

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN SENATE JUNE 6, 2013

AMENDED IN ASSEMBLY MAY 9, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly ~~Member~~ Members Torres and Bonta

February 19, 2013

An act to amend Sections 207, 212, 5140, 5151, 7140, 7151, 9140, and 9151 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Torres. Corporations: bylaws: emergency powers.

Existing law authorizes and regulates the formation and operation of a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation, including, but not limited to, the adoption and contents of corporate bylaws.

This bill would authorize a corporation, nonprofit public benefit corporation, nonprofit mutual benefit corporation, or nonprofit religious corporation to take actions in anticipation of or during an emergency, as defined, to conduct these corporations' ordinary business operations and affairs, as specified, and provide that any action taken in good faith in anticipation of or during an emergency under this authorization would bind these corporations and not be a basis to impose liability on a corporate director, officer, employee, or agent. This bill would also authorize a corporation, nonprofit public benefit corporation, nonprofit

mutual benefit corporation, or nonprofit religious corporation to adopt bylaws to manage and conduct ordinary business affairs of the corporation effective only in an emergency, as specified.

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 207 of the Corporations Code is amended
2 to read:

3 207. Subject to any limitations contained in the articles and to
4 compliance with other provisions of this division and any other
5 applicable laws, a corporation shall have all of the powers of a
6 natural person in carrying out its business activities, including,
7 without limitation, the power to:

8 (a) Adopt, use, and at will alter a corporate seal, but failure to
9 affix a seal does not affect the validity of any instrument.

10 (b) Adopt, amend, and repeal bylaws.

11 (c) Qualify to do business in any other state, territory,
12 dependency, or foreign country.

13 (d) Subject to the provisions of Section 510, issue, purchase,
14 redeem, receive, take or otherwise acquire, own, hold, sell, lend,
15 exchange, transfer or otherwise dispose of, pledge, use, and
16 otherwise deal in and with its own shares, bonds, debentures, and
17 other securities.

18 (e) Make donations, regardless of specific corporate benefit, for
19 the public welfare or for community fund, hospital, charitable,
20 educational, scientific, civic, or similar purposes.

21 (f) Pay pensions, and establish and carry out pension,
22 profit-sharing, share bonus, share purchase, share option, savings,
23 thrift and other retirement, incentive, and benefit plans, trusts, and
24 provisions for any or all of the directors, officers, and employees
25 of the corporation or any of its subsidiary or affiliated corporations,
26 and to indemnify and purchase and maintain insurance on behalf
27 of any fiduciary of such plans, trusts, or provisions.

28 (g) Subject to the provisions of Section 315, assume obligations,
29 enter into contracts, including contracts of guaranty or suretyship,
30 incur liabilities, borrow and lend money, and otherwise use its
31 credit, and secure any of its obligations, contracts, or liabilities by

1 mortgage, pledge, or other encumbrance of all or any part of its
2 property, franchises, and income.

3 (h) Participate with others in any partnership, joint venture or
4 other association, transaction, or arrangement of any kind, whether
5 or not such participation involves sharing or delegation of control
6 with or to others.

7 (i) (1) In anticipation of or during an emergency, take either or
8 both of the following actions necessary to conduct the corporation's
9 ordinary business operations and affairs, unless emergency bylaws
10 provide otherwise pursuant to subdivision (c) of Section 212:

11 (A) Modify lines of succession to accommodate the incapacity
12 of any director, officer, employee, or agent resulting from the
13 emergency.

14 (B) Relocate the principal office, designate alternative principal
15 offices or regional offices, or authorize the officers to do so.

16 (2) During an emergency, take either or both of the following
17 actions necessary to conduct the corporation's ordinary business
18 operations and affairs, unless emergency bylaws provide otherwise
19 pursuant to subdivision (c) of Section 212:

20 (A) Give notice to a director or directors in any practicable
21 manner under the circumstances, including, but not limited to, by
22 publication and radio, when notice of a meeting of the board cannot
23 be given to that director or directors in the manner prescribed by
24 the bylaws or Section 307.

25 (B) Deem that one or more officers of the corporation present
26 at a board meeting is a director, in order of rank and within the
27 same rank in order of seniority, as necessary to achieve a quorum
28 for that meeting.

29 (3) In anticipation of or during an emergency, the board may
30 not take any action that requires the vote of the shareholders or is
31 not in the corporation's ordinary course of business, unless the
32 required vote of the shareholders was obtained prior to the
33 emergency.

