.

10 SEC. 21. Section 7213 of the Corporations Code is amended
 11 to read:

12 7213. (a) A corporation shall have a ~~chairman~~ *chair* of the its
 13 board, *who may be given the title chair of the board, chairperson*
 14 *of the board, chairman of the board, or chairwoman of the board,*
 15 or a president or both, a secretary, a *treasurer or a* chief financial
 16 officer and ~~such any~~ other officers with ~~such any~~ titles and duties
 17 as shall be stated in the bylaws or determined by the board and as
 18 may be necessary to enable it to sign instruments. The president,
 19 or if there is no president the ~~chairman~~ *chair* of the board, is the
 20 general manager and chief executive officer of the corporation,
 21 unless otherwise provided in the articles or bylaws. *Unless*
 22 *otherwise specified in the articles or the bylaws, if there is no chief*
 23 *financial officer, the treasurer is the chief financial officer of the*
 24 *corporation.* Any number of offices may be held by the same
 25 person unless the articles or bylaws provide otherwise.

26 (b) Except as otherwise provided by the articles or bylaws,
 27 officers shall be chosen by the board and serve at the pleasure of
 28 the board, subject to the rights, if any, of an officer under any
 29 contract of employment. Any officer may resign at any time upon
 30 written notice to the corporation without prejudice to the rights, if
 31 any, of the corporation under any contract to which the officer is
 32 a party.

33 SEC. 22. Section 7220 of the Corporations Code is amended
 34 to read:

35 7220. (a) Except as provided in subdivision (d), directors shall
 36 be elected for such terms, not longer than four years, as are fixed
 37 in the articles or bylaws. However, the terms of directors of a
 38 corporation without members may be up to six years. In the absence
 39 of any provision in the articles or bylaws, the term shall be one
 40 year. The articles or bylaws may provide for staggering the terms

1 of directors by dividing the total number of directors into groups
2 of one or more directors. The terms of office of the several groups
3 and the number of directors in each group need not be uniform.
4 No amendment of the articles or bylaws may extend the term of a
5 director beyond that for which the director was elected, nor may
6 any bylaw provision increasing the terms of directors be adopted
7 without approval of the members (Section 5034).

8 (b) Unless the articles or bylaws otherwise provide, each
9 director, including a director elected to fill a vacancy, shall hold
10 office until the expiration of the term for which elected and until
11 a successor has been elected and qualified, *unless the director has*
12 *been removed from office.*

13 (c) The articles or bylaws may provide for the election of one
14 or more directors by the members of any class voting as a class.

15 (d) Subdivisions (a) through (c) notwithstanding, all or any
16 portion of the directors authorized in the articles or bylaws of a
17 corporation may hold office by virtue of designation or selection
18 as provided by the articles or bylaws rather than by election by a
19 member or members *or the board*. Such directors shall continue
20 in office for the term prescribed by the governing article or bylaw
21 provision, or, if there is no term prescribed, until the governing
22 article or bylaw provision is duly amended or repealed, except as
23 provided in subdivision (e) of Section 7222. A bylaw provision
24 authorized by this subdivision may be adopted, amended, or
25 repealed only by approval of the members (Section 5034). *Unless*
26 *otherwise provided in the articles or bylaws, the entitlement to*
27 *designate or select the director or directors shall not apply if any*
28 *of the following circumstances exist:*

29 (1) *The specified person or persons have died or ceased to exist.*

30 (2) *If the entitlement of the person or persons to designate is in*
31 *the capacity of an officer, trustee, or other status and the office,*
32 *trust, or status has ceased to exist. After this cessation, the members*
33 *or, if there are no members, the board shall succeed to this*
34 *entitlement to designate or select the director or directors.*

35 (e) If a corporation has not issued memberships and (1) all the
36 directors resign, die, or become incompetent, or (2) a corporation's
37 initial directors have not been named in the articles and all
38 incorporators resign, die, or become incompetent before the
39 election of the initial directors, the superior court of any county

1 may appoint directors of the corporation upon application by any
2 party in interest.

3 SEC. 23. Section 7222 of the Corporations Code is amended
4 to read:

5 7222. (a) Subject to subdivisions (b) and (f) ~~of this section~~,
6 any or all directors may be removed without cause if:

7 (1) In a corporation with fewer than 50 members, the removal
8 is approved by a majority of all members (Section 5033).

9 (2) In a corporation with 50 or more members, the removal is
10 approved by the members (Section 5034).

11 (3) In a corporation with no members, the removal is approved
12 by a majority of the directors then in office.

13 (b) Except for a corporation having no members, pursuant to
14 Section 7310:

15 (1) In a corporation in which the articles or bylaws authorize
16 members to cumulate their votes pursuant to subdivision (a) of
17 Section 7615, no director may be removed (unless the entire board
18 is removed) when the votes cast against removal, or not consenting
19 in writing to the removal, would be sufficient to elect the director
20 if voted cumulatively at an election at which the same total number
21 of votes were cast (or, if the action is taken by written ballot, all
22 memberships entitled to vote were voted) and the entire number
23 of directors authorized at the time of the director's most recent
24 election were then being elected.

25 (2) When by the provisions of the articles or bylaws the
26 members of any class, voting as a class, are entitled to elect one
27 or more directors, any director so elected may be removed only
28 by the applicable vote of the members of that class.

29 (3) When by the provisions of the articles or bylaws the
30 members within a chapter or other organizational unit, or region
31 or other geographic grouping, voting as such, are entitled to elect
32 one or more directors, any director so elected may be removed
33 only by the applicable vote of the members within the
34 organizational unit or geographic grouping.

35 (c) Any reduction of the authorized number of directors or any
36 amendment reducing the number of classes of directors does not
37 remove any director prior to the expiration of the director's term
38 of office *unless the reduction or amendment also provides for the*
39 *removal of one or more specified directors.*

(d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of the director's term of office.

(e) Where a director removed under this section or Section 7221 or 7223 was chosen by designation pursuant to subdivision (d) of Section 7220, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, the new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

(3) *Unless otherwise provided in the articles or bylaws, the right to remove shall not apply if any of the following circumstances exist:*

(A) *The person or persons entitled to that right have died or ceased to exist.*

(B) *If that right to remove is in the capacity of an officer, trustee, or other status, and the office, trust, or status has ceased to exist. After this cessation, the members or, if there are no members, the board shall succeed to this right to remove.*

SEC. 24. Section 7231 of the Corporations Code is amended to read:

7231. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements,

1 including financial statements and other financial data, in each
2 case prepared or presented by:

3 (1) One or more officers or employees of the corporation whom
4 the director believes to be reliable and competent in the matters
5 presented;

6 (2) Counsel, independent accountants or other persons as to
7 matters which the director believes to be within such person's
8 professional or expert competence; or

9 (3) A committee ~~of the board~~ upon which the director does not
10 serve *that is composed exclusively of any or any combination of*
11 *directors, persons described in paragraph (1), or persons described*
12 *in paragraph (2),* as to matters within ~~its~~ the committee's
13 designated authority, which committee the director believes to
14 merit confidence, so long as, in any ~~such~~ case, the director acts in
15 good faith, after reasonable inquiry when the need therefor is
16 indicated by the circumstances and without knowledge that would
17 cause such reliance to be unwarranted.

