



General Assembly

February Session, 2008

Raised Bill No. 440

LCO No. 2061

02061_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE CONNECTICUT BUSINESS CORPORATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 33-855 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 As used in sections 33-855 to 33-872, inclusive, as amended by this
4 act, and section 4 of this act:

5 (1) "Affiliate" means a person that directly or indirectly through one
6 or more intermediaries controls, is controlled by or is under common
7 control with another person or is a senior executive thereof. For
8 purposes of subdivision (4) of subsection (b) of section 33-856, a person
9 is deemed to be an affiliate of its senior executives.

10 (2) "Beneficial shareholder" means a person who is the beneficial
11 owner of shares held in a voting trust or by a nominee on the beneficial
12 owner's behalf.

13 (3) "Corporation" means the issuer of the shares held by a
14 shareholder demanding appraisal and, for purposes of sections 33-862

15 to 33-872, inclusive, as amended by this act, and section 4 of this act,
16 includes the surviving entity in a merger.

17 (4) "Fair value" means the value of the corporation's shares
18 determined: (A) Immediately before the effectuation of the corporate
19 action to which the shareholder objects, (B) using customary and
20 current valuation concepts and techniques generally employed for
21 similar businesses in the context of the transaction requiring appraisal,
22 and (C) without discounting for lack of marketability or minority
23 status except, if appropriate, for amendments to the certificate of
24 incorporation pursuant to subdivision (5) of subsection (a) of section
25 33-856.

26 (5) "Interest" means interest from the effective date of the corporate
27 action until the date of payment, at the rate of interest on judgments in
28 this state on the effective date of the corporate action.

29 (6) "Interested transaction" means a corporate action specified in
30 subsection (a) of section 33-856, as amended by this act, other than a
31 merger pursuant to section 33-818, involving an interested person in
32 which any of the shares or assets of the corporation are being acquired
33 or converted. As used in this definition: (A) "Interested person" means
34 a person, or an affiliate of a person, who at any time during the one-
35 year period immediately preceding approval by the board of directors
36 of the corporate action: (i) Was the beneficial owner of twenty per cent
37 or more of the voting power of the corporation, excluding any shares
38 acquired pursuant to an offer for all shares having voting power if the
39 offer was made within one year prior to the corporate action for
40 consideration of the same kind and of a value equal to or less than that
41 paid in connection with the corporate action; (ii) had the power,
42 contractually or otherwise, to cause the appointment or election of
43 twenty-five per cent or more of the directors to the board of directors
44 of the corporation; or (iii) was a senior executive or director of the
45 corporation or a senior executive of any affiliate thereof, and that
46 senior executive or director will receive, as a result of the corporate

47 action, a financial benefit not generally available to other shareholders
48 as such, other than: (I) Employment, consulting, retirement or similar
49 benefits established separately and not as part of or in contemplation
50 of the corporate action; or (II) employment, consulting, retirement or
51 similar benefits established in contemplation of, or as part of, the
52 corporate action that are not more favorable than those existing before
53 the corporate action or, if more favorable, that have been approved on
54 behalf of the corporation in the same manner as is provided in section
55 33-783; or (III) in the case of a director of the corporation who will, in
56 the corporate action, become a director of the acquiring entity in the
57 corporate action or one of its affiliates, rights and benefits as a director
58 that are provided on the same basis as those afforded by the acquiring
59 entity generally to other directors of such entity or such affiliate; and
60 (B) "beneficial owner" means any person who, directly or indirectly,
61 through any contract, arrangement or understanding, other than a
62 revocable proxy, has or shares the power to vote, or to direct the
63 voting of, shares; except that a member of a national securities
64 exchange is not deemed to be a beneficial owner of securities held
65 directly or indirectly by it on behalf of another person solely because
66 the member is the record holder of the securities if the member is
67 precluded by the rules of the exchange from voting without instruction
68 on contested matters or matters that may affect substantially the rights
69 or privileges of the holders of the securities to be voted. When two or
70 more persons agree to act together for the purpose of voting their
71 shares of the corporation, each member of the group formed thereby is
72 deemed to have acquired beneficial ownership, as of the date of the
73 agreement, of all voting shares of the corporation beneficially owned
74 by any member of the group.

75 [(6)] (7) "Preferred shares" means a class or series of shares whose
76 holders have preference over any other class or series with respect to
77 distributions.

78 [(7)] (8) "Record shareholder" means the person in whose name
79 shares are registered in the records of the corporation or the beneficial

80 owner of shares to the extent of the rights granted by a nominee
81 certificate on file with the corporation.

82 [(8)] (9) "Senior executive" means the chief executive officer, chief
83 operating officer, chief financial officer and any individual in charge of
84 a principal business unit or function.

85 [(9)] (10) "Shareholder" means both a record shareholder and a
86 beneficial shareholder.

87 Sec. 2. Section 33-862 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2008*):

89 (a) If proposed corporate action requiring appraisal rights under
90 subsection (a) of section 33-856, as amended by this act, becomes
91 effective, the corporation must deliver a written appraisal notice and
92 form required by subdivision (1) of subsection (b) of this section to all
93 shareholders who satisfied the requirements of section 33-861. In the
94 case of a merger under section 33-818, the parent must deliver a
95 written appraisal notice and form to all record shareholders who may
96 be entitled to assert appraisal rights.

97 (b) The appraisal notice [shall] must be sent no earlier than the date
98 the corporate action specified in subsection (a) of section 33-856, as
99 amended by this act, became effective, and no later than ten days after
100 such date, and shall:

101 (1) Supply a form that (A) specifies the first date of [the first] any
102 announcement to shareholders made prior to the date the corporate
103 action became effective of the principal terms of the proposed
104 corporate action, [and] (B) if such announcement was made, requires
105 the shareholder asserting appraisal rights to certify [(A)] whether [or
106 not] beneficial ownership of those shares for which appraisal rights are
107 asserted [were] was acquired before that date, and [(B) that the] (C)
108 requires the shareholder asserting appraisal rights to certify that such
109 shareholder did not vote for or consent to the transaction;

110 (2) State:

111 (A) Where the form must be sent and where certificates for
112 certificated shares must be deposited and the date by which those
113 certificates must be deposited, which date may not be earlier than the
114 date for receiving the required form under subparagraph (B) of this
115 subdivision;

116 (B) A date by which the corporation must receive the form which
117 date may not be fewer than forty nor more than sixty days after the
118 date the appraisal notice and form under subsection (a) of this section
119 are sent, and state that the shareholder shall have waived the right to
120 demand appraisal with respect to the shares unless the form is
121 received by the corporation by such specified date;

122 (C) The corporation's estimate of the fair value of the shares;

123 (D) That, if requested in writing, the corporation will provide, to the
124 shareholder so requesting, within ten days after the date specified in
125 subparagraph (B) of this subdivision, the number of shareholders who
126 return the forms by the specified date and the total number of shares
127 owned by them; and

128 (E) The date by which the notice to withdraw under section 33-863,
129 as amended by this act, must be received, which date must be within
130 twenty days after the date specified in subparagraph (B) of this
131 subdivision; and

132 (3) Be accompanied by a copy of sections 33-855 to 33-872, inclusive,
133 as amended by this act, and section 4 of this act.

134 Sec. 3. Section 33-856 of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2008*):

136 (a) A shareholder is entitled to appraisal rights, and to obtain
137 payment of the fair value of that shareholder's shares, in the event of
138 any of the following corporate actions:

139 (1) Consummation of a merger to which the corporation is a party
140 (A) if shareholder approval is required for the merger by section 33-
141 817 and the shareholder is entitled to vote on the merger, except that
142 appraisal rights shall not be available to any shareholder of the
143 corporation with respect to shares of any class or series that remain
144 outstanding after consummation of the merger, or (B) if the
145 corporation is a subsidiary and the merger is governed by section 33-
146 818;

147 (2) Consummation of a share exchange to which the corporation is a
148 party as the corporation whose shares will be acquired, if the
149 shareholder is entitled to vote on the exchange, except that appraisal
150 rights shall not be available to any shareholder of the corporation with
151 respect to any class or series of shares of the corporation that is not
152 exchanged;

153 (3) Consummation of a disposition of assets pursuant to section 33-
154 831 if the shareholder is entitled to vote on the disposition;

155 (4) An amendment of the certificate of incorporation with respect to
156 a class or series of shares that reduces the number of shares of a class
157 or series owned by the shareholder to a fraction of a share if the
158 corporation has the obligation or right to repurchase the fractional
159 share so created; or

160 (5) Any other merger, share exchange, disposition of assets or
161 amendment to the certificate of incorporation to the extent provided by
162 the certificate of incorporation, the bylaws or a resolution of the board
163 of directors.