34 (4) Any actions taken in good faith in anticipation of or during
35 an emergency under this subdivision bind the corporation and may
36 not be used to impose liability on a corporate director, officer,
37 employee, or agent.

38 (5) For purposes of this subdivision, "emergency" means any
39 of the following events or circumstances as a result of which, and

1 only so long as, a quorum of the corporation’s board of directors
2 cannot be readily convened for action:

3 (A) A natural catastrophe, including, but not limited to, a
4 hurricane, tornado, storm, high water, wind-driven water, tidal
5 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
6 snowstorm, or drought, or, regardless of cause, any fire, flood, or
7 explosion.

8 (B) An attack on this state or nation by an enemy of the United
9 States of America, or upon receipt by this state of a warning from
10 the federal government indicating that an enemy attack is probable
11 or imminent.

12 (C) An act of terrorism or other manmade disaster that results
13 in extraordinary levels of casualties or damage or disruption
14 severely affecting the infrastructure, environment, economy,
15 government functions, or population, including, but not limited
16 to, mass evacuations.

17 (D) A state of emergency proclaimed by a governor or by the
18 President.

19 SEC. 2. Section 212 of the Corporations Code is amended to
20 read:

21 212. (a) The bylaws shall set forth (unless such provision is
22 contained in the articles, in which case it may only be changed by
23 an amendment of the articles) the number of directors of the
24 corporation; or that the number of directors shall be not less than
25 a stated minimum nor more than a stated maximum (which in no
26 case shall be greater than two times the stated minimum minus
27 one), with the exact number of directors to be fixed, within the
28 limits specified, by approval of the board or the shareholders
29 (Section 153) in the manner provided in the bylaws, subject to
30 paragraph (5) of subdivision (a) of Section 204. The number or
31 minimum number of directors shall not be less than three; provided,
32 however, that (1) before shares are issued, the number may be one,
33 (2) before shares are issued, the number may be two, (3) so long
34 as the corporation has only one shareholder, the number may be
35 one, (4) so long as the corporation has only one shareholder, the
36 number may be two, and (5) so long as the corporation has only
37 two shareholders, the number may be two. After the issuance of
38 shares, a bylaw specifying or changing a fixed number of directors
39 or the maximum or minimum number or changing from a fixed to
40 a variable board or vice versa may only be adopted by approval

1 of the outstanding shares (Section 152); provided, however, that
2 a bylaw or amendment of the articles reducing the fixed number
3 or the minimum number of directors to a number less than five
4 cannot be adopted if the votes cast against its adoption at a meeting
5 or the shares not consenting in the case of action by written consent
6 are equal to more than $16\frac{2}{3}$ percent of the outstanding shares
7 entitled to vote.

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

12 (1) Any provision referred to in subdivision (b), (c) or (d) of
13 Section 204.

14 (2) The time, place, and manner of calling, conducting, and
15 giving notice of shareholders', directors', and committee meetings.

16 (3) The manner of execution, revocation, and use of proxies.

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

20 (5) The appointment and authority of committees of the board.

21 (6) The appointment, duties, compensation, and tenure of
22 officers.

23 (7) The mode of determination of holders of record of its shares.

24 (8) The making of annual reports and financial statements to
25 the shareholders.

26 (c) (1) The bylaws may contain any provision, not in conflict
27 with the articles, to manage and conduct the ordinary business
28 affairs of the corporation effective only in an emergency as defined
29 in Section 207, including, but not limited to, procedures for calling
30 a board meeting, quorum requirements for a board meeting, and
31 designation of additional or substitute directors.

32 (2) During an emergency, the board may not take any action
33 that requires the vote of the shareholders or otherwise is not in the
34 corporation's ordinary course of business, unless the required vote
35 of the shareholders was obtained prior to the emergency.

36 (3) All provisions of the regular bylaws consistent with the
37 emergency bylaws shall remain effective during the emergency,
38 and the emergency bylaws shall not be effective after the
39 emergency ends.

1 (4) Corporate action taken in good faith in accordance with the
2 emergency bylaws binds the corporation, and may not be used to
3 impose liability on a corporate director, officer, employee, or agent.