18 (c) A person who performs the duties of a director in accordance
19 with subdivisions (a) and (b) shall have no liability based upon
20 any alleged failure to discharge the person's obligations as a
21 director, including, without limiting the generality of the foregoing,
22 any actions or omissions which exceed or defeat a public or
23 charitable purpose to which assets held by a corporation are
24 dedicated.

25 SEC. 25. Section 8610 of the Corporations Code is amended
26 to read:

27 8610. (a) Any corporation may elect voluntarily to wind up
28 and dissolve (1) by approval of a majority of all members (Section
29 5033), or (2) by approval of the board and approval of the
30 members (Section 5034).

31 (b) Any corporation which comes within one of the following
32 descriptions may elect by approval of the board to wind up and
33 dissolve:

34 (1) A corporation which has been adjudicated as bankrupt.

35 (2) A corporation which has disposed of all of its assets and has
36 not conducted any activity for a period of five years immediately
37 preceding the adoption of the resolution electing to dissolve the
38 corporation.

39 (3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (4), clause (i) of Section 7132.

(c) If a corporation comes within one of the descriptions in subdivision (b) and if the number of directors then in office is less than a quorum, it may elect to voluntarily wind up and dissolve by any of the following:

(1) The unanimous consent of the directors then in office.

(2) The affirmative vote of a majority of the directors then in office at a meeting held pursuant to waiver of notice by those directors complying with paragraph (3) of subdivision (a) of Section 7211.

(3) The vote of a sole remaining director.

(d) If a corporation elects to voluntarily wind up and dissolve pursuant to subdivision (c), references to the board in this chapter and Chapter 17 (commencing with Section 8710) shall be deemed to be to a board consisting solely of those directors or that sole director and action by the board shall require at least the same consent or vote as would be required under subdivision (c) for an election to wind up and dissolve.

SEC. 26. Section 9132 of the Corporations Code is amended to read:

9132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (2), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be distributed to the head organization.

1 (b) Nothing contained in subdivision (a) shall affect the
2 enforceability, as between the parties thereto, of any lawful
3 agreement not otherwise contrary to public policy.

4 (c) The articles of incorporation may set forth any or all of the
5 following provisions:

6 (1) The names and addresses of the persons appointed to act as
7 initial directors.

8 (2) The classes of members, if any, and if there are two or more
9 classes, the rights, privileges, preferences, restrictions and
10 conditions attaching to each class.

11 (3) A provision which would allow any member to have more
12 or less than one vote in any election or other matter presented to
13 the members for a vote.

14 (4) A provision that requires an amendment to the articles or to
15 the bylaws, and any amendment or repeal of that amendment, to
16 be approved in writing by a specified person or persons other than
17 the board or the members. *However, this approval requirement,*
18 *unless the articles or the bylaws specify otherwise, shall not apply*
19 *if any of the following circumstances exist:*

20 (A) *The specified person or persons have died or ceased to exist.*

21 (B) *If the right of the specified person or persons to approve is*
22 *in the capacity of an officer, trustee, or other status and the office,*
23 *trust, or status has ceased to exist.*

24 (C) *If the corporation has a specific proposal for amendment*
25 *or repeal, and the corporation has provided written notice of that*
26 *proposal, including a copy of the proposal, to the specified person*
27 *or persons at the most recent address for each of them, based on*
28 *the corporation's records, and the corporation has not received*
29 *written approval or nonapproval within the period specified in the*
30 *notice, which shall not be less than 10 nor more than 30 days*
31 *commencing at least 20 days after the notice has been provided.*

32 (5) Any other provision, not in conflict with law, for the
33 management of the activities and for the conduct of the affairs of
34 the corporation, including any provision which is required or
35 permitted by this part to be stated in the bylaws.

36 SEC. 27. Section 9151 of the Corporations Code is amended
37 to read:

38 9151. (a) The bylaws shall set forth (unless such provision is
39 contained in the articles, in which case it may only be changed by
40 an amendment of the articles) the number of directors of the

corporation, or the method of determining the number of directors of the corporation, or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 9151. The number or minimum number of directors may be one or more.

(b) Except as otherwise provided in the articles or bylaws, once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 9132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, and admissions and transfer fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 9222 and subdivision (b) of Section 9680), the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members, or the vote of a larger proportion of, or all of, the directors than is

1 otherwise required by this part. Such a provision in the bylaws
2 requiring such greater vote shall not be altered, amended or
3 repealed except by such greater vote, unless otherwise provided
4 in the bylaws.

5 (f) The bylaws may contain a provision limiting the number of
6 members, in total or of any class, which the corporation is
7 authorized to admit.

8 SEC. 28. Section 9211 of the Corporations Code is amended
9 to read:

10 9211. (a) Unless otherwise provided in the articles or in the
11 bylaws, all of the following apply:

12 (1) Meetings of the board may be called by the chair of the
13 board or the president or any vice president or the secretary or any
14 two directors.

15 (2) Regular meetings of the board may be held without notice
16 if the time and place of the meetings are fixed by the bylaws or
17 the board. Special meetings of the board shall be held upon four
18 days' notice by first-class mail or 48 hours' notice delivered
19 personally or by telephone, including a voice messaging system
20 or by electronic transmission by a corporation (Section 20). The
21 articles or bylaws may not dispense with notice of a special
22 meeting. A notice, or waiver of notice, need not specify the purpose
23 of any regular or special meeting of the board.

24 (3) Notice of a meeting need not be given to a director who
25 provided a waiver of notice or consent to holding the meeting or
26 an approval of the minutes thereof in writing, whether before or
27 after the meeting, or who attends the meeting without protesting,
28 prior thereto or at its commencement, the lack of notice to that
29 director. These waivers, consents and approvals shall be filed with
30 the corporate records or made a part of the minutes of the meetings.

31 (4) A majority of the directors present, whether or not a quorum
32 is present, may adjourn any meeting to another time and place.

33 (5) Meetings of the board may be held at a place within or
34 without the state that has been designated in the notice of the
35 meeting or, if not stated in the notice or there is no notice,
36 designated in the bylaws or by resolution of the board.