164 (b) Notwithstanding subsection (a) of this section, the availability of
165 appraisal rights under subdivisions (1), (2), (3) and (4) of subsection (a)
166 of this section shall be limited in accordance with the following
167 provisions:

168 (1) Appraisal rights shall not be available for the holders of shares of

169 any class or series of shares which is:

170 (A) [Listed on the New York Stock Exchange or the American Stock
171 Exchange or designated as a National Market System security on an
172 interdealer quotation system by the National Association of Securities
173 Dealers, Inc.; or] A covered security under Section 18(b)(1)(A) or (B) of
174 the Securities Act of 1933, as amended;

175 (B) [not so listed or designated but] Traded in an organized market
176 and has at least two thousand shareholders and [the outstanding
177 shares of such class or series has] a market value of at least twenty
178 million dollars, exclusive of the value of such shares held by [its] the
179 corporation's subsidiaries, senior executives, directors and beneficial
180 shareholders owning more than ten per cent of such shares; or

181 (C) Issued by an open-end management investment company
182 registered with the Securities and Exchange Commission under the
183 Investment Company Act of 1940 and may be redeemed at the option
184 of the holder at net asset value.

185 (2) The applicability of subdivision (1) of this subsection shall be
186 determined as of: (A) The record date fixed to determine the
187 shareholders entitled to receive notice of, and to vote at, the meeting of
188 shareholders to act upon the corporate action requiring appraisal
189 rights; or (B) the day before the effective date of such corporate action
190 if there is no meeting of shareholders.

191 (3) Subdivision (1) of this subsection shall not be applicable and
192 appraisal rights shall be available pursuant to subsection (a) of this
193 section for the holders of any class or series of shares who are required
194 by the terms of the corporate action requiring appraisal rights to accept
195 for such shares anything other than cash or shares of any class or any
196 series of shares of any corporation, or any other proprietary interest of
197 any other entity, that satisfies the standards set forth in subdivision (1)
198 of this subsection at the time the corporate action becomes effective.

199 [(4) Subdivision (1) of this subsection shall not be applicable and
200 appraisal rights shall be available pursuant to subsection (a) of this
201 section for the holders of any class or series of shares where:

202 (A) Any of the shares or assets of the corporation are being acquired
203 or converted, whether by merger, share exchange or otherwise,
204 pursuant to the corporate action by a person, or by an affiliate of a
205 person, who:

206 (i) Is, or at any time in the one-year period immediately preceding
207 approval by the board of directors of the corporate action requiring
208 appraisal rights was, the beneficial owner of twenty per cent or more
209 of the voting power of the corporation, excluding any shares acquired
210 pursuant to an offer for all shares having voting power if such offer
211 was made within one year prior to the corporate action requiring
212 appraisal rights for consideration of the same kind and of a value
213 equal to or less than that paid in connection with the corporate action;
214 or

215 (ii) Directly or indirectly has, or at any time in the one-year period
216 immediately preceding approval by the board of directors of the
217 corporate action requiring appraisal rights had, the power,
218 contractually or otherwise, to cause the appointment or election of
219 twenty-five per cent or more of the directors to the board of directors
220 of the corporation; or

221 (B) Any of the shares or assets of the corporation are being acquired
222 or converted, whether by merger, share exchange or otherwise,
223 pursuant to such corporate action by a person, or by an affiliate of a
224 person, who is, or at any time in the one-year period immediately
225 preceding approval by the board of directors of the corporate action
226 requiring appraisal rights was, a senior executive or director of the
227 corporation or a senior executive of any affiliate thereof, and that
228 senior executive or director will receive, as a result of the corporate
229 action, a financial benefit not generally available to other shareholders
230 as such, other than:

231 (i) Employment, consulting, retirement or similar benefits
232 established separately and not as part of or in contemplation of the
233 corporate action; or

234 (ii) Employment, consulting, retirement or similar benefits
235 established in contemplation of, or as part of, the corporate action that
236 are not more favorable than those existing before the corporate action
237 or, if more favorable, that have been approved on behalf of the
238 corporation in the same manner as is provided in section 33-783; or

239 (iii) In the case of a director of the corporation who will, in the
240 corporate action, become a director of the acquiring entity in the
241 corporate action or one of its affiliates, rights and benefits as a director
242 that are provided on the same basis as those afforded by the acquiring
243 entity generally to other directors of such entity or such affiliate.

244 (5) For the purposes of subdivision (4) of this subsection, "beneficial
245 owner" means any person who, directly or indirectly, through any
246 contract, arrangement or understanding, other than a revocable proxy,
247 has or shares the power to vote, or to direct the voting of, shares,
248 provided a member of a National Securities Exchange shall not be
249 deemed to be a beneficial owner of securities held directly or indirectly
250 by it on behalf of another person solely because such member is the
251 record holder of such securities if the member is precluded by the rules
252 of such exchange from voting without instruction on contested matters
253 or matters that may affect substantially the rights or privileges of the
254 holders of the securities to be voted. When two or more persons agree
255 to act together for the purpose of voting their shares of the corporation,
256 each member of the group formed thereby shall be deemed to have
257 acquired beneficial ownership, as of the date of such agreement, of all
258 voting shares of the corporation beneficially owned by any member of
259 the group.]

260 (4) Subdivision (1) of this subsection shall not be applicable and
261 appraisal rights shall be available pursuant to subsection (a) of this
262 section for the holders of any class or series of shares where the

263 corporate action is an interested transaction.

264 (c) Notwithstanding any other provision of this section, the
265 certificate of incorporation as originally filed or any amendment
266 thereto may limit or eliminate appraisal rights for any class or series of
267 preferred shares, but any such limitation or elimination contained in
268 an amendment to the certificate of incorporation that limits or
269 eliminates appraisal rights for any of such shares that are outstanding
270 immediately prior to the effective date of such amendment or that the
271 corporation is or may be required to issue or sell thereafter pursuant to
272 any conversion, exchange or other right existing immediately before
273 the effective date of such amendment shall not apply to any corporate
274 action that becomes effective within one year of that date if such action
275 would otherwise afford appraisal rights.

276 (d) Where the right to be paid the value of shares is made available
277 to a shareholder by this section, such remedy shall be the exclusive
278 remedy as holder of such shares against the corporate transactions
279 described in this section, whether or not the shareholder proceeds as
280 provided in sections 33-855 to 33-872, inclusive, as amended by this
281 act, and section 4 of this act.

282 Sec. 4. (NEW) (*Effective October 1, 2008*) (a) The legality of a
283 proposed or completed corporate action specified in subsection (a) of
284 section 33-856 of the general statutes, as amended by this act, may not
285 be contested, nor may the corporate action be enjoined, set aside or
286 rescinded, in a legal or equitable proceeding by a shareholder after the
287 shareholders have approved the corporate action.

288 (b) Subsection (a) of this section does not apply to a corporate action
289 that:

290 (1) Was not authorized and approved in accordance with the
291 applicable provisions of:

292 (A) Part IX, X or XI of chapter 601 of the general statutes;

293 (B) The certificate of incorporation or bylaws; or

294 (C) The resolution of the board of directors authorizing the
295 corporate action;

296 (2) Was procured as a result of fraud, a material misrepresentation
297 or an omission of a material fact necessary to make statements made,
298 in light of the circumstances in which they were made, not misleading;

299 (3) Is an interested transaction, unless it has been recommended by
300 the board of directors in the same manner as is provided in section 33-
301 783 of the general statutes and has been approved by the shareholders
302 in the same manner as is provided in section 33-784 of the general
303 statutes as if the interested transaction were a director's conflicting
304 interest transaction; or

305 (4) Is approved by less than unanimous consent of the voting
306 shareholders pursuant to section 33-698 of the general statutes, as
307 amended by this act, if:

308 (A) The challenge to the corporate action is brought by a
309 shareholder who did not consent and as to whom notice of the
310 approval of the corporate action was not effective at least ten days
311 before the corporate action was effected; and

312 (2) The proceeding challenging the corporate action is commenced
313 within ten days after notice of the approval of the corporate action is
314 effective as to the shareholder bringing the proceeding.

315 Sec. 5. Section 33-698 of the general statutes is repealed and the
316 following is substituted in lieu thereof (*Effective October 1, 2008*):

317 [(a) Any action which, under any provision of sections 33-600 to 33-
318 998, inclusive, may be taken at a meeting of shareholders may be taken
319 without a meeting as follows: (1) By one or more consents in writing,
320 setting forth the action so taken or to be taken, bearing the date of
321 signature and signed by all of the persons who would be entitled to

322 vote upon such action at a meeting, or by their duly authorized
323 attorneys, which action for purposes of this section is hereafter referred
324 to as "unanimous written consent"; or (2) if the certificate of
325 incorporation so provides, by one or more consents in writing, bearing
326 the date of signature and setting forth the action to be taken, signed by
327 persons holding such designated proportion, not less than a majority,
328 of the voting power of shares, or of the shares of any particular class,
329 entitled to vote thereon or to take such action, as may be provided in
330 the certificate of incorporation, or their duly authorized attorneys;
331 except that directors may not be elected by action of shareholders
332 without a meeting of shareholders other than by unanimous written
333 consent, or pursuant to a plan of merger. If action is proposed to be
334 taken by written consent of less than all of such persons, or their duly
335 authorized attorneys, notice in writing of such proposed action shall be
336 given to each person who would be entitled to vote thereon at a
337 meeting held for that purpose. Such notice shall be given in the
338 manner of giving notice of a meeting of shareholders not less than
339 twenty days nor more than fifty days before the date any such
340 consents are to become effective. If not less than five days before the
341 date any such consents are to become effective, the secretary of the
342 corporation shall have received from such persons, or their duly
343 authorized attorneys, holding not less than one-tenth of the voting
344 power of all shares entitled to vote at such a meeting, a demand in
345 writing that such action not be taken by written consent, all persons to
346 whom such notice was given shall be so notified, and the corporation
347 shall not take such proposed action except at a meeting of
348 shareholders. The secretary shall file such consent or consents, or
349 certify the tabulation of such consents and file such certificate, with the
350 minutes of the meetings of the shareholders.]