4 SEC. 3. Section 5140 of the Corporations Code is amended to
5 read:

6 5140. Subject to any limitations contained in the articles or
7 bylaws and to compliance with other provisions of this division
8 and any other applicable laws, a corporation, in carrying out its
9 activities, shall have all of the powers of a natural person,
10 including, without limitation, the power to:

11 (a) Adopt, use, and at will alter a corporate seal, but failure to
12 affix a seal does not affect the validity of any instrument.

13 (b) Adopt, amend, and repeal bylaws.

14 (c) Qualify to conduct its activities in any other state, territory,
15 dependency, or foreign country.

16 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
17 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
18 use, and otherwise deal in and with its own bonds, debentures,
19 notes, and debt securities.

20 (e) Issue memberships.

21 (f) Pay pensions, and establish and carry out pension, deferred
22 compensation, saving, thrift and other retirement, incentive and
23 benefit plans, trusts, and provisions for any or all of its directors,
24 officers, employees, and persons providing services to it or any of
25 its subsidiary or related or associated corporations, and to
26 indemnify and purchase and maintain insurance on behalf of any
27 fiduciary of such plans, trusts, or provisions.

28 (g) Levy dues, assessments, and admission fees.

29 (h) Make donations for the public welfare or for community
30 funds, hospital, charitable, educational, scientific, civic, religious,
31 or similar purposes.

32 (i) Assume obligations, enter into contracts, including contracts
33 of guarantee or suretyship, incur liabilities, borrow or lend money
34 or otherwise use its credit, and secure any of its obligations,
35 contracts or liabilities by mortgage, pledge or other encumbrance
36 of all or any part of its property and income.

37 (j) Participate with others in any partnership, joint venture or
38 other association, transaction or arrangement of any kind whether
39 or not such participation involves sharing or delegation of control
40 with or to others.

1 (k) Act as trustee under any trust incidental to the principal
2 objects of the corporation, and receive, hold, administer, exchange,
3 and expend funds and property subject to such trust.

4 (l) Carry on a business at a profit and apply any profit that results
5 from the business activity to any activity in which it may lawfully
6 engage.

7 (m) Pay the reasonable value of services rendered in this state
8 to the corporation before January 1, 1975, and not previously paid,
9 by any person who performed such services on a full-time basis
10 under the direction of a religious organization in connection with
11 the religious tenets of the organization. Such person shall have
12 relied solely on the religious organization for his or her financial
13 support for a minimum of five years. A payment shall not be made
14 if such person or religious organization waives the payment or
15 receipt of compensation for such services in writing. Payment may
16 be made to such religious organization to reimburse it for
17 maintenance of any person who rendered such services and to
18 assist it in providing future support and maintenance; however,
19 payment shall not be made from any funds or assets acquired with
20 funds donated by or traceable to gifts made to the corporation by
21 any person, organization, or governmental agency other than the
22 members, immediate families of members, and affiliated religious
23 organizations of the religious organization under whose direction
24 the services were performed.

25 (n) (1) In anticipation of or during an emergency, take either
26 or both of the following actions necessary to conduct the
27 corporation's ordinary business operations and affairs, unless
28 emergency bylaws provide otherwise pursuant to subdivision (g)
29 of Section 5151:

30 (A) Modify lines of succession to accommodate the incapacity
31 of any director, officer, employee, or agent resulting from the
32 emergency.

33 (B) Relocate the principal office, designate alternative principal
34 offices or regional offices, or authorize the officers to do so.

35 (2) During an emergency, take either or both of the following
36 actions necessary to conduct the corporation's ordinary business
37 operations and affairs, unless emergency bylaws provide otherwise
38 pursuant to subdivision (g) of Section 5151:

39 (A) Give notice to a director or directors in any practicable
40 manner under the circumstances, including, but not limited to, by

1 publication and radio, when notice of a meeting of the board cannot
2 be given to that director or directors in the manner prescribed by
3 the bylaws or Section 5211.

4 (B) Deem that one or more officers of the corporation present
5 at a board meeting is a director, in order of rank and within the
6 same rank in order of seniority, as necessary to achieve a quorum
7 for that meeting.

8 (3) In anticipation of or during an emergency, the board may
9 not take any action that requires the vote of the ~~shareholders~~
10 *members* or is not in the corporation’s ordinary course of business,
11 unless the required vote of the members was obtained prior to the
12 emergency.

13 (4) Any actions taken in good faith in anticipation of or during
14 an emergency under this subdivision bind the corporation and may
15 not be used to impose liability on a corporate director, officer,
16 employee, or agent.