37 (6) Members of the board may participate in a meeting through
38 use of conference telephone, electronic video screen
39 communication, or electronic transmission by and to the
40 corporation. Participation in a meeting through use of conference

1 telephone or electronic video screen communication pursuant to
2 this subdivision constitutes presence in person at that meeting as
3 long as all members participating in the meeting are able to hear
4 one another. Participation in a meeting through use of electronic
5 transmission by and to the corporation, other than conference
6 telephone and electronic video screen communication pursuant to
7 this subdivision constitutes presence in person at that meeting, if
8 both of the following apply:

9 (A) Each member participating in the meeting can communicate
10 with all of the other members concurrently.

11 (B) Each member is provided the means of participating in all
12 matters before the board, including, without limitation, the capacity
13 to propose, or to interpose an objection to, a specific action to be
14 taken by the corporation.

15 (7) A majority of the number of directors authorized in or
16 pursuant to the articles or bylaws constitutes a quorum of the board
17 for the transaction of business.

18 *The articles or bylaws may require the presence of one or more*
19 *specified directors to constitute a quorum of the board to transact*
20 *business, as long as the death of a director or the death or*
21 *nonexistence of the person or persons otherwise authorized to*
22 *appoint or designate that director does not prevent the corporation*
23 *from transacting business in the normal course of events.*

24 (8) An act or decision done or made by a majority of the
25 directors present at a meeting duly held at which a quorum is
26 present is the act of the board. The articles or bylaws may not
27 provide that a lesser vote than a majority of the directors present
28 at a meeting is the act of the board. A meeting at which a quorum
29 is initially present may continue to transact business
30 notwithstanding the withdrawal of directors, if any action taken is
31 approved by at least a majority of the required quorum for that
32 meeting, or a greater number as is required by this division, the
33 articles or bylaws.

34 (b) An action required or permitted to be taken by the board
35 may be taken without a meeting, if all members of the board shall
36 individually or collectively consent in writing to that action. The
37 written consent or consents shall be filed with the minutes of the
38 proceedings of the board. The action by written consent shall have
39 the same force and effect as a unanimous vote of the directors.

1 (c) Each director present and voting at a meeting shall have
2 one vote on each matter presented to the board of directors for
3 action at that meeting. No director may vote at any meeting by
4 proxy.

5 (e)

6 (d) This section applies also to incorporators, to committees of
7 the board, and to action by those incorporators or committees
8 mutatis mutandis.

9 SEC. 29. Section 9212 of the Corporations Code is amended
10 to read:

11 9212. (a) Subject to any provision in the articles or bylaws:
12 (i) the board may, by resolution adopted by a majority of the
13 number of directors then in office, provided that a quorum is
14 present, create one or more committees, each consisting of two or
15 more directors, to serve at the pleasure of the board; and
16 (ii) appointments to ~~such~~ those committees shall be by a majority
17 vote of the directors then in office. The bylaws may authorize one
18 or more committees, each consisting of two or more directors, and
19 may provide that a specified officer or officers who are also
20 directors of the corporation shall be a member or members of ~~such~~
21 that committee or committees. The board may appoint one or more
22 directors as alternate members of any committee, who may replace
23 any absent member at any meeting of the committee. Any ~~such~~
24 committee, to the extent provided in the resolution of the board or
25 in the bylaws, shall have all the authority of the board, except with
26 respect to:

27 (1) The approval of any action for which this part also requires
28 approval of the members (Section 5034) or approval of a majority
29 of all members (Section 5033) *regardless of whether the*
30 *corporation has members.*

31 (2) The filling of vacancies on the board or in any committee
32 which has the authority of the board.

33 (3) The fixing of compensation of the directors for serving on
34 the board or on any committee.

35 (4) The amendment or repeal of bylaws or the adoption of new
36 bylaws.

37 (5) The amendment or repeal of any resolution of the board
38 which by its express terms is not so amendable or repealable.

39 (6) The appointment of committees of the board or the members
40 thereof.

(b) ~~Subdivision (a) shall not apply to any committee which does not exercise the authority of the board. A committee exercising the authority of the board shall not include as members persons who are not directors. However, the board may create other committees that do not exercise the authority of the board and these other committees may include persons who are not directors.~~

(c) Unless the bylaws otherwise provide, the board may delegate to any committee powers as authorized by Section 9210, but may not delegate the powers set forth in paragraphs (1) ~~through to~~ (6), *inclusive*, of subdivision (a) ~~of this section~~.

SEC. 30. Section 9213 of the Corporations Code is amended to read:

9213. (a) A corporation shall have a ~~chairman~~ *chair* of the board, *who may be given the title chair of the board, chairman of the board, or chairwoman of the board,* or a president or both, a secretary, a *treasurer or a* chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president, the ~~chairman~~ *chair* of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. *If there is no chief financial officer, the treasurer is the chief financial officer of the corporation unless otherwise provided in the articles or bylaws.* Any number of offices may be held by the same person unless the articles or bylaws provide otherwise, except that ~~neither the secretary nor, the treasurer, or the chief financial officer may serve concurrently as the president or chairman chair of the board.~~

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

SEC. 31. Section 9220 of the Corporations Code is amended to read:

9220. (a) The articles or bylaws may provide for the tenure, election, selection, designation, removal, and resignation of directors.

1 (b) In the absence of any provision in the articles or bylaws, the
2 term of directors shall be one year.

3 (c) Unless the articles or bylaws otherwise provide, each
4 director, including a director elected to fill a vacancy, shall hold
5 office until the expiration of the term for which elected and until
6 a successor has been elected and qualified, *unless the director has*
7 *been removed from office.*

8 (d) If a corporation has not issued memberships and (1) all the
9 directors resign, die, or become incompetent, or (2) a corporation's
10 initial directors have not been named in the articles and all
11 incorporators resign, die, or become incompetent before the
12 election of the initial directors, the superior court of any county
13 may appoint directors of the corporation upon application by any
14 party in interest.

15 SEC. 32. Section 9222 of the Corporations Code is amended
16 to read:

17 9222. (a) Except as provided in the articles or bylaws and
18 subject to subdivision (b) of this section, any or all directors may
19 be removed without cause if the removal is approved by the
20 members (Section 5034).

21 (b) Except for a corporation having no members pursuant to
22 Section 9310:

23 (1) When by the provisions of the articles or bylaws the
24 members of any class, voting as a class, are entitled to elect one
25 or more directors, any director so elected may be removed only
26 by the applicable vote of the members of that class.

27 (2) When by the provisions of the articles or bylaws the
28 members within a chapter or other organizational unit, or region
29 or other geographic grouping, voting as such, are entitled to elect
30 one or more directors, any director so elected may be removed
31 only by the applicable vote of the members within the
32 organizational unit or geographic grouping.

33 (c) Any reduction of the authorized number of directors or any
34 amendment reducing the number of classes of directors does not
35 remove any director prior to the expiration of the director's term
36 of office, *unless the reduction or the amendment also provides for*
37 *the removal of one or more specified directors.*

38 SEC. 33. Section 9241 of the Corporations Code is amended
39 to read:

1 9241. (a) A director shall perform the duties of a director,
2 including duties as a member of any committee of the board upon
3 which the director may serve, in good faith, in a manner such
4 director believes to be in the best interests of the corporation and
5 with such care, including reasonable inquiry, as is appropriate
6 under the circumstances.