351 (a) Action required or permitted under any provision of sections 33-
352 600 to 33-998, inclusive, as amended by this act, to be taken at a
353 shareholders' meeting may be taken without a meeting if the action is
354 taken by all the shareholders entitled to vote on the action. The action
355 must be evidenced by one or more written consents bearing the date of

356 signature and describing the action taken, signed by all the
357 shareholders entitled to vote on the action and delivered to the
358 corporation for inclusion in the minutes or filing with the corporate
359 records.

360 (b) The certificate of incorporation may provide that any action
361 required or permitted by any provision of sections 33-600 to 33-998,
362 inclusive, as amended by this act, to be taken at a shareholders'
363 meeting may be taken without a meeting, and without prior notice, if
364 consents in writing setting forth the action so taken are signed by the
365 holders of outstanding shares having not less than the minimum
366 number of votes that would be required to authorize or take the action
367 at a meeting at which all shares entitled to vote on the action were
368 present and voted. The written consent shall bear the date of signature
369 of the shareholder who signs the consent and be delivered to the
370 corporation for inclusion in the minutes or filing with the corporate
371 records.

372 [(b)] (c) If not otherwise fixed under section [33-697 or] 33-701, and
373 if prior board action is not required respecting the action to be taken
374 without a meeting, the record date for determining the shareholders
375 entitled to take action without a meeting [is the date the first
376 shareholder signs the consent under subsection (a) of this section] shall
377 be the first date on which a signed written consent is delivered to the
378 corporation. If not otherwise fixed under section 33-701 and if prior
379 board action is required respecting the action to be taken without a
380 meeting, the record date shall be the close of business on the day the
381 resolution of the board taking such prior action is adopted. No written
382 consent shall be effective to take the corporate action referred to
383 therein unless, within sixty days of the earliest date [appearing] on
384 which a consent delivered to the corporation [in the manner] as
385 required by this section was signed, written consents signed by
386 [shareholders sufficient in number to take corporate action are
387 received by] the holders of shares having sufficient votes to take the
388 action have been delivered to the corporation. A written consent may

389 be revoked by a writing to that effect [, provided such revocation shall
390 not be effective if it is received by the corporation after the corporation
391 has received a sufficient number of unrevoked written consents to take
392 corporate action] delivered to the corporation before unrevoked
393 written consents sufficient to take the corporate action are delivered to
394 the corporation.

395 [(c)] (d) A consent signed [under] pursuant to the provisions of this
396 section has the effect of a [meeting] vote taken at a meeting and may be
397 described as such in any document. Unless the certificate of
398 incorporation, the bylaws or a resolution of the board of directors
399 provides for a reasonable delay to permit tabulation of written
400 consents, the action taken by written consent shall be effective when
401 written consents signed by the holders of shares having sufficient
402 votes to take the action are delivered to the corporation.

403 (e) If any provision of sections 33-600 to 33-998, inclusive, as
404 amended by this act, requires that notice of a proposed action be given
405 to nonvoting shareholders and the action is to be taken by written
406 consent of the voting shareholders, the corporation must give its
407 nonvoting shareholders written notice of the action not more than ten
408 days after (1) written consents sufficient to take the action have been
409 delivered to the corporation, or (2) such later date that tabulation of
410 consents is completed pursuant to an authorization under subsection
411 (d) of this section. The notice must reasonably describe the action taken
412 and contain or be accompanied by the same material that, under any
413 provision of sections 33-600 to 33-998, inclusive, as amended by this
414 act, would have been required to be sent to nonvoting shareholders in
415 a notice of a meeting at which the proposed action would have been
416 submitted to the shareholders for action.

417 (f) If action is taken by less than unanimous written consent of the
418 voting shareholders, the corporation must give its nonconsenting
419 voting shareholders written notice of the action not more than ten days
420 after (A) written consents sufficient to take the action have been

421 delivered to the corporation, or (B) such later date that tabulation of
422 consents is completed pursuant to an authorization under subsection
423 (d) of this section. The notice must reasonably describe the action taken
424 and contain or be accompanied by the same material that, under any
425 provision of sections 33-600 to 33-998, inclusive, as amended by this
426 act, would have been required to be sent to voting shareholders in a
427 notice of a meeting at which the action would have been submitted to
428 the shareholders for action.

429 (g) The notice requirements in subsections (e) and (f) of this section
430 shall not delay the effectiveness of actions taken by written consent,
431 and a failure to comply with such notice requirements shall not
432 invalidate actions taken by written consent, provided this subsection
433 shall not be deemed to limit judicial power to fashion any appropriate
434 remedy in favor of a shareholder adversely affected by a failure to give
435 such notice within the required time period.

436 (h) An electronic transmission may be used to consent to an action,
437 if the electronic transmission contains or is accompanied by
438 information from which the corporation can determine the date on
439 which the electronic transmission was signed and that the electronic
440 transmission was authorized by the shareholder, the shareholder's
441 agent or the shareholder's attorney-in-fact.

442 (i) Delivery of a written consent to the corporation under this
443 section is delivery to the corporation's registered agent at its registered
444 office or to the secretary of the corporation at its principal office.

445 Sec. 6. Section 33-695 of the general statutes is repealed and the
446 following is substituted in lieu thereof (*Effective October 1, 2008*):

447 (a) [A] Unless directors are elected by written consent in lieu of an
448 annual meeting as permitted by section 33-698, as amended by this act,
449 a corporation shall hold a meeting of shareholders annually at a time
450 stated in or fixed in accordance with the bylaws, provided, if a
451 corporation's certificate of incorporation authorizes shareholders to

452 cumulate their votes when electing directors pursuant to section 33-
453 712, as amended by this act, directors may not be elected by less than
454 unanimous written consent.

455 (b) Annual shareholders' meetings may be held in or out of this state
456 at the place stated in or fixed in accordance with the bylaws. If no place
457 is stated in or fixed in accordance with the bylaws, annual meetings
458 shall be held at the corporation's principal office.

459 (c) The failure to hold an annual meeting at the time stated in or
460 fixed in accordance with a corporation's bylaws does not affect the
461 validity of any corporate action.

462 Sec. 7. Section 33-697 of the general statutes is repealed and the
463 following is substituted in lieu thereof (*Effective October 1, 2008*):

464 (a) The superior court for the judicial district where a corporation's
465 principal office or, if none in this state, its registered office is located
466 may summarily order a meeting to be held: (1) On application of any
467 shareholder of the corporation entitled to participate in an annual
468 meeting if an annual meeting was not held or action by written consent
469 in lieu thereof did not become effective within the earlier of six months
470 after the end of the corporation's fiscal year or fifteen months after its
471 last annual meeting; or (2) on application of a shareholder who signed
472 a demand for a special meeting valid under section 33-696, if: (A)
473 Notice of the special meeting was not given within thirty days after the
474 date the demand was delivered to the corporation's secretary; or (B)
475 the special meeting was not held in accordance with the notice.

476 (b) The court may fix the time and place of the meeting, determine
477 the shares entitled to participate in the meeting, specify a record date
478 for determining shareholders entitled to notice of and to vote at the
479 meeting, prescribe the form and content of the meeting notice, fix the
480 quorum required for specific matters to be considered at the meeting,
481 or direct that the votes represented at the meeting constitute a quorum
482 for action on those matters, and enter other orders necessary to

483 accomplish the purpose or purposes of the meeting.

484 Sec. 8. Section 33-712 of the general statutes is repealed and the
485 following is substituted in lieu thereof (*Effective October 1, 2008*):

486 (a) Unless otherwise provided in the certificate of incorporation,
487 directors are elected by a plurality of the votes cast by the shares
488 entitled to vote in the election at a meeting at which a quorum is
489 present.

490 (b) Shareholders do not have a right to cumulate their votes for
491 directors unless the certificate of incorporation so provides.

492 (c) A statement included in the certificate of incorporation that "all
493 or a designated voting group of shareholders are entitled to cumulate
494 their votes for directors", or words of similar import, means that the
495 shareholders designated are entitled to multiply the number of votes
496 they are entitled to cast by the number of directors for whom they are
497 entitled to vote and cast the product for a single candidate or distribute
498 the product among two or more candidates.