17 (5) For purposes of this subdivision, “emergency” means any
18 of the following events or circumstances as a result of which, and
19 only so long as, a quorum of the corporation’s board of directors
20 cannot be readily convened for action:

21 (A) A natural catastrophe, including, but not limited to, a
22 hurricane, tornado, storm, high water, wind-driven water, tidal
23 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
24 snowstorm, or drought, or, regardless of cause, any fire, flood, or
25 explosion.

26 (B) An attack on this state or nation by an enemy of the United
27 States of America, or upon receipt by this state of a warning from
28 the federal government indicating that an enemy attack is probable
29 or imminent.

30 (C) An act of terrorism or other manmade disaster that results
31 in extraordinary levels of casualties or damage or disruption
32 severely affecting the infrastructure, environment, economy,
33 government functions, or population, including, but not limited
34 to, mass evacuations.

35 (D) A state of emergency proclaimed by a governor or by the
36 President.

37 SEC. 4. Section 5151 of the Corporations Code is amended to
38 read:

39 5151. (a) The bylaws shall set forth (unless that provision is
40 contained in the articles, in which case it may only be changed by

1 an amendment of the articles) the number of directors of the
2 corporation, or the method of determining the number of directors
3 of the corporation, or that the number of directors shall be not less
4 than a stated minimum nor more than a stated maximum with the
5 exact number of directors to be fixed, within the limits specified,
6 by approval of the board or the members (Section 5034), in the
7 manner provided in the bylaws, subject to subdivision (e). The
8 number or minimum number of directors may be one or more.

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

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

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

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

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

24 (4) The appointment and authority of committees.

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

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

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

29 (8) Setting, imposing, and collecting dues, assessments, and
30 admission fees.

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

34 (e) The bylaws may require, for any or all corporate actions
35 (except as provided in paragraphs (1) and (2) of subdivision (a) of
36 Section 5222, subdivision (c) of Section 5616, and Section 6610),
37 the vote of a larger proportion of, or all of, the members or the
38 members of any class, unit, or grouping of members, or the vote
39 of a larger proportion of, or all of, the directors, than is otherwise
40 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) (1) The bylaws may contain any provision, not in conflict
7 with the articles, to manage and conduct the ordinary business
8 affairs of the corporation effective only in an emergency as defined
9 in Section 5140, including, but not limited to, procedures for calling
10 a board meeting, quorum requirements for a board meeting, and
11 designation of additional or substitute directors.

12 (2) During an emergency, the board may not take any action
13 that requires the vote of the members or otherwise is not in the
14 corporation's ordinary course of business, unless the required vote
15 of the members was obtained prior to the emergency.

16 (3) All provisions of the regular bylaws consistent with the
17 emergency bylaws shall remain effective during the emergency,
18 and the emergency bylaws shall not be effective after the
19 emergency ends.

20 (4) Corporate action taken in good faith in accordance with the
21 emergency bylaws binds the corporation, and may not be used to
22 impose liability on a corporate director, officer, employee, or agent.

23 SEC. 5. Section 7140 of the Corporations Code is amended to
24 read:

25 7140. Subject to any limitations contained in the articles or
26 bylaws and to compliance with other provisions of this division
27 and any other applicable laws, a corporation, in carrying out its
28 activities, shall have all of the powers of a natural person,
29 including, without limitation, the power to:

30 (a) Adopt, use, and at will alter a corporate seal, but failure to
31 affix a seal does not affect the validity of any instrument.

32 (b) Adopt, amend, and repeal bylaws.

33 (c) Qualify to conduct its activities in any other state, territory,
34 dependency, or foreign country.

35 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
36 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,
37 use, and otherwise deal in and with its own memberships, bonds,
38 debentures, notes, and debt securities.

39 (e) Pay pensions, and establish and carry out pension, deferred
40 compensation, saving, thrift and other retirement, incentive, and

1 benefit plans, trusts, and provisions for any or all of its directors,
2 officers, employees, and persons providing services to it or any of
3 its subsidiary or related or associated corporations, and to
4 indemnify and purchase and maintain insurance on behalf of any
5 fiduciary of such plans, trusts, or provisions.

6 (f) Issue certificates evidencing membership in accordance with
7 the provisions of Section 7313 and issue identity cards.

8 (g) Levy dues, assessments, and admission and transfer fees.

9 (h) Make donations for the public welfare or for community
10 funds, hospital, charitable, educational, scientific, civic, religious,
11 or similar purposes.