7 (b) In performing the duties of a director, a director shall be
8 entitled to rely on information, opinions, reports, or statements,
9 including financial statements and other financial data, in each
10 case prepared or presented by:

11 (1) One or more officers or employees of the corporation whom
12 the director believes to be reliable and competent in the matters
13 presented;

14 (2) Counsel, independent accountants, or other persons as to
15 matters which the director believes to be within ~~such~~ that person's
16 professional or expert competence;

17 (3) A committee ~~of the board~~ upon which the director does not
18 serve *that is composed exclusively of any or any combination of*
19 *directors, persons described in paragraph (1), or persons described*
20 *in paragraph (2),* as to matters within ~~its~~ the committee's
21 designated authority, which committee the director believes to
22 merit confidence; or

23 (4) Religious authorities and ministers, priests, rabbis, or other
24 persons whose position or duties in the religious organization the
25 director believes justify reliance and confidence and whom the
26 director believes to be reliable and competent in the matters
27 presented, so long as, in any ~~such~~ case, the director acts in good
28 faith, after reasonable inquiry when the need therefor is indicated
29 by the circumstances, and without knowledge that would cause
30 ~~such~~ that reliance to be unwarranted.

31 (c) The provisions of this section, and not Section 9243, shall
32 govern any action or omission of a director in regard to the
33 compensation of directors, as directors or officers, or any loan of
34 money or property to or guaranty of the obligation of any director
35 or officer. No obligation, otherwise valid, shall be voidable merely
36 because directors who benefited by a board resolution to pay such
37 compensation or to make such loan or guaranty participated in
38 making such board resolution.

39 (d) Except as provided in Section 9243, a person who performs
40 the duties of a director in accordance with subdivisions (a) and (b)

1 shall have no liability based upon any alleged failure to discharge
2 his or her obligations as a director, including, without limiting the
3 generality of the foregoing, any actions or omissions which exceed
4 or defeat any purpose to which the corporation, or assets held by
5 it, may be dedicated.

6 SEC. 34. Article 6 (commencing with Section 9260) is added
7 to Chapter 2 of Part 4 of Division 2 of Title 1 of the Corporations
8 Code, to read:

9
10 Article 6. Compliance with Internal Revenue Code

11
12 9260. Any other provision of law notwithstanding, every
13 corporation, during any period or periods that corporation is
14 deemed to be a “private foundation” as defined in Section 509 of
15 the Internal Revenue Code of 1954 as amended by Section 101 of
16 the Tax Reform Act of 1969, shall be subject to the requirements
17 of Section 5260.

18 SEC. 35. Section 9680 of the Corporations Code is amended
19 to read:

20 9680. (a) Chapters 16 (commencing with Section 6610) and
21 17 (commencing with Section 6710) of Part 2 apply to religious
22 corporations except for Sections 6610, 6614, 6710, 6711 and 6716.

23 (b) (1) Any corporation may elect voluntarily to wind up and
24 dissolve (A) by approval of a majority of all the members (Section
25 5033) or (B) by approval of the board and approval of the members
26 (Section 5034).

27 (2) Any corporation which comes within one of the following
28 descriptions may elect by approval of the board to wind up and
29 dissolve:

30 (A) A corporation which has been adjudicated a bankrupt.

31 (B) A corporation which has disposed of all its assets and has
32 not conducted any activity for a period of five years immediately
33 preceding the adoption of the resolution electing to dissolve the
34 corporation.

35 (C) A corporation which has no members.

36 (D) A corporation which is required to dissolve under provisions
37 of its articles adopted pursuant to subparagraph (i) of paragraph
38 (2) of subdivision (a) of Section 9132.

39 (3) *If a corporation comes within one of the descriptions in*
40 *paragraph (2) and if the number of directors then in office is less*

1 *than a quorum, it may elect to voluntarily wind up and dissolve*
2 *by any of the following:*

3 *(A) The unanimous consent of the directors then in office.*

4 *(B) The affirmative vote of a majority of the directors then in*
5 *office at a meeting held pursuant to waiver of notice by those*
6 *directors complying with paragraph (3) of subdivision (a) of*
7 *Section 9211.*

8 *(C) The vote of a sole remaining director.*

9 *(4) If a corporation elects to voluntarily wind up and dissolve*
10 *pursuant to paragraph (3), references to the board in this chapter*
11 *shall be deemed to be to a board consisting solely of those directors*
12 *or that sole director and action by the board shall require at least*
13 *the same consent or vote as would be required under paragraph*
14 *(3) for an election to wind up and dissolve.*

15 *(c) If a corporation is in the process of voluntary winding up,*
16 *the superior court of the proper county, upon the petition of (1)*
17 *the corporation, or (2) the authorized number (Section 5036), or*
18 *(3) the Attorney General, or (4) three or more creditors, and upon*
19 *such notice to the corporation and members and creditors as the*
20 *court may order, may take jurisdiction over the voluntary winding*
21 *up proceeding if that appears necessary for the protection of the*
22 *assets of the corporation. The court, if it assumes jurisdiction, may*
23 *make such orders as to any and all matters concerning the winding*
24 *up of the affairs of the corporation and the protection of its creditors*
25 *and its assets as justice and equity may require. Chapter 15*
26 *(commencing with Section 6510) (except Sections 6510 and 6511)*
27 *shall apply to those court proceedings.*

28 *(d) The powers and duties of the directors (or other persons*
29 *appointed by the court pursuant to Section 6515) and officers after*
30 *commencement of a dissolution proceeding include, but are not*
31 *limited to, the following acts in the name and on behalf of the*
32 *corporation:*

33 *(1) To elect officers and to employ agents and attorneys to*
34 *liquidate or wind up its affairs.*

35 *(2) To continue the conduct of the affairs of the corporation*
36 *insofar as necessary for the disposal or winding up thereof.*

37 *(3) To carry out contracts and collect, pay, compromise, and*
38 *settle debts and claims for or against the corporation.*

39 *(4) To defend suits brought against the corporation.*

1 (5) To sue, in the name of the corporation, for all sums due or
2 owing to the corporation or to recover any of its property.

3 (6) To collect any amounts remaining unpaid on memberships
4 or to recover unlawful distributions.

5 (7) Subject to the provisions of Section 9142, to sell at public
6 or private sale, exchange, convey, or otherwise dispose of all or
7 any part of the assets of the corporation in an amount deemed
8 reasonable by the board without compliance with Section 9631,
9 and to execute bills of sale and deeds of conveyance in the name
10 of the corporation.

11 (8) In general, to make contracts and to do any and all things
12 in the name of the corporation which may be proper or convenient
13 for the purposes of winding up, settling and liquidating the affairs
14 of the corporation.