499 (d) Shares otherwise entitled to vote cumulatively may not be voted
500 cumulatively at a particular meeting unless: (1) The meeting notice or
501 proxy statement accompanying the notice states conspicuously that
502 cumulative voting is authorized; or (2) a shareholder who has the right
503 to cumulate [his] votes gives notice to the corporation not less than
504 forty-eight hours before the time set for the meeting of [his] the
505 shareholder's intent to cumulate [his] votes during the meeting, and, if
506 one shareholder gives this notice, all other shareholders in the same
507 voting group participating in the election are entitled to cumulate their
508 votes without giving further notice.

509 Sec. 9. Section 33-860 of the general statutes is repealed and the
510 following is substituted in lieu thereof (*Effective October 1, 2008*):

511 (a) [If proposed] Where any corporate action [described] specified in
512 subsection (a) of section 33-856, as amended by this act, is to be

513 submitted to a vote at a shareholders' meeting, the meeting notice
514 [shall] must state that the corporation has concluded that the
515 shareholders are, are not or may be entitled to assert appraisal rights
516 under sections 33-855 to 33-872, inclusive, as amended by this act, and
517 section 4 of this act. If the corporation concludes that appraisal rights
518 are or may be available, a copy of sections 33-855 to 33-872, inclusive,
519 as amended by this act, and section 4 of this act, must accompany the
520 meeting notice sent to those record shareholders entitled to exercise
521 appraisal rights.

522 (b) In a merger pursuant to section 33-818, the parent corporation
523 must notify in writing all record shareholders of the subsidiary who
524 are entitled to assert appraisal rights that the corporate action became
525 effective. Such notice must be sent within ten days after the corporate
526 action became effective and include the materials described in section
527 33-862, as amended by this act.

528 (c) Where any corporate action specified in subsection (a) of section
529 33-856, as amended by this act, is to be approved by written consent of
530 the shareholders pursuant to section 33-698, as amended by this act:

531 (1) Written notice that appraisal rights are, are not or may be
532 available must be given to each record shareholder from whom a
533 consent is solicited at the time consent of such shareholder is first
534 solicited and, if the corporation has concluded that appraisal rights are
535 or may be available, must be accompanied by a copy of sections 33-855
536 to 33-872, inclusive, as amended by this act, and section 4 of this act;
537 and

538 (2) Written notice that appraisal rights are, are not or may be
539 available must be delivered together with the notice to nonvoting and
540 nonconsenting shareholders required by subsections (e) and (f) of
541 section 33-698, as amended by this act, may include the materials
542 described in section 33-862, as amended by this act, and, if the
543 corporation has concluded that appraisal rights are or may be
544 available, must be accompanied by a copy of sections 33-855 to 33-872,

545 inclusive, as amended by this act, and section 4 of this act.

546 Sec. 10. Section 33-861 of the general statutes is repealed and the
547 following is substituted in lieu thereof (*Effective October 1, 2008*):

548 (a) If [proposed] a corporate action [requiring appraisal rights
549 under] specified in subsection (a) of section 33-856, as amended by this
550 act, is submitted to a vote at a shareholders' meeting, a shareholder
551 who wishes to assert appraisal rights with respect to any class or series
552 of shares: (1) Must deliver to the corporation, before the vote is taken,
553 written notice of the shareholder's intent to demand payment if the
554 proposed action is effectuated, and (2) must not vote, or cause or
555 permit to be voted, any shares of such class or series in favor of the
556 proposed action.

557 (b) If a corporate action specified in subsection (a) of section 33-856,
558 as amended by this act, is to be approved by less than unanimous
559 written consent, a shareholder who wishes to assert appraisal rights
560 with respect to any class or series of shares must not execute a consent
561 in favor of the proposed action with respect to that class or series of
562 shares.

563 [(b)] (c) A shareholder who [does not] fails to satisfy the
564 requirements of subsection (a) or (b) of this section is not entitled to
565 payment under sections 33-855 to 33-872, inclusive, as amended by this
566 act, and section 4 of this act.

567 Sec. 11. Section 33-863 of the general statutes is repealed and the
568 following is substituted in lieu thereof (*Effective October 1, 2008*):

569 (a) A shareholder who receives notice pursuant to section 33-862, as
570 amended by this act, and who wishes to exercise appraisal rights must
571 [certify on] sign and return the form sent by the corporation and, in the
572 case of certificated shares, deposit the shareholder's certificates in
573 accordance with the terms of the notice by the date referred to in the
574 notice pursuant to subparagraph (B) of subdivision (2) of subsection

575 (b) of section 33-862, as amended by this act. In addition, if applicable,
576 the shareholder must certify on the form whether the beneficial owner
577 of such shares acquired beneficial ownership of the shares before the
578 date required to be set forth in the notice pursuant to subdivision (1) of
579 subsection (b) of [said] section 33-862, as amended by this act. If a
580 shareholder fails to make this certification, the corporation may elect to
581 treat the shareholder's shares as after-acquired shares under section 33-
582 867, as amended by this act. [In addition, a shareholder who wishes to
583 exercise appraisal rights must execute and return the form and, in the
584 case of certificated shares, deposit the shareholder's certificates in
585 accordance with the terms of the notice by the date referred to in the
586 notice pursuant to subparagraph (B) of subdivision (2) of subsection
587 (b) of section 33-862.] Once a shareholder deposits [the] that
588 shareholder's certificates or, in the case of uncertificated shares, returns
589 the [executed] signed forms, [the] that shareholder loses all rights as a
590 shareholder, unless the shareholder withdraws pursuant to subsection
591 (b) of this section.

592 (b) A shareholder who has complied with subsection (a) of this
593 section may nevertheless decline to exercise appraisal rights and
594 withdraw from the appraisal process by so notifying the corporation in
595 writing by the date set forth in the appraisal notice pursuant to
596 subparagraph (E) of subdivision (2) of subsection (b) of section 33-862,
597 as amended by this act. A shareholder who fails to so withdraw from
598 the appraisal process may not thereafter withdraw without the
599 corporation's written consent.

600 (c) A shareholder who does not [execute] sign and return the form
601 and, in the case of certificated shares, deposit [the] that shareholder's
602 share certificates where required, each by the date set forth in the
603 notice described in subsection (b) of section 33-862, as amended by this
604 act, shall not be entitled to payment under sections 33-855 to 33-872,
605 inclusive, as amended by this act, and section 4 of this act.

606 Sec. 12. Subsection (a) of section 33-867 of the general statutes is

607 repealed and the following is substituted in lieu thereof (*Effective*
608 *October 1, 2008*):

609 (a) A corporation may elect to withhold payment required by
610 section 33-865, as amended by this act, from any shareholder who was
611 required to, but did not certify that beneficial ownership of all of the
612 shareholder's shares for which appraisal rights are asserted was
613 acquired before the date set forth in the appraisal notice sent pursuant
614 to subdivision (1) of subsection (b) of section 33-862, as amended by
615 this act.

616 Sec. 13. Section 33-739 of the general statutes is repealed and the
617 following is substituted in lieu thereof (*Effective October 1, 2008*):

618 (a) The terms of the initial directors of a corporation expire at the
619 first shareholders' meeting at which directors are elected.

620 (b) The terms of all other directors expire at the next or, if their
621 terms are staggered in accordance with section 33-740, at the applicable
622 second, third, fourth or fifth, annual shareholders' meeting following
623 their election [unless their terms are staggered under section 33-740]
624 except to the extent (1) provided in section 14 of this act if a bylaw
625 electing to be governed by that section is in effect, or (2) a shorter term
626 is specified in the certificate of incorporation in the event of a director
627 nominee failing to receive a specified vote for election.

628 (c) A decrease in the number of directors does not shorten an
629 incumbent director's term.

630 (d) The term of a director elected to fill a vacancy expires at the next
631 shareholders' meeting at which directors are elected.

632 (e) [Despite] Except to the extent otherwise provided in the
633 certificate of incorporation or under section 14 of this act if a bylaw
634 electing to be governed by that section is in effect, despite the
635 expiration of a director's term, [he] the director continues to serve until
636 [his] the director's successor is elected and qualifies or until there is a

637 decrease in the number of directors.

638 Sec. 14. (NEW) (*Effective October 1, 2008*) (a) Unless the certificate of
639 incorporation specifically prohibits the adoption of a bylaw pursuant
640 to this section, alters the vote specified in subsection (a) of section 33-
641 712 of the general statutes, as amended by this act, or provides for
642 cumulative voting, a public corporation may elect in its bylaws to be
643 governed in the election of directors as follows:

644 (1) Each vote entitled to be cast may be voted for or against up to
645 that number of candidates that is equal to the number of directors to be
646 elected, or a shareholder may indicate an abstention, but without
647 cumulating the votes;

648 (2) To be elected, a nominee must have received a plurality of the
649 votes cast by holders of shares entitled to vote in the election at a
650 meeting at which a quorum is present, provided a nominee who is
651 elected but receives more votes against than for election shall serve as
652 a director for a term that shall terminate on the date that is the earlier
653 of (A) ninety days from the date on which the voting results are
654 determined pursuant to subdivision (5) of subsection (b) of section 33-
655 713 of the general statutes, or (B) the date on which an individual is
656 selected by the board of directors to fill the office held by such director,
657 which selection shall be deemed to constitute the filling of a vacancy
658 by the board to which section 33-744 of the general statutes applies.
659 Subject to subdivision (3) of this subsection, a nominee who is elected
660 but receives more votes against than for election shall not serve as a
661 director beyond the ninety-day period specified in subparagraph (A)
662 of this subdivision; and

663 (3) The board of directors may select any qualified individual to fill
664 the office held by a director who received more votes against than for
665 election.