12 (i) Assume obligations, enter into contracts, including contracts
13 of guarantee or suretyship, incur liabilities, borrow or lend money
14 or otherwise use its credit, and secure any of its obligations,
15 contracts or liabilities by mortgage, pledge or other encumbrance
16 of all or any part of its property and income.

17 (j) Participate with others in any partnership, joint venture, or
18 other association, transaction, or arrangement of any kind whether
19 or not such participation involves sharing or delegation of control
20 with or to others.

21 (k) Act as trustee under any trust incidental to the principal
22 objects of the corporation, and receive, hold, administer, exchange,
23 and expend funds and property subject to such trust.

24 (l) Carry on a business at a profit and apply any profit that results
25 from the business activity to any activity in which it may lawfully
26 engage.

27 (m) (1) In anticipation ~~of~~, of or during an emergency, take either
28 or both of the following actions necessary to conduct the
29 corporation's ordinary business operations and affairs, unless
30 emergency bylaws provide otherwise pursuant to subdivision (g)
31 of Section 7151:

32 (A) Modify lines of succession to accommodate the incapacity
33 of any director, officer, employee, or agent resulting from the
34 emergency.

35 (B) Relocate the principal office, designate alternative principal
36 offices or regional offices, or authorize the officers to do so.

37 (2) During an emergency, take either or both of the following
38 actions necessary to conduct the corporation's ordinary business
39 operations and affairs, unless emergency bylaws provide otherwise
40 pursuant to subdivision (g) of Section 7151:

1 (A) Give notice to a director or directors in any practicable
2 manner under the circumstances, including, but not limited to, by
3 publication and radio, when notice of a meeting of the board cannot
4 be given to that director or directors in the manner prescribed by
5 the bylaws or Section 7211.

6 (B) Deem that one or more officers of the corporation present
7 at a board meeting is a director, in order of rank and within the
8 same rank in order of seniority, as necessary to achieve a quorum
9 for that meeting.

10 (3) In anticipation of or during an emergency, the board may
11 not take any action that requires the vote of the members or is not
12 in the corporation’s ordinary course of business, unless the required
13 vote of the members was obtained prior to the emergency.

14 (4) Any actions taken in good faith in anticipation of or during
15 an emergency under this subdivision bind the corporation and may
16 not be used to impose liability on a corporate director, officer,
17 employee, or agent.

18 (5) For purposes of this subdivision, “emergency” means any
19 of the following events or circumstances as a result of which, and
20 only so long as, a quorum of the corporation’s board of directors
21 cannot be readily convened for action:

22 (A) A natural catastrophe, including, but not limited to, a
23 hurricane, tornado, storm, high water, wind-driven water, tidal
24 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
25 snowstorm, or drought, or, regardless of cause, any fire, flood, or
26 explosion.

27 (B) An attack on this state or nation by an enemy of the United
28 States of America, or upon receipt by this state of a warning from
29 the federal government indicating that an enemy attack is probable
30 or imminent.

31 (C) An act of terrorism or other manmade disaster that results
32 in extraordinary levels of casualties or damage or disruption
33 severely affecting the infrastructure, environment, economy,
34 government functions, or population, including, but not limited
35 to, mass evacuations.

36 (D) A state of emergency proclaimed by a governor or by the
37 President.

38 SEC. 6. Section 7151 of the Corporations Code is amended to
39 read:

1 7151. (a) The bylaws shall set forth (unless such provision is
2 contained in the articles, in which case it may only be changed by
3 an amendment of the articles) the number of directors of the
4 corporation, or the method of determining the number of directors
5 of the corporation, or that the number of directors shall be not less
6 than a stated minimum nor more than a stated maximum with the
7 exact number of directors to be fixed, within the limits specified,
8 by approval of the board or the members (Section 5034), in the
9 manner provided in the bylaws, subject to subdivision (e). The
10 number or minimum number of directors may be one or more.

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

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

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

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

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

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

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

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

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

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

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

38 (e) The bylaws may require, for any or all corporate actions
39 (except as provided in paragraphs (1) and (2) of subdivision (a) of
40 Section 7222, subdivision (c) of Section 7615, and Section 8610)

1 the vote of a larger proportion of, or all of, the members or the
 2 members of any class, unit, or grouping of members or the vote
 3 of a larger proportion of, or all of, the directors, than is otherwise
 4 required by this part. Such a provision in the bylaws requiring such
 5 greater vote shall not be altered, amended, or repealed except by
 6 such greater vote, unless otherwise provided in the bylaws.