15 (e) After complying with Section 6713:

16 (1) Except as provided in Section 6715, all of a corporation's
17 assets shall be disposed of on dissolution in conformity with its
18 articles or bylaws subject to complying with the provisions of any
19 trust under which such assets are held.

20 (2) Except as provided in subdivision (3), the disposition
21 required in subdivision (1) shall be made by decree of the superior
22 court of the proper county. The decree shall be made upon petition
23 therefor, upon 30 days' notice to the Attorney General, by any
24 person concerned in the dissolution.

25 (3) The disposition required in subdivision (1) may be made
26 without the decree of the superior court, subject to the rights of
27 persons concerned in the dissolution, if the Attorney General makes
28 a written waiver of objections to the disposition.

29 (f) A vacancy on the board may be filled during a winding up
30 proceeding in the manner provided in Section 9224.

31 (g) Chapter 15 (commencing with Section 6510) does not apply
32 to religious corporations except to the extent its provisions apply
33 under subdivision (d) of Section 6617, subdivision (c) of Section
34 6719, or subdivision (c) or (d) of this section.

35 SEC. 36. Section 9916 of the Corporations Code is amended
36 to read:

37 9916. Subdivision (a) of Section 5213 of the new public benefit
38 corporation law applies to subject corporations governed by the
39 public benefit corporation law, subdivision (a) of Section 7213 of
40 the new mutual benefit corporation law apply to subject

1 corporations governed by the mutual benefit corporation law, and
2 subdivision (a) of Section 9213 of the new religious corporation
3 law applies to subject corporations governed by the religious
4 corporation law; but the “treasurer” of ~~such those~~ corporations
5 shall be deemed to be the “chief financial officer.” *officer,” unless*
6 *otherwise provided in the articles or bylaws.*

7 SEC. 37. Section 12228.5 is added to the Corporations Code,
8 to read:

9 12228.5. The term “chair” includes “chairperson,” “chairman,”
10 and “chairwoman.” For the purposes of this part, all references to
11 “chairman” shall be deemed to refer to “chair.”

12 SEC. 38. Section 12233 of the Corporations Code is amended
13 to read:

14 12233. “Directors” means natural persons, designated in the
15 articles or bylaws or elected by the incorporators, and their
16 successors and natural persons designated, elected, or appointed
17 by any other name or title to act as members of the governing body
18 of the corporation. “Directors” also means alternate directors
19 described in Section 12331. *A person who does not have authority*
20 *to act as a member of the governing body of the corporation,*
21 *including through voting rights as a member of the governing*
22 *body, is not a director as that term is used in this part regardless*
23 *of title. However, if the articles or bylaws designate that a natural*
24 *person is a director or a member of the governing body of the*
25 *corporation by reason of occupying a specified position within or*
26 *outside the corporation, that person shall be a director for all*
27 *purposes and shall have the same rights and obligations, including*
28 *voting rights, as the other directors.*

29 SEC. 39. Section 12241 of the Corporations Code is amended
30 to read:

31 12241. “Officers’ certificate” means a certificate signed and
32 verified by the ~~chairman~~ *chair* of the board, the president, or any
33 vice president, and by the secretary, the chief financial officer, the
34 treasurer, or any assistant secretary or assistant treasurer.

35 SEC. 40. Section 12242.5 of the Corporations Code is amended
36 to read:

37 12242.5. “Other business entity” means a domestic or foreign
38 limited liability company, limited partnership, general partnership,
39 business trust, real estate investment trust, unincorporated
40 association ~~(other than a nonprofit association)~~, or a domestic

1 reciprocal insurer organized after 1974 to provide medical
2 malpractice insurance as set forth in Article 16 (commencing with
3 Section 1550) of Chapter 3 of Part 2 of Division 1 of the Insurance
4 Code. As used herein, “general partnership” means a “partnership”
5 as defined in subdivision (7) (9) of Section 16101; “business trust”
6 means a business organization formed as a trust; “real estate
7 investment trust” means a “real estate investment trust” as defined
8 in subsection (a) of Section 856 of the Internal Revenue Code of
9 1986, as amended; and “unincorporated association” has the
10 meaning set forth in Section 18035.

11 SEC. 41. Section 12330 of the Corporations Code is amended
12 to read:

13 12330. (a) Except as provided in subdivision (c) and Sections
14 12331, 12360, 12364, 12462, and 12484, bylaws may be adopted,
15 amended, or repealed by the board unless the action would:

16 (1) Materially and adversely affect the rights or obligations of
17 members as to voting, dissolution, redemption, transfer,
18 distributions, patronage distributions, patronage, property rights,
19 or rights to repayment of contributed capital;

20 (2) Increase or decrease the number or members authorized in
21 total or for any class;

22 (3) Effect an exchange, reclassification or cancellation of all or
23 part of the memberships; or

24 (4) Authorize a new class of membership.

25 (b) Bylaws may be adopted, amended or repealed by approval
26 of the members (Section 12224); provided, however, that ~~such~~
27 adoption, amendment, or repeal also requires approval by the
28 members of a class if ~~such~~ *that* action would:

29 (1) Materially and adversely affect the rights or obligations of
30 that class as to voting, dissolution, redemption, transfer,
31 distributions, patronage distributions, patronage, property rights,
32 or rights to repayment of contributed capital, in a manner different
33 than such action affects another class;

34 (2) Materially and adversely affect such class as to voting,
35 dissolution, redemption, transfer, distributions, patronage
36 distributions, patronage, property rights, or rights to repayment of
37 contributed capital, by changing the rights, privileges, preferences,
38 restrictions or conditions of another class;

39 (3) Increase or decrease the number of memberships authorized
40 for such class;

1 (4) Increase the number of memberships authorized for another
2 class;

3 (5) Effect an exchange, reclassification or cancellation of all or
4 part of the memberships of such class; or

5 (6) Authorize a new class of memberships.

6 (c) The articles or bylaws may restrict or eliminate the power
7 of the board to adopt, amend or repeal any or all bylaws, subject
8 to subdivision (e) of Section 12331.