666 (b) Subsection (a) of this section does not apply to an election of
667 directors by a voting group if (1) at the expiration of the time fixed

668 under a provision requiring advance notification of director
669 candidates, or (2) absent such a provision, at a time fixed by the board
670 of directors which is not more than fourteen days before notice is given
671 of the meeting at which the election is to occur, there are more
672 candidates for election by the voting group than the number of
673 directors to be elected, one or more of whom are properly proposed by
674 shareholders. An individual shall not be considered a candidate for
675 purposes of this subsection if the board of directors determines before
676 the notice of meeting is given that such individual's candidacy does
677 not create a bona fide election contest.

678 (c) A bylaw electing to be governed by this section may be repealed:

679 (1) If originally adopted by the shareholders, only by the
680 shareholders, unless the bylaw otherwise provides; or

681 (2) If adopted by the board of directors, by the board of directors or
682 the shareholders.

683 Sec. 15. Section 33-741 of the general statutes is repealed and the
684 following is substituted in lieu thereof (*Effective October 1, 2008*):

685 (a) A director may resign at any time by delivering a written [notice]
686 resignation to the board of directors [, the chairman of the board of
687 directors] or its chairperson or to the secretary of the corporation.

688 (b) A resignation is effective when the [notice] resignation is
689 delivered unless the [notice] resignation specifies a later effective date
690 or an effective date determined upon the happening of an event or
691 events. A resignation that is conditioned upon failing to receive a
692 specified vote for election as a director may provide that it is
693 irrevocable.

694 Sec. 16. Subsection (b) of section 33-744 of the general statutes is
695 repealed and the following is substituted in lieu thereof (*Effective*
696 *October 1, 2008*):

697 (b) If the vacant office was held by a director elected by a voting
698 group of shareholders, only the holders of shares of that voting group
699 are entitled to vote to fill the vacancy if it is filled by the shareholders,
700 and only the directors elected by that voting group are entitled to fill
701 the vacancy if it is filled by the directors.

702 Sec. 17. Subsection (b) of section 33-806 of the general statutes is
703 repealed and the following is substituted in lieu thereof (*Effective*
704 *October 1, 2008*):

705 (b) A corporation's board of directors may amend or repeal the
706 corporation's bylaws unless: (1) The certificate of incorporation, [or]
707 section 33-808 or, if applicable, section 14 of this act reserves [such] that
708 power exclusively to the shareholders in whole or part; or (2) the
709 shareholders [,] in amending, repealing or adopting a [particular]
710 bylaw [,] expressly provide that the board of directors may not amend,
711 repeal or reinstate that bylaw.

712 Sec. 18. Section 33-602 of the general statutes is repealed and the
713 following is substituted in lieu thereof (*Effective October 1, 2008*):

714 As used in sections 33-600 to 33-998, inclusive, as amended by this
715 act, and sections 4, 14 and 23 of this act:

716 (1) "Address" means location as described by the full street number,
717 if any, street, city or town, state or country and not a mailing address
718 such as a post office box.

719 (2) "Authorized shares" means the shares of all classes a domestic or
720 foreign corporation is authorized to issue.

721 (3) "Certificate of incorporation" means the original certificate of
722 incorporation or restated certificate of incorporation, and all
723 amendments thereto, and all certificates of merger or consolidation. In
724 the case of a specially chartered corporation, "certificate of
725 incorporation" means the special charter of the corporation, including
726 any portions of the charters of its predecessor companies which have

727 continuing effect, and any amendments to the charter made by special
728 act or pursuant to general law. In the case of a corporation formed
729 before January 1, 1961, or of a specially chartered corporation,
730 "certificate of incorporation" includes those portions of any other
731 corporate instruments or resolutions of current application in which
732 are set out provisions of the sort which either (A) are required by
733 sections 33-600 to 33-998, inclusive, as amended by this act, to be
734 embodied in the certificate of incorporation, or (B) are expressly
735 permitted by sections 33-600 to 33-998, inclusive, as amended by this
736 act, to be operative only if included in the certificate of incorporation.
737 It also includes what were, prior to January 1, 1961, designated at law
738 as agreements of association, articles of incorporation, charters and
739 other such terms.

740 (4) "Conspicuous" means so written that a reasonable person against
741 whom the writing is to operate should have noticed it. For example,
742 printing in italics or boldface or contrasting color, or typing in capitals
743 or underlined, is conspicuous.

744 (5) "Corporation" or "domestic corporation" means a corporation
745 with capital stock, which is not a foreign corporation, incorporated
746 under the laws of this state, whether general law or special act and
747 whether before or after January 1, 1997.

748 (6) "Deliver" or "delivery" means any method of delivery used in
749 conventional commercial practice including delivery by hand, mail,
750 commercial delivery and electronic transmission.

751 (7) "Distribution" means a direct or indirect transfer of money or
752 other property, except its own shares, or incurrence of indebtedness by
753 a corporation to or for the benefit of its shareholders in respect of any
754 of its shares. A distribution may be in the form of a declaration or
755 payment of a dividend; a purchase, redemption or other acquisition of
756 shares; a distribution of indebtedness; or otherwise.

757 (8) "Document" includes anything delivered to the office of the

758 Secretary of the State for filing under sections 33-600 to 33-998,
759 inclusive, as amended by this act.

760 (9) "Effective date of notice" is defined in section 33-603.

761 (10) "Electronic transmission" or "electronically transmitted" means
762 any process of communication not directly involving the physical
763 transfer of paper that is suitable for the retention, retrieval and
764 reproduction of information by the recipient.

765 (11) "Employee" includes an officer but not a director. A director
766 may accept duties that make him also an employee.

767 (12) "Entity" includes a corporation and foreign corporation;
768 nonprofit corporation; profit and nonprofit unincorporated
769 association; business trust, estate, partnership, limited liability
770 company, trust and two or more persons having a joint or common
771 economic interest; and state, United States or foreign government.

772 (13) "Expenses" means reasonable expenses of any kind that are
773 incurred in connection with a matter including, but not limited to,
774 reasonable attorney's fees.

775 [(13)] (14) "Facts objectively ascertainable" outside of a plan or filed
776 document is defined in subsection (l) of section 33-608.

777 [(14)] (15) "Foreign corporation" means a corporation incorporated
778 under a law other than the law of this state.

779 [(15)] (16) "Governmental subdivision" includes authority, county,
780 district and municipality.

781 [(16)] (17) "Includes" denotes a partial definition.

782 [(17)] (18) "Individual" includes the estate of an incompetent or
783 deceased individual.

784 [(18)] (19) "Means" denotes an exhaustive definition.

785 [(19)] (20) "Notice" is defined in section 33-603.

786 [(20)] (21) "Person" includes individual and entity.

787 [(21)] (22) "Principal office" of a domestic corporation means the
788 address of the principal office of such corporation in this state, if any,
789 as the same appears in the last annual report, if any, filed by such
790 corporation with the Secretary of the State. If no principal office so
791 appears, the corporation's "principal office" means the address in this
792 state of the corporation's registered agent for service as last shown on
793 the records of the Secretary of the State. In the case of a domestic
794 corporation which has not filed such an annual report or appointment
795 of registered agent for service, the "principal office" means the address
796 of the principal place of business of such corporation in this state, if
797 any, and if such corporation has no place of business in this state, its
798 "principal office" shall be the office of the Secretary of the State.

799 [(22)] (23) "Proceeding" includes civil suit and criminal,
800 administrative and investigatory action.

801 [(23)] (24) "Public corporation" means a corporation that has shares
802 listed on a national securities exchange or regularly traded in a market
803 maintained by one or more members of a national or affiliated
804 securities association.

805 [(24)] (25) "Qualified director" is defined in section 33-605.

806 [(25)] (26) "Record date" means the date established under sections
807 33-665 to 33-687, inclusive, or sections 33-695 to 33-727, inclusive, as
808 amended by this act, on which a corporation determines the identity of
809 its shareholders and their shareholdings for purposes of sections 33-
810 600 to 33-998, inclusive, as amended by this act. The determinations
811 shall be made as of the close of business on the record date unless
812 another time for doing so is specified when the record date is fixed.