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

10 (g) (1) The bylaws may contain any provision, not in conflict
 11 with the articles, to manage and conduct the ordinary business
 12 affairs of the corporation effective only in an emergency as defined
 13 in Section 7140, including, but not limited to, procedures for calling
 14 a board meeting, quorum requirements for a board meeting, and
 15 designation of additional or substitute directors.

16 (2) During an emergency, the board may not take any action
 17 that requires the vote of the members or otherwise is not in the
 18 corporation’s ordinary course of business, unless the required vote
 19 of the members was obtained prior to the emergency.

20 (3) All provisions of the regular bylaws consistent with the
 21 emergency bylaws shall remain effective during the emergency,
 22 and the emergency bylaws shall not be effective after the
 23 emergency ends.

24 (4) Corporate action taken in good faith in accordance with the
 25 emergency bylaws binds the corporation, and may not be used to
 26 impose liability on a corporate director, officer, employee, or agent.

27 SEC. 7. Section 9140 of the Corporations Code is amended to
 28 read:

29 9140. Subject to any limitations contained in the articles or
 30 bylaws and to compliance with other provisions of this division
 31 and any other applicable laws, a corporation, in carrying out its
 32 activities, shall have all of the powers of a natural person,
 33 including, without limitation, the power to:

34 (a) Adopt, use, and at will alter a corporate seal, but failure to
 35 affix a seal does not affect the validity of any instrument.

36 (b) Adopt, amend, and repeal bylaws.

37 (c) Qualify to conduct its activities in any other state, territory,
 38 dependency, or foreign country.

39 (d) Issue, purchase, redeem, receive, take or otherwise acquire,
 40 own, sell, lend, exchange, transfer or otherwise dispose of, pledge,

1 use, and otherwise deal in and with its own bonds, debentures,
2 notes, and debt securities.

3 (e) Issue memberships.

4 (f) Pay pensions, and establish and carry out pension, deferred
5 compensation, saving, thrift, and other retirement, incentive, and
6 benefit plans, trusts, and provisions for any or all of its directors,
7 officers, employees, and persons providing services to it or any of
8 its subsidiary or related or associated corporations, and to
9 indemnify and purchase and maintain insurance on behalf of any
10 fiduciary of such plans, trusts, or provisions.

11 (g) Levy dues, assessments, and fees.

12 (h) Make donations for the public welfare or for community
13 funds, hospital, charitable, educational, scientific, civic, religious,
14 or similar purposes.

15 (i) Assume obligations, enter into contracts, including contracts
16 of guarantee or suretyship, incur liabilities, borrow or lend money
17 or otherwise use its credit, and secure any of its obligations,
18 contracts or liabilities by mortgage, pledge, or other encumbrance
19 of all or any part of its property and income.

20 (j) Participate with others in any partnership, joint venture, or
21 other association, transaction, or arrangement of any kind whether
22 or not such participation involves sharing or delegation of control
23 with or to others.

24 (k) Act as trustee under any trust incidental to the principal
25 objects of the corporation, and receive, hold, administer, exchange,
26 and expend funds and property subject to such trust.

27 (l) Carry on a business at a profit and apply any profit that results
28 from the business activity to any activity in which it may lawfully
29 engage.

30 (m) Pay the reasonable value of services rendered in this state
31 to the corporation before January 1, 1975, and not previously paid,
32 by any person who performed such services on a full-time basis
33 under the direction of a religious organization in connection with
34 the religious tenets of the organization. Such person shall have
35 relied solely on the religious organization for his or her financial
36 support for a minimum of five years. A payment shall not be made
37 if such person or religious organization waives the payment or
38 receipt of compensation for such services in writing. Payment may
39 be made to such religious organization to reimburse it for
40 maintenance of any person who rendered such services and to

1 assist it in providing future support and maintenance; however,
2 payment shall not be made from any funds or assets acquired with
3 funds donated by or traceable to gifts made to the corporation by
4 any person, organization, or governmental agency other than the
5 members, immediate families of members, and affiliated religious
6 organizations of the religious organization under whose direction
7 the services were performed.