9 (d) Bylaws may also provide that repeal or amendment of those
10 bylaws, or the repeal or amendment of specified portions of those
11 bylaws, may occur only with the approval in writing of a specified
12 person or persons other than the board or members. *However, this*
13 *approval requirement, unless the articles or the bylaws specify*
14 *otherwise, shall not apply if any of the following circumstances*
15 *exist:*

16 (1) *The specified person or persons have died or ceased to exist.*

17 (2) *If the right of the specified person or persons to approve is*
18 *in the capacity of an officer, trustee, or other status and the office,*
19 *trust, or status has ceased to exist.*

20 (3) *If the corporation has a specific proposal for amendment*
21 *or repeal, and the corporation has provided written notice of that*
22 *proposal, including a copy of the proposal, to the specified person*
23 *or persons at the most recent address for each of them, based on*
24 *the corporation's records, and the corporation has not received*
25 *written approval or nonapproval within the period specified in the*
26 *notice, which shall not be less than 10 nor more than 30 days*
27 *commencing at least 20 days after the notice has been provided.*

28 SEC. 42. Section 12331 of the Corporations Code is amended
29 to read:

30 12331. (a) The bylaws shall set forth (unless such provision
31 is contained in the articles, in which case it may only be changed
32 by an amendment of the articles) the number of directors of the
33 corporation, *or the method of determining the number of directors*
34 *of the corporation*, or that the number of directors shall be not less
35 than a stated minimum or more than a stated maximum with the
36 exact number of directors to be fixed, within the limits specified,
37 by approval of the board or the members (Sections 12222 and
38 12224), in the manner provided in the bylaws, subject to
39 subdivision (e). The number or minimum number of directors shall
40 not be less than three. Alternate directors may be permitted, in

1 which event, the bylaws shall specify the manner and times of
2 their election and the conditions to their service in place of a
3 director.

4 (b) Once members have been admitted, a bylaw specifying or
5 changing a fixed number of directors or the maximum or minimum
6 number or changing from a fixed to a variable board or vice versa
7 may only be adopted by approval of the members.

8 (c) The bylaws may contain any provision, not in conflict with
9 law or the articles, for the management of the activities and for
10 the conduct of the affairs of the corporation, including but not
11 limited to:

12 (1) Any provision referred to in subdivision (c) of Section
13 12313.

14 (2) The time, place and manner of calling, conducting and giving
15 notice of members', directors', and committee meetings, or of
16 conducting mail ballots.

17 (3) The qualifications, duties and compensation of directors;
18 the time of their election; and the requirements of a quorum for
19 directors' and committee meetings.

20 (4) The appointment of committees, composed of directors or
21 nondirectors or both, by the board or any officer and the authority
22 of any such committees.

23 (5) The appointment, duties, compensation and tenure of
24 officers.

25 (6) The mode of determination of members of record.

26 (7) The making of reports and financial statements to members.

27 (8) Setting, imposing and collecting dues, assessments, and
28 membership and transfer fees.

29 (9) The time and manner of patronage distributions consistent
30 with this part.

31 (d) The bylaws may provide for eligibility, the manner of
32 admission, withdrawal, suspension, and expulsion of members,
33 and the suspension or termination of memberships consistent with
34 the requirements of Section 12431.

35 (e) The bylaws may require, for any or all corporate actions,
36 the vote of a larger proportion of, or all of, the members or the
37 members of any class, unit, or grouping of members or the vote
38 of a larger proportion of, or all of, the directors, than is otherwise
39 required by this part. Such a provision in the bylaws requiring such

1 greater vote shall not be altered, amended or repealed except by
2 such greater vote, unless otherwise provided in the bylaws.

3 (f) The bylaws may contain a provision limiting the number of
4 members, in total or of any class, which the corporation is
5 authorized to admit.

6 (g) The bylaws may provide for the establishment by the
7 corporation of a program for the education of its members, officers,
8 employees and the general public in the principles and techniques
9 of cooperation.

10 SEC. 43. Section 12351 of the Corporations Code is amended
11 to read:

12 12351. (a) Unless otherwise provided in the articles or in the
13 bylaws:

14 (1) Meetings of the board may be called by the ~~chairman~~ *chair*
15 of the board or the president or any vice president or the secretary
16 or any two directors.

17 (2) Regular meetings of the board may be held without notice
18 if the time and place of the meetings are fixed by the bylaws or
19 the board. Special meetings of the board shall be held upon four
20 days' notice by first-class mail or 48 hours' notice delivered
21 personally or by telephone, including a voice messaging system
22 or by electronic transmission by the corporation (Section 20). The
23 articles or bylaws may not dispense with notice of a special
24 meeting. A notice, or waiver of notice, need not specify the purpose
25 of any regular or special meeting of the board.

26 (3) Notice of a meeting need not be given to any director who
27 provides a waiver of notice or consent to holding the meeting or
28 an approval of the minutes thereof in writing, whether before or
29 after the meeting, or who attends the meeting without protesting,
30 prior thereto or at its commencement, the lack of notice to that
31 director. All waivers, consents, and approvals shall be filed with
32 the corporate records or made a part of the minutes of the meetings.

33 (4) A majority of the directors present, whether or not a quorum
34 is present, may adjourn any meeting to another time and place. If
35 the meeting is adjourned for more than 24 hours, notice of any
36 adjournment to another time or place shall be given prior to the
37 time of the adjourned meeting to the directors who were not present
38 at the time of the adjournment.

39 (5) Meetings of the board may be held at any place within or
40 without the state which has been designated in the notice of the

1 meeting or, if not stated in the notice or if there is no notice,
2 designated in the bylaws or by resolution of the board.

3 (6) Members of the board may participate in a meeting through
4 use of conference telephone, electronic video screen
5 communication, or electronic transmission by and to the
6 corporation (Sections 20 and 21). Participation in a meeting through
7 use of conference telephone or electronic video screen
8 communication pursuant to this subdivision constitutes presence
9 in person at that meeting as long as all members participating in
10 the meeting are able to hear one another. Participation in a meeting
11 through use of electronic transmission by and to the corporation,
12 other than conference telephone and electronic video screen
13 communication pursuant to this subdivision constitutes presence
14 in person at that meeting if both of the following apply:

15 (A) Each member participating in the meeting can communicate
16 with all of the other members concurrently.

17 (B) Each member is provided the means of participating in all
18 matters before the board, including, without limitation, the capacity
19 to propose, or to interpose an objection to, a specific action to be
20 taken by the corporation.

21 (7) A majority of the number of directors authorized in *or*
22 *pursuant to* the articles or bylaws constitutes a quorum of the board
23 for the transaction of business. *The articles or bylaws may require*
24 *the presence of one or more specified directors to constitute a*
25 *quorum of the board to transact business, as long as the death of*
26 *a director or the death or nonexistence of the person or persons*
27 *otherwise authorized to appoint or designate a director does not*
28 *prevent the corporation from transacting business in the normal*
29 *course of events.* The articles or bylaws may not provide that a
30 quorum shall be less than one-fifth the number of directors
31 authorized in *or pursuant to* the articles or bylaws, or less than
32 two, whichever is larger.

33 (8) Subject to the provisions of Sections 12352, 12373, 12374,
34 and subdivision (e) of Section 12377, every act or decision done
35 or made by a majority of the directors present at a meeting duly
36 held at which a quorum is present is the act of the board. The
37 articles or bylaws may not provide that a lesser vote than a majority
38 of the directors present at a meeting is the act of the board. A
39 meeting at which a quorum is initially present may continue to
40 transact business notwithstanding the withdrawal of directors, if

1 any action taken is approved by at least a majority of the required
2 quorum for the meeting, or a greater number as is required by this
3 division, the articles or bylaws.