813 [(26)] (27) "Secretary" means the corporate officer to whom under
814 the bylaws or by the board of directors is delegated responsibility

815 under subsection (c) of section 33-763 for custody of the minutes of the
816 meetings of the board of directors and of the shareholders and for
817 authenticating records of the corporation.

818 [(27)] (28) "Secretary of the State" means the Secretary of the State of
819 Connecticut.

820 [(28)] (29) "Shares" means the units into which the proprietary
821 interests in a corporation are divided.

822 [(29)] (30) "Shareholder" means the person in whose name shares are
823 registered in the records of a corporation or the beneficial owner of
824 shares to the extent of the rights granted by a nominee certificate on
825 file with a corporation.

826 [(30)] (31) "Sign" or "signature" includes any manual, facsimile,
827 conformed or electronic signature.

828 [(31)] (32) "State", when referring to a part of the United States,
829 includes a state and commonwealth, and their agencies and
830 governmental subdivisions, and a territory and insular possession, and
831 their agencies and governmental subdivisions, of the United States.

832 [(32)] (33) "Subscriber" means a person who subscribes for shares in
833 a corporation, whether before or after incorporation.

834 [(33)] (34) "United States" includes any district, authority, bureau,
835 commission, department and other agency of the United States.

836 [(34)] (35) "Voting group" means all shares of one or more classes or
837 series that under the certificate of incorporation or sections 33-600 to
838 33-998, inclusive, as amended by this act, are entitled to vote and be
839 counted together collectively on a matter at a meeting of shareholders.
840 All shares entitled by the certificate of incorporation or said sections to
841 vote generally on the matter are for that purpose a single voting group.

842 [(35)] (36) "Voting power" means the current power to vote in the

843 election of directors.

844 Sec. 19. Section 33-726 of the general statutes is repealed and the
845 following is substituted in lieu thereof (*Effective October 1, 2008*):

846 On termination of the derivative proceeding the court may:

847 (1) Order the corporation to pay the plaintiff's [reasonable expenses,
848 including attorney's fees,] expenses incurred in the proceeding if it
849 finds that the proceeding has resulted in a substantial benefit to the
850 corporation;

851 (2) Order the plaintiff to pay any defendant's [reasonable expenses,
852 including attorney's fees,] expenses incurred in defending the
853 proceeding if it finds that the proceeding was commenced or
854 maintained without reasonable cause or for an improper purpose; or

855 (3) Order a party to pay an opposing party's [reasonable expenses,
856 including attorney's fees,] expenses incurred because of the filing of a
857 pleading, motion or other paper, if it finds that the pleading, motion or
858 other paper was not well grounded in fact, after reasonable inquiry, or
859 warranted by existing law or a good faith argument for the extension,
860 modification or reversal of existing law and was interposed for an
861 improper purpose, such as to harass or [to] cause unnecessary delay or
862 needless increase in the cost of litigation.

863 Sec. 20. Section 33-872 of the general statutes is repealed and the
864 following is substituted in lieu thereof (*Effective October 1, 2008*):

865 (a) The court in an appraisal proceeding commenced under section
866 33-871 shall determine all court costs of the proceeding, including the
867 reasonable compensation and expenses of appraisers appointed by the
868 court. The court shall assess the court costs against the corporation,
869 except that the court may assess court costs against all or some of the
870 shareholders demanding appraisal, in amounts the court finds
871 equitable, to the extent the court finds such shareholders acted
872 arbitrarily, vexatiously or not in good faith with respect to the rights

873 provided by sections 33-855 to 33-872, inclusive, as amended by this
874 act, and section 4 of this act.

875 (b) The court in an appraisal proceeding may also assess the [fees
876 and expenses of counsel and experts for] expenses of the respective
877 parties, in amounts the court finds equitable: (1) Against the
878 corporation and in favor of any or all shareholders demanding
879 appraisal if the court finds the corporation did not substantially
880 comply with the requirements of sections 33-860 to 33-868, inclusive, as
881 amended by this act; or (2) against either the corporation or a
882 shareholder demanding appraisal, in favor of any other party, if the
883 court finds that the party against whom the [fees and] expenses are
884 assessed acted arbitrarily, vexatiously or not in good faith with respect
885 to the rights provided by sections 33-855 to 33-872, inclusive, as
886 amended by this act, and section 4 of this act.

887 (c) If the court in an appraisal proceeding finds that the [services of
888 counsel for] expenses incurred by any shareholder were of substantial
889 benefit to other shareholders similarly situated, and that [the fees for
890 those services] such expenses should not be assessed against the
891 corporation, the court may [award to such counsel reasonable fees to]
892 direct that such expenses be paid out of the amounts awarded the
893 shareholders who were benefited.

894 (d) To the extent the corporation fails to make a required payment
895 pursuant to section 33-865, 33-867, as amended by this act, or 33-868,
896 the shareholder may sue directly for the amount owed and, to the
897 extent successful, shall be entitled to recover from the corporation all
898 [costs and] expenses of the suit. [, including counsel fees.]

899 Sec. 21. Subsection (c) of section 33-948 of the general statutes is
900 repealed and the following is substituted in lieu thereof (*Effective*
901 *October 1, 2008*):

902 (c) If the court orders inspection and copying of the records
903 demanded, it shall also order the corporation to pay the shareholder's

904 [costs, including reasonable attorney's fees,] expenses incurred to
905 obtain the order unless the corporation proves that it refused
906 inspection in good faith because it had a reasonable basis for doubt
907 about the right of the shareholder to inspect the records demanded.

908 Sec. 22. Subsection (c) of section 33-949 of the general statutes is
909 repealed and the following is substituted in lieu thereof (*Effective*
910 *October 1, 2008*):

911 (c) If an order is issued, the court may include provisions protecting
912 the corporation from undue burden or expense, and prohibiting the
913 director from using information obtained upon exercise of the
914 inspection rights in a manner that would violate a duty to the
915 corporation, and may also order the corporation to reimburse the
916 director for the director's [costs, including reasonable counsel fees,]
917 expenses incurred in connection with the application.

918 Sec. 23. (NEW) (*Effective October 1, 2008*) (a) A corporation has
919 delivered written notice or any other report or statement under any
920 provision of sections 33-600 to 33-998, inclusive, of the general statutes,
921 as amended by this act, the certificate of incorporation or the bylaws to
922 all shareholders who share a common address if:

923 (1) The corporation delivers one copy of the notice, report or
924 statement to the common address;

925 (2) The corporation addresses the notice, report or statement to
926 those shareholders either as a group, to each of those shareholders
927 individually or to the shareholders in a form to which each of those
928 shareholders has consented; and

929 (3) Each of those shareholders consents to delivery of a single copy
930 of such notice, report or statement to the shareholders' common
931 address. Any such consent shall be revocable by any of such
932 shareholders who delivers written notice of revocation to the
933 corporation. If such written notice of revocation is delivered, the

934 corporation shall begin providing individual notices, reports or other
935 statements to the revoking shareholder no later than thirty days after
936 delivery of the written notice of revocation.

937 (b) Any shareholder who fails to object by written notice to the
938 corporation, within sixty days of written notice by the corporation of
939 its intention to send single copies of notices, reports or statements to
940 shareholders who share a common address as permitted by subsection
941 (a) of this section, shall be deemed to have consented to receiving such
942 single copy at the common address.

943 Sec. 24. Section 33-896 of the general statutes is repealed and the
944 following is substituted in lieu thereof (*Effective October 1, 2008*):

945 (a) The superior court for the judicial district where the
946 corporation's principal office or, if none in this state, its registered
947 office, is located may dissolve a corporation:

948 (1) In a proceeding by a shareholder if it is established that: (A) (i)
949 The directors are deadlocked in the management of the corporate
950 affairs, (ii) the shareholders are unable to break the deadlock, and (iii)
951 irreparable injury to the corporation is threatened or being suffered or
952 the business and affairs of the corporation can no longer be conducted
953 to the advantage of the shareholders generally, because of the
954 deadlock; (B) the directors or those in control of the corporation have
955 acted, are acting or will act in a manner that is illegal, oppressive or
956 fraudulent; (C) the shareholders are deadlocked in voting power and
957 have failed, for a period that includes at least two consecutive annual
958 meeting dates, to elect successors to directors whose terms have
959 expired; or [(B)] (D) the corporate assets are being misapplied or
960 wasted;

961 (2) In a proceeding by a creditor if it is established that: (A) The
962 creditor's claim has been reduced to judgment, the execution on the
963 judgment returned unsatisfied and the corporation is insolvent; or (B)
964 the corporation has admitted in writing that the creditor's claim is due

965 and owing and the corporation is insolvent; or

966 (3) In a proceeding by the corporation to have its voluntary
967 dissolution continued under court supervision.