8 (n) (1) In anticipation of or during an emergency, take either
9 or both of the following actions necessary to conduct the
10 corporation's ordinary business operations and affairs, unless
11 emergency bylaws provide otherwise pursuant to subdivision (g)
12 of Section 9151:

13 (A) Modify lines of succession to accommodate the incapacity
14 of any director, officer, employee, or agent resulting from the
15 emergency.

16 (B) Relocate the principal office, designate alternative principal
17 offices or regional offices, or authorize the officers to do so.

18 (2) During an emergency, take either or both of the following
19 actions necessary to conduct the corporation's ordinary business
20 operations and affairs, unless emergency bylaws provide otherwise
21 pursuant to subdivision (g) of Section 9151:

22 (A) Give notice to a director or directors in any practicable
23 manner under the circumstances, including, but not limited to, by
24 publication and radio, when notice of a meeting of the board cannot
25 be given to that director or directors in the manner prescribed by
26 the bylaws or Section 9211.

27 (B) Deem that one or more officers of the corporation present
28 at a board meeting is a director, in order of rank and within the
29 same rank in order of seniority, as necessary to achieve a quorum
30 for that meeting.

31 (3) In anticipation of or during an emergency, the board may
32 not take any action that requires the vote of the members or is not
33 in the corporation's ordinary course of business, unless the required
34 vote of the members was obtained prior to the emergency.

35 (4) Any actions taken in good faith in anticipation of or during
36 an emergency under this subdivision bind the corporation and may
37 not be used to impose liability on a corporate director, officer,
38 employee, or agent.

39 (5) For purposes of this subdivision, "emergency" means any
40 of the following events or circumstances as a result of which, and

1 only so long as, a quorum of the corporation's board of directors
2 cannot be readily convened for action:

3 (A) A natural catastrophe, including, but not limited to, a
4 hurricane, tornado, storm, high water, wind-driven water, tidal
5 wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
6 snowstorm, or drought, or, regardless of cause, any fire, flood, or
7 explosion.

8 (B) An attack on this state or nation by an enemy of the United
9 States of America, or upon receipt by this state of a warning from
10 the federal government indicating that an enemy attack is probable
11 or imminent.

12 (C) An act of terrorism or other manmade disaster that results
13 in extraordinary levels of casualties or damage or disruption
14 severely affecting the infrastructure, environment, economy,
15 government functions, or population, including, but not limited
16 to, mass evacuations.

17 (D) A state of emergency proclaimed by a governor or by the
18 President.

19 SEC. 8. Section 9151 of the Corporations Code is amended to
20 read:

21 9151. (a) The bylaws shall set forth (unless such provision is
22 contained in the articles, in which case it may only be changed by
23 an amendment of the articles) the number of directors of the
24 corporation, or the method of determining the number of directors
25 of the corporation, or that the number of directors shall be not less
26 than a stated minimum nor more than a stated maximum with the
27 exact number of directors to be fixed, within the limits specified,
28 by approval of the board or the members (Section 5034), in the
29 manner provided in the bylaws, subject to subdivision (e) of
30 Section 9151. The number or minimum number of directors may
31 be one or more.

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

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

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

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

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

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

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

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

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

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

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

19 (e) The bylaws may require, for any or all corporate actions
20 (except as provided in Section 9222 and subdivision (b) of Section
21 9680), the vote of a larger proportion of, or all of, the members or
22 the members of any class, unit, or grouping of members, or the
23 vote of a larger proportion of, or all of, the directors than is
24 otherwise required by this part. Such a provision in the bylaws
25 requiring such greater vote shall not be altered, amended, or
26 repealed except by such greater vote, unless otherwise provided
27 in the bylaws.

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

31 (g) (1) The bylaws may contain any provision, not in conflict
32 with the articles, to manage and conduct the ordinary business
33 affairs of the corporation effective only in an emergency as defined
34 in Section 9140, including, but not limited to, procedures for calling
35 a board meeting, quorum requirements for a board meeting, and
36 designation of additional or substitute directors.

37 (2) During an emergency, the board may not take any action
38 that requires the vote of the members or otherwise is not in the
39 corporation's ordinary course of business, unless the required vote
40 of the members was obtained prior to the emergency.

1 (3) All provisions of the regular bylaws consistent with the
2 emergency bylaws shall remain effective during the emergency,
3 and the emergency bylaws shall not be effective after the
4 emergency ends.

5 (4) Corporate action taken in good faith in accordance with the
6 emergency bylaws binds the corporation, and may not be used to
7 impose liability on a corporate director, officer, employee, or agent.

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