4 (b) Any action required or permitted to be taken by the board
5 may be taken without a meeting, if all members of the board shall
6 individually or collectively consent in writing to ~~such~~ *that* action.
7 Such written consent or consents shall be filed with the minutes
8 of the proceedings of the board.

9 The action by written consent shall have the same force and
10 effect as a unanimous vote of the directors.

11 (c) *Each director present and voting at a meeting shall have*
12 *one vote on each matter presented to the board of directors for*
13 *action at that meeting. No director may vote at any meeting by*
14 *proxy.*

15 SEC. 44. Section 12352 of the Corporations Code is amended
16 to read:

17 12352. (a) The board may, by resolution adopted by a majority
18 of the number of directors then in office, provided that a quorum
19 is present, create one or more committees, each consisting of two
20 or more directors, to serve at the pleasure of the board.
21 Appointments to ~~such~~ *those* committees shall be by a majority
22 vote of the directors then in office, unless the articles or bylaws
23 require a majority vote of the number of directors authorized in
24 the articles or bylaws. The bylaws may authorize one or more
25 committees, each consisting of two or more directors, and may
26 provide that a specified officer or officers who are also directors
27 of the corporation shall be a member or members of ~~such~~ *the*
28 committee or committees. The board may appoint one or more
29 directors as alternate members of any committee, who may replace
30 any absent member at any meeting of the committee. Any ~~such~~
31 committee, to the extent provided in the resolution of the board or
32 in the bylaws, shall have all the authority of the board, except with
33 respect to:

34 (1) The approval of any action for which this part also requires
35 approval of the members (Section 12224) or approval of a majority
36 of all members (Section 12223) *regardless of whether the*
37 *corporation has members.*

38 (2) The filling of vacancies on the board or in any committee
39 which has the authority of the board.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(b) ~~Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.~~ *A committee exercising the authority of the board shall not include as members persons who are not directors. The board may create other committees that do not exercise the authority of the board and these other committees may include persons who are not directors.*

(c) Unless the bylaws otherwise provide, the board may delegate to any committee, appointed pursuant to paragraph (4) of subdivision (c) of Section 12331 or otherwise, powers as authorized by Section 12350, but may not delegate the powers set forth in paragraphs (1) through (7) of subdivision (a) of this section.

SEC. 45. Section 12353 of the Corporations Code is amended to read:

12353. (a) A corporation shall have a ~~chairman~~ *chair* of the board, *who may be given the title chair of the board, chairperson of the board, chairman of the board, or chairwoman of the board,* or a president or both, a secretary, a *treasurer or a* chief financial officer, *or both,* and ~~such any~~ other officers with ~~such any~~ titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president the ~~chairman~~ *chair* of the board, is the chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. *If there is no chief financial officer, the treasurer is the chief financial officer of the corporation, unless otherwise provided for in the articles or bylaws.* Any number of offices may be held by the same person unless the articles or bylaws provide otherwise. Either the ~~chairman~~ *chair* of the board or the president shall be elected from among those board members elected by the membership of the corporation.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

SEC. 46. Section 12360 of the Corporations Code is amended to read:

12360. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the terms shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members.

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, *unless the director has been removed from office*.

(c) The articles or bylaws may prescribe requirements for eligibility for election as a director.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (f) of Section 12362. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 12224). *Unless otherwise provided in the articles or bylaws, the entitlement to designate or select the director or directors shall not apply if any of the following circumstances exist:*

(1) *The specified person or persons have died or ceased to exist.*

1 (2) *If the entitlement of the person or persons to designate is in*
2 *the capacity of an officer, trustee, or other status and the office,*
3 *trust, or status has ceased to exist. After this cessation, the members*
4 *or, if there are no members, the board shall succeed to this*
5 *entitlement to designate or select the director or directors.*

6 (e) If a corporation has not issued memberships and (1) all the
7 directors resign, die, or become incompetent, or (2) a corporation's
8 initial directors have not been named in the articles and all
9 incorporators resign, die, or become incompetent before the
10 election of the initial directors, the superior court of any county
11 may appoint directors of the corporation upon application by any
12 party in interest.

13 SEC. 47. Section 12362 of the Corporations Code is amended
14 to read:

15 12362. (a) Subject to subdivisions (b), (c) and (g), any or all
16 directors may be removed without cause if one of the following
17 applies:

18 (1) In a corporation with fewer than 50 members, the removal
19 is approved by a majority of all members (Section 12223).

20 (2) In a corporation with 50 or more members, the removal is
21 approved by the members (Section 12224).

22 (b) In a corporation in which the articles or bylaws authorize
23 members to cumulate their votes pursuant to subdivision (a) of
24 Section 12485, no director may be removed (unless the entire board
25 is removed) when the votes cast against removal, or not consenting
26 in writing to the removal, would be sufficient to elect the director
27 if voted cumulatively at an election at which the same total number
28 of votes were cast (or, if the action is taken by written ballot, all
29 memberships entitled to vote were voted) and the entire number
30 of directors authorized at the time of the director's most recent
31 election were then being elected; and

32 (c) When by the provisions of the articles or bylaws the members
33 of any class, voting as a class, are entitled to elect one or more
34 directors, any director so elected may be removed only by the
35 applicable vote of the members of that class.

36 (d) Any reduction of the authorized number of directors or any
37 amendment reducing the number of class of directors does not
38 remove any director prior to the expiration of the director's term
39 of office, *unless the reduction or amendment also provides for*
40 *removal of one or more specified directors.*

(e) Except as provided in this section and Sections 12361 and 12363, a director may not be removed prior to the expiration of the director's term of office.

(f) Where a director removed under this section or Section 12361 or 12363 was chosen by designation pursuant to subdivision (d) of Section 12360, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, the new designation shall be made; or

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(g) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, the provisions shall also provide for removal of those directors and any director so designated may only be removed as so provided.

(h) If the articles or bylaws entitle a person or persons to designate one or more directors, then:

(1) Unless as otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

(3) Unless as otherwise provided in the articles or bylaws, the right to remove shall not apply if any of the following circumstances exist:

(A) The person or persons entitled to that right have died or ceased to exist.

(B) If that right to remove is in the capacity of an officer, trustee, or other status, and the office, trust, or status has ceased to exist. After this cessation, the members or, if there are no members, the board shall succeed to this right to remove.

SEC. 48. Section 12371 of the Corporations Code is amended to read:

12371. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily

1 prudent person in a like position would use under similar
2 circumstances.