968 [(b) The superior court for the judicial district where the
969 corporation's principal office or, if none in this state, its registered
970 office, is located shall dissolve a corporation: (1) In a proceeding by a
971 holder or holders of shares having voting power sufficient under the
972 circumstances to dissolve the corporation pursuant to the certificate of
973 incorporation; (2) in a proceeding by a shareholder or a director when
974 it is established that (A) under the provisions of sections 33-600 to 33-
975 998, inclusive, or of the certificate of incorporation or bylaws, the
976 directors are deadlocked in the management of the corporate affairs
977 and the shareholders are unable to break the deadlock or (B) the
978 shareholders are deadlocked in voting power for the election of
979 directors and for that reason have been unable at the next preceding
980 annual meeting to elect successors to directors whose term would
981 normally have expired upon the election of their successors.]

982 (b) Subdivision (1) of subsection (a) of this section shall not apply in
983 the case of a corporation that, on the date of the filing of the
984 proceeding, has shares that are: (A) Listed on the New York Stock
985 Exchange, the American Stock Exchange or any exchange owned or
986 operated by the NASDAQ Stock Market LLC, or listed or quoted on a
987 system owned or operated by the National Association of Securities
988 Dealers, Inc.; or (B) not so listed or quoted, but are held by at least
989 three hundred shareholders and the shares outstanding have a market
990 value of at least twenty million dollars exclusive of the value of such
991 shares held by the corporation's subsidiaries, senior executives,
992 directors and beneficial shareholders owning more than ten per cent of
993 such shares. As used in this subsection, "beneficial shareholder" has
994 the meaning specified in subdivision (2) of section 33-855, as amended
995 by this act.

996 Sec. 25. Section 33-898 of the general statutes is repealed and the

997 following is substituted in lieu thereof (*Effective October 1, 2008*):

998 (a) [A] Unless an election to purchase has been filed under section
999 33-900, as amended by this act, a court in a judicial proceeding brought
1000 to dissolve a corporation may appoint one or more receivers to wind
1001 up and liquidate, or one or more custodians to manage, the business
1002 and affairs of the corporation. The court shall hold a hearing, after
1003 notifying all parties to the proceeding and any interested persons
1004 designated by the court, before appointing a receiver or custodian. The
1005 court appointing a receiver or custodian has [exclusive] jurisdiction
1006 over the corporation and all of its property wherever located.

1007 (b) The court may appoint an individual or a domestic or foreign
1008 corporation authorized to transact business in this state as a receiver or
1009 custodian. The court may require the receiver or custodian to post
1010 bond, with or without sureties, in an amount the court directs.

1011 (c) The court shall describe the powers and duties of the receiver or
1012 custodian in its appointing order, which may be amended from time to
1013 time. Among other powers: (1) The receiver (A) may dispose of all or
1014 any part of the assets of the corporation wherever located, at a public
1015 or private sale, if authorized by the court, and (B) may sue and defend
1016 in his own name as receiver of the corporation in all courts of this state;
1017 (2) the custodian may exercise all of the powers of the corporation,
1018 through or in place of its board of directors or officers, to the extent
1019 necessary to manage the affairs of the corporation in the best interests
1020 of its shareholders and creditors.

1021 (d) The court during a receivership may redesignate the receiver a
1022 custodian, and during a custodianship may redesignate the custodian
1023 a receiver, if doing so is in the best interests of the corporation, its
1024 shareholders and creditors.

1025 (e) The court from time to time during the receivership or
1026 custodianship may order compensation paid and [expense
1027 disbursements or reimbursements made] expenses paid or reimbursed

1028 to the receiver or custodian [and his counsel] from the assets of the
1029 corporation or proceeds from the sale of the assets.

1030 Sec. 26. Subsection (a) of section 33-899 of the general statutes is
1031 repealed and the following is substituted in lieu thereof (*Effective*
1032 *October 1, 2008*):

1033 (a) If after a hearing the court determines that one or more grounds
1034 for judicial dissolution described in section 33-896, as amended by this
1035 act, exist, it may [, in the case of the grounds specified in subsection (a)
1036 of said section, and shall, in the case of grounds specified in subsection
1037 (b) of said section,] enter a decree dissolving the corporation and
1038 specifying the effective date of the dissolution, and the clerk of the
1039 court shall deliver a certified copy of the decree to the Secretary of the
1040 State, who shall file it.

1041 Sec. 27. Section 33-900 of the general statutes is repealed and the
1042 following is substituted in lieu thereof (*Effective October 1, 2008*):

1043 (a) In a proceeding under subdivision (1) of subsection (a) of section
1044 33-896, as amended by this act, to dissolve a corporation, [that is not a
1045 public corporation,] the corporation may elect or, if it fails to elect, one
1046 or more shareholders may elect to purchase all shares owned by the
1047 petitioning shareholder at the fair value of the shares. An election
1048 pursuant to this section shall be irrevocable unless the court
1049 determines that it is equitable to set aside or modify the election.

1050 (b) An election to purchase pursuant to this section may be filed
1051 with the court at any time within ninety days after the filing of the
1052 petition under subdivision (1) of subsection (a) [or subdivision (2) of
1053 subsection (b)] of section 33-896, as amended by this act, or at such
1054 later time as the court in its discretion may allow. If the election to
1055 purchase is filed by one or more shareholders, the corporation shall,
1056 within ten days thereafter, give written notice to all shareholders, other
1057 than the petitioner. The notice must state the name and number of
1058 shares owned by the petitioner and the name and number of shares

1059 owned by each electing shareholder and must advise the recipients of
1060 their right to join in the election to purchase shares in accordance with
1061 this section. Shareholders who wish to participate must file notice of
1062 their intention to join in the purchase no later than thirty days after the
1063 effective date of the notice to them. All shareholders who have filed an
1064 election or notice of their intention to participate in the election to
1065 purchase thereby become parties to ownership of shares as of the date
1066 the first election was filed, unless they otherwise agree or the court
1067 otherwise directs. After an election has been filed by the corporation or
1068 one or more shareholders, the proceeding under subdivision (1) of
1069 subsection (a) [or subdivision (2) of subsection (b)] of section 33-896, as
1070 amended by this act, may not be discontinued or settled, nor may the
1071 petitioning shareholder sell or otherwise dispose of his shares, unless
1072 the court determines that it would be equitable to the corporation and
1073 the shareholders, other than the petitioner, to permit such
1074 discontinuance, settlement, sale or other disposition.

1075 (c) If, within sixty days of the filing of the first election, the parties
1076 reach agreement as to the fair value and terms of purchase of the
1077 petitioner's shares, the court shall enter an order directing the purchase
1078 of petitioner's shares upon the terms and conditions agreed to by the
1079 parties.

1080 (d) If the parties are unable to reach an agreement as provided for in
1081 subsection (c) of this section, the court, upon application of any party,
1082 shall stay the proceedings under subdivision (1) of subsection (a) [or
1083 subdivision (2) of subsection (b)] of section 33-896, as amended by this
1084 act, and determine the fair value of the petitioner's shares as of the day
1085 before the date on which the petition was filed or as of such other date
1086 as the court deems appropriate under the circumstances.

1087 (e) Upon determining the fair value of the shares, the court shall
1088 enter an order directing the purchase upon such terms and conditions
1089 as the court deems appropriate, which may include payment of the
1090 purchase price in installments, where necessary in the interests of

1091 equity, provision for security to assure payment of the purchase price
1092 and any additional costs, fees and expenses as may have been
1093 awarded, and, if the shares are to be purchased by shareholders, the
1094 allocation of shares among them. In allocating the petitioner's shares
1095 among holders of different classes of shares, the court should attempt
1096 to preserve the existing distribution of voting rights among holders of
1097 different classes insofar as practicable and may direct that holders of a
1098 specific class or classes shall not participate in the purchase. Interest
1099 may be allowed at the rate and from the date determined by the court
1100 to be equitable, but if the court finds that the refusal of the petitioning
1101 shareholder to accept an offer of payment was arbitrary or otherwise
1102 not in good faith, no interest shall be allowed. In a proceeding under
1103 subdivision (1) of subsection (a) of section 33-896, as amended by this
1104 act, if the court finds that the petitioning shareholder had probable
1105 grounds for relief under said subdivision, it may award to the
1106 petitioning shareholder reasonable fees and expenses of counsel and of
1107 any experts employed by him.

1108 (f) Upon entry of an order under subsection (c) or (e) of this section,
1109 the court shall dismiss the petition to dissolve the corporation under
1110 section 33-896, as amended by this act, and the petitioning shareholder
1111 shall no longer have any rights or status as a shareholder of the
1112 corporation, except the right to receive the amounts awarded to him by
1113 the order of the court which shall be enforceable in the same manner as
1114 any other judgment.

1115 (g) The purchase ordered pursuant to subsection (e) of this section
1116 shall be made within ten days after the date the order becomes final
1117 unless before that time the corporation files with the court a notice of
1118 its intention to adopt a certificate of dissolution pursuant to sections
1119 33-881 and 33-882, which certificate of dissolution must then be
1120 adopted and filed within fifty days thereafter. Upon filing of such
1121 certificate of dissolution, the corporation shall be dissolved in
1122 accordance with the provisions of sections 33-884 to 33-887, inclusive,
1123 and the order entered pursuant to subsection (e) of this section shall no

1124 longer be of any force or effect, except that the court may award the
1125 petitioning shareholder reasonable fees and expenses in accordance
1126 with the provisions of the last sentence of subsection (e) of this section
1127 and the petitioner may continue to pursue any claims previously
1128 asserted on behalf of the corporation.