3 (b) In performing the duties of a director, a director shall be
4 entitled to rely on information, opinions, reports or statements,
5 including financial statements and other financial data, in each
6 case prepared or presented by:

7 (1) One or more officers or employees of the corporation whom
8 the director believes to be reliable and competent in the matters
9 presented;

10 (2) Counsel, independent accountants or other persons as to
11 matters which the director believes to be within such person's
12 professional or expert competence; or

13 (3) A committee ~~of the board~~ upon which the director does not
14 serve *that is composed exclusively of any or any combination of*
15 *directors, persons described in paragraph (1), or persons described*
16 *in paragraph (2),* as to matters within ~~its~~ *the committee's*
17 designated authority, which committee the director believes to
18 merit confidence, so long as, in any such case, the director acts in
19 good faith, after reasonable inquiry when the need therefor is
20 indicated by the circumstances and without knowledge that would
21 cause such reliance to be unwarranted.

22 (c) A person who performs the duties of a director in accordance
23 with subdivisions (a) and (b) shall have no liability based upon
24 any alleged failure to discharge the persons's obligations as a
25 director.

26 SEC. 49. Section 12630 of the Corporations Code is amended
27 to read:

28 12630. (a) Any corporation may elect voluntarily to wind up
29 and dissolve (1) by approval of a majority of all members (Section
30 12223) or (2) by approval of the board and approval of the
31 members (Section 12224).

32 (b) Any corporation which comes within one of the following
33 descriptions may elect by approval of the board to wind up and
34 dissolve:

35 (1) A corporation which has been adjudicated as bankrupt.

36 (2) A corporation which has disposed of all of its assets and has
37 not conducted any activity for a period of five years immediately
38 preceding the adoption of the resolution electing to dissolve the
39 corporation.

40 (3) A corporation which has no members.

1 (c) If a corporation comes within one of the descriptions in
2 subdivision (b) and if the number of directors then in office is less
3 than a quorum, it may elect to voluntarily wind up and dissolve
4 by any of the following:

5 (1) The unanimous consent of the directors then in office.

6 (2) The affirmative vote of a majority of the directors then in
7 office at a meeting held pursuant to waiver of notice by those
8 directors complying with subdivision (a) of Section 12351.

9 (3) The vote of a sole remaining director.

10 (d) If a corporation elects to voluntarily wind up and dissolve
11 pursuant to subdivision (c), references to the board in this chapter
12 and Chapter 17 (commencing with Section 12650) shall be deemed
13 to be to a board consisting solely of those directors or that sole
14 director and action by the board shall require at least the same
15 consent or vote as would be required under subdivision (c) for an
16 election to wind up and dissolve.

17 SEC. 50. Section 12694 of the Corporations Code is amended
18 to read:

19 12694. Subdivision (a) of Section 12353 of the new law shall
20 apply to subject corporations, but the treasurer of these corporations
21 shall be deemed to be the chief financial officer *unless otherwise*
22 *provided in the articles or bylaws*.

23 SEC. 51. Section 18360 of the Corporations Code is amended
24 to read:

25 18360. An unincorporated association may merge ~~into~~ *with* a
26 domestic or foreign corporation, domestic or foreign limited
27 partnership, domestic or foreign general partnership, or domestic
28 or foreign limited liability company. Notwithstanding this section,
29 a merger may be effected only if each constituent entity is
30 authorized to effect the merger by the laws under which it was
31 organized.

32 SEC. 52. Section 24001.5 of the Corporations Code is amended
33 to read:

34 24001.5. (a) The Legislature finds and declares that the
35 services of directors or officers of nonprofit medical associations,
36 as defined in Section 21200, who serve without compensation are
37 critical to the efficient conduct and management of the public
38 service and charitable affairs of the people of California. The
39 willingness of volunteers to offer their services has been deterred
40 by a perception that their personal assets are at risk for these

1 activities. The unavailability and unaffordability of appropriate
2 liability insurance makes it difficult for these associations to protect
3 the personal assets of their volunteer decisionmakers with adequate
4 insurance. It is the public policy of this state to provide incentive
5 and protection to the individuals who perform these important
6 functions.

7 (b) Except as provided in this section, no cause of action for
8 monetary damages shall arise against any person serving without
9 compensation as a director or officer of a nonprofit medical
10 association, as defined in Section 21200, on account of any
11 negligent act or omission occurring (1) within the scope of that
12 person's duties as a director acting as a board member, or within
13 the scope of that person's duties as an officer acting in an official
14 capacity; (2) in good faith; (3) in a manner that the person believes
15 to be in the best interest of the association; and (4) is in the exercise
16 of his or her policymaking judgment.

17 (c) This section shall not limit the liability of a director or officer
18 for any of the following:

19 (1) Self-dealing transactions, as described in Sections 5233 and
20 9243.

21 (2) Conflicts of interest, as described in Section 7233.

22 (3) Actions described in Sections 5237, 7236, and 9245.

23 (4) In the case of a charitable trust, an action or proceeding
24 against a trustee brought by a beneficiary of that trust.

25 (5) Any action or proceeding brought by the Attorney General.

26 (6) Intentional, wanton, or reckless acts, gross negligence, or
27 an action based on fraud, oppression, or malice.

28 (7) Any action brought under Chapter 2 (commencing with
29 Section 16700) of Part 2 of Division 7 of the Business and
30 Professions Code.

31 (d) This section only applies to nonprofit organizations
32 organized to provide charitable, educational, scientific, social, or
33 other forms of public service that are exempt from federal income
34 taxation under Section 501(c)(3) or 501(c)(6) of the Internal
35 Revenue Code.

36 (e) This section applies only if the nonprofit association
37 maintains a ~~general~~ liability insurance policy with an amount of
38 coverage of at least the following amounts:

1 (1) If the association's annual budget is less than fifty thousand
2 dollars (\$50,000), the minimum required amount is five hundred
3 thousand dollars (\$500,000).

4 (2) If the association's annual budget equals or exceeds fifty
5 thousand dollars (\$50,000), the minimum required amount is one
6 million dollars (\$1,000,000).

7 This section applies only if the ~~general~~ liability insurance policy
8 ~~is in force both at the time of injury and at the time that the claim~~
9 ~~is made, so that the policy is applicable to the claim.~~

10 (f) For the purposes of this section, the payment of actual
11 expenses incurred in attending meetings or otherwise in the
12 execution of the duties of a director or officer shall not constitute
13 compensation.

14 (g) Nothing in this section shall be construed to limit the liability
15 of a nonprofit association for any negligent act or omission of a
16 director, officer, employee, agent, or servant occurring within the
17 scope of his or her duties.

18 (h) This section does not apply to any association that unlawfully
19 restricts membership, services, or benefits conferred on the basis
20 of political affiliation, age, or any characteristic listed or defined
21 in subdivision (b) or (e) of Section 51 of the Civil Code.

22 (i) This section does not apply to any volunteer director or
23 officer who receives compensation from the association in any
24 other capacity, including, but not limited to, as an employee.