1129 (h) Any payment by the corporation pursuant to an order under
1130 subsection (c) or (e) of this section, other than an award of fees and
1131 expenses pursuant to subsection (e) of this section, is subject to the
1132 provisions of section 33-687.

1133 Sec. 28. Section 33-818 of the general statutes is repealed and the
1134 following is substituted in lieu thereof (*Effective October 1, 2008*):

1135 (a) A domestic parent corporation that owns shares of a domestic or
1136 foreign subsidiary corporation that carry at least ninety per cent of the
1137 voting power of each class and series of the outstanding shares of the
1138 subsidiary that have voting power may merge the subsidiary into itself
1139 or into another such subsidiary, or merge itself into the subsidiary,
1140 without the approval of the board of directors or shareholders of the
1141 subsidiary, unless (1) the certificate of incorporation of any of the
1142 corporations otherwise provides, and (2) in the case of a foreign
1143 subsidiary, approval by the foreign subsidiary's board of directors or
1144 shareholders is required by the law under which the subsidiary is
1145 organized. [or by which it is governed.]

1146 (b) If under subsection (a) of this section approval of a merger by
1147 the subsidiary's shareholders is not required, [under subsection (a) of
1148 this section,] the parent corporation shall, within ten days after the
1149 effective date of the merger, notify each of the subsidiary's
1150 shareholders that the merger has become effective.

1151 (c) Except as provided in subsections (a) and (b) of this section, a
1152 merger between a parent and a subsidiary shall be governed by the
1153 provisions of sections 33-815 to 33-829, inclusive, applicable to mergers
1154 generally.

1155 Sec. 29. Subsection (a) of section 33-418h of the general statutes is
1156 repealed and the following is substituted in lieu thereof (*Effective*
1157 *October 1, 2008*):

1158 (a) Any corporation formed under the provisions of chapter 601 or
1159 any predecessor statutes thereto, may elect to be governed as a worker
1160 cooperative under the provisions of this chapter by so stating in its
1161 certificate of incorporation or certificate of amendment filed in
1162 accordance with chapter 601. A corporation so electing shall be
1163 governed by all provisions of chapter 601 other than sections 33-815 to
1164 33-831, inclusive, and 33-855 to 33-872, inclusive, as amended by this
1165 act, and section 4 of this act, except as otherwise provided in this
1166 chapter.

1167 Sec. 30. Subsection (c) of section 33-418i of the general statutes is
1168 repealed and the following is substituted in lieu thereof (*Effective*
1169 *October 1, 2008*):

1170 (c) Membership shares shall be issued for a fee as shall be
1171 determined from time to time by the board of directors. Section 33-671
1172 and subdivision (6) of subsection (b) of section 33-683 shall not apply
1173 to such membership shares. Sections 33-855 to 33-872, inclusive, as
1174 amended by this act, and section 4 of this act, shall not apply to
1175 membership shares whose redemption price is determined by
1176 reference to internal capital accounts, as defined in section 33-418m.

1177 Sec. 31. Subsection (h) of section 36a-125 of the general statutes is
1178 repealed and the following is substituted in lieu thereof (*Effective*
1179 *October 1, 2008*):

1180 (h) Upon the effectiveness of the agreement of merger or
1181 consolidation, the shareholders, if any, of the constituent banks, except
1182 to the extent that they have received cash, property or other securities
1183 of the resulting bank or shares or other securities of any other
1184 corporation in exchange for or upon conversion of their shares, shall be
1185 shareholders of a capital stock resulting bank. Unless such agreement

1186 otherwise provides, the resulting bank may require each shareholder
1187 to surrender such shareholder's certificates of stock in the constituent
1188 bank and in that event no shareholder, until such surrender of that
1189 shareholder's certificates, shall be entitled to receive a certificate of
1190 stock of the resulting bank or to vote thereon or to collect dividends
1191 declared thereon, or to receive cash, property or other securities of the
1192 resulting bank, or shares or other securities of any other corporation.
1193 Any shareholder of any such constituent bank is entitled to assert
1194 appraisal rights and to obtain payment of the fair value of such
1195 shareholder's shares under sections 33-855 to 33-872, inclusive, as
1196 amended by this act, and section 4 of this act. The rights and
1197 obligations of shareholders who assert appraisal rights and the bank
1198 shall be determined in accordance with said sections. The stock of a
1199 capital stock resulting bank up to an amount of the combined stock of
1200 the constituent banks shall be exempt from any franchise tax.

1201 Sec. 32. Subdivision (5) of subsection (a) of section 36a-137 of the
1202 general statutes is repealed and the following is substituted in lieu
1203 thereof (*Effective October 1, 2008*):

1204 (5) Any shareholder of a converting Connecticut bank is entitled to
1205 assert appraisal rights and to obtain payment of the fair value of such
1206 shareholder's shares under sections 33-855 to 33-872, inclusive, as
1207 amended by this act, and section 4 of this act.

1208 Sec. 33. Subsection (b) of section 38a-148 of the general statutes is
1209 repealed and the following is substituted in lieu thereof (*Effective*
1210 *October 1, 2008*):

1211 (b) If, at least ten days prior to the redemption date, such
1212 shareholder gives written notice to the corporation objecting to the
1213 redemption consideration set forth in the corporation's notice, the fair
1214 value for such shareholder's shares shall be determined and such
1215 shares shall be acquired by the corporation in the manner set forth in
1216 sections 33-863 to 33-872, inclusive, as amended by this act, and section
1217 4 of this act. The right to be paid the value of such shares pursuant to

1218 said sections shall be such shareholder's exclusive remedy as holder of
 1219 such shares against the corporation's redemption of such shares,
 1220 whether or not the shareholder proceeds as provided in said sections.
 1221 Such notice by the shareholder shall be deemed to be the notice
 1222 required by section 33-862.

1223 Sec. 34. Subdivision (3) of subsection (b) of section 33-865 of the
 1224 general statutes is repealed and the following is substituted in lieu
 1225 thereof (*Effective October 1, 2008*):

1226 (3) A statement that shareholders described in subsection (a) of this
 1227 section have the right to demand further payment under section 33-868
 1228 and that if any such shareholder does not do so within the time period
 1229 specified therein, such shareholder shall be deemed to have accepted
 1230 such payment in full satisfaction of the corporation's obligations under
 1231 sections 33-855 to 33-872, as amended by this act, and section 4 of this
 1232 act.

1233

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	33-855
Sec. 2	<i>October 1, 2008</i>	33-862
Sec. 3	<i>October 1, 2008</i>	33-856
Sec. 4	<i>October 1, 2008</i>	New section
Sec. 5	<i>October 1, 2008</i>	33-698
Sec. 6	<i>October 1, 2008</i>	33-695
Sec. 7	<i>October 1, 2008</i>	33-697
Sec. 8	<i>October 1, 2008</i>	33-712
Sec. 9	<i>October 1, 2008</i>	33-860
Sec. 10	<i>October 1, 2008</i>	33-861
Sec. 11	<i>October 1, 2008</i>	33-863
Sec. 12	<i>October 1, 2008</i>	33-867(a)
Sec. 13	<i>October 1, 2008</i>	33-739
Sec. 14	<i>October 1, 2008</i>	New section
Sec. 15	<i>October 1, 2008</i>	33-741

Sec. 16	<i>October 1, 2008</i>	33-744 (b)
Sec. 17	<i>October 1, 2008</i>	33-806(b)
Sec. 18	<i>October 1, 2008</i>	33-602
Sec. 19	<i>October 1, 2008</i>	33-726
Sec. 20	<i>October 1, 2008</i>	33-872
Sec. 21	<i>October 1, 2008</i>	33-948(c)
Sec. 22	<i>October 1, 2008</i>	33-949(c)
Sec. 23	<i>October 1, 2008</i>	New section
Sec. 24	<i>October 1, 2008</i>	33-896
Sec. 25	<i>October 1, 2008</i>	33-898
Sec. 26	<i>October 1, 2008</i>	33-899(a)
Sec. 27	<i>October 1, 2008</i>	33-900
Sec. 28	<i>October 1, 2008</i>	33-818
Sec. 29	<i>October 1, 2008</i>	33-418h(a)
Sec. 30	<i>October 1, 2008</i>	33-418i(c)
Sec. 31	<i>October 1, 2008</i>	36a-125(h)
Sec. 32	<i>October 1, 2008</i>	36a-137(a)(5)
Sec. 33	<i>October 1, 2008</i>	38a-148(b)
Sec. 34	<i>October 1, 2008</i>	33-865(b)(3)

Statement of Purpose:

To update statutes concerning business corporations to reflect recent changes in the Model Business Corporation Act and to keep Connecticut statutes current with corporate statutes in other states.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]