



General Assembly

Substitute Bill No. 23

February Session, 2014



**AN ACT CONCERNING BENEFIT CORPORATIONS AND
ENCOURAGING SOCIAL ENTERPRISE.**

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

1 Section 1. (NEW) (*Effective October 1, 2014*) Sections 1 to 15,
2 inclusive, of this act shall be known and may be cited as the
3 "Connecticut Benefit Corporation Act".

4 Sec. 2. (NEW) (*Effective October 1, 2014*) As used in this section and
5 sections 3 to 15, inclusive, of this act:

6 (1) "Benefit corporation" means a business corporation (A) that has
7 elected to become subject to the provisions of sections 3 to 15,
8 inclusive, of this act, and (B) whose status as a benefit corporation has
9 not been terminated pursuant to section 7 of this act.

10 (2) "Benefit director" means either (A) the director designated as the
11 benefit director of a benefit corporation pursuant to section 10 of this
12 act, or (B) a person with one or more of the powers, duties or rights of
13 a benefit director under section 10 of this act to the extent that such
14 person has been granted all or part of the authority to manage the
15 business and affairs of the corporation by a shareholder agreement that
16 complies with section 33-717 of the general statutes.

17 (3) "Benefit enforcement proceeding" means any claim or action for

18 (A) the failure of a benefit corporation to pursue or create a general
19 public benefit or any specific public benefit purpose set forth in its
20 certificate of incorporation, or (B) the violation of any obligation, duty
21 or standard of conduct under sections 3 to 15, inclusive, of this act.

22 (4) "Benefit officer" means the individual designated as the benefit
23 officer of a benefit corporation pursuant to section 12 of this act.

24 (5) "Business corporation" means a corporation whose internal
25 affairs are governed by chapter 601 of the general statutes.

26 (6) "Charitable organization" means any organization that is exempt
27 from federal income tax under Section 501(a) of the Internal Revenue
28 Code of 1986, or any subsequent corresponding internal revenue code
29 of the United States, as amended from time to time, and that the
30 United States Treasury Department has expressly determined, by
31 letter, to be an organization that is described in Section 501(c)(3) of said
32 Internal Revenue Code.

33 (7) "General public benefit" means a material positive impact on
34 both society and the environment, taken as a whole, as assessed
35 against a third-party standard, from the business and operations of a
36 benefit corporation.

37 (8) "Independent" means having no material relationship with a
38 benefit corporation or a subsidiary of the benefit corporation, provided
39 a person who serves as a benefit director or benefit officer does not
40 lack independence solely by serving in such capacity.

41 (9) "Legacy preservation provision" means a provision in the
42 certificate of incorporation adopted in accordance with section 6 of this
43 act.

44 (10) "Material relationship" means a relationship between a person
45 and a benefit corporation or any of its subsidiaries if any of the
46 following apply: (A) The person is, or has been within the last three
47 years, an employee other than a benefit officer of the benefit

48 corporation or a subsidiary; (B) an immediate family member of the
49 person is, or has been within the last three years, an executive officer
50 other than a benefit officer of the benefit corporation or a subsidiary; or
51 (C) there is beneficial or record ownership of five per cent or more of
52 the outstanding shares of the benefit corporation, calculated on the
53 assumption that all outstanding rights to acquire shares in the benefit
54 corporation had been exercised, by (i) the person, or (ii) an entity (I) of
55 which the person is a director, an officer or a manager; or (II) in which
56 the person owns beneficially or of record five per cent or more of the
57 outstanding equity interests, calculated on the assumption that all
58 outstanding rights to acquire equity interests in the entity had been
59 exercised.

60 (11) "Minimum status vote" means (A) in the case of a business
61 corporation, in addition to any other required approval or vote, the
62 satisfaction of the following conditions: (i) The shareholders of every
63 class or series shall be entitled to vote as a separate voting group on
64 the corporate action regardless of a limitation stated in the certificate of
65 incorporation or bylaws on the voting rights of any class or series; and
66 (ii) the corporate action is approved by the vote of shareholders of each
67 class or series entitled to cast at least two-thirds of the votes that
68 shareholders of the class or series are entitled to cast on the action; and
69 (B) in the case of a domestic entity other than a business corporation, in
70 addition to any other required approval, vote or consent, the
71 satisfaction of the following conditions: (i) The holders of each class or
72 series of equity interest in the entity that are entitled to receive a
73 distribution of any kind from the entity shall be entitled to vote on or
74 consent to the action regardless of any otherwise applicable limitation
75 on the voting or consent rights of any such class or series; and (ii) the
76 action is approved by the vote or written consent of the holders
77 described in subparagraph (B)(i) of this subdivision entitled to cast at
78 least two-thirds of the votes that all of those holders are entitled to cast
79 on the action.

80 (12) "Publicly traded corporation" means a business corporation that

81 has shares listed on a national securities exchange or traded in a
82 market maintained by one or more members of a national securities
83 association.

84 (13) "Specific public benefit" includes: (A) Providing low-income or
85 underserved individuals or communities with beneficial products or
86 services; (B) promoting economic opportunity for individuals or
87 communities beyond the creation of jobs in the normal course of
88 business; (C) protecting or restoring the environment; (D) improving
89 human health; (E) promoting the arts, sciences or advancement of
90 knowledge; (F) increasing the flow of capital to other benefit
91 corporations or similar entities whose purpose is to benefit society or
92 the environment; and (G) conferring any other particular benefit on
93 society or the environment.

94 (14) "Subsidiary" means, in relation to a person, an entity in which
95 the person owns beneficially or of record fifty per cent or more of the
96 outstanding equity interests.

97 (15) "Third-party standard" means a recognized standard for
98 defining, reporting and assessing corporate social and environmental
99 performance that: (A) Assesses the effect of its business and operations
100 upon the interests listed in subparagraphs (B), (C), (D) and (E) of
101 subdivision (1) of subsection (a) of section 9 of this act; (B) is developed
102 by an entity that is independent; and (C) makes publicly available the
103 following information about the development and revision of the
104 standard: (i) The identity of the directors, officers, material owners,
105 and the governing body of the entity that developed and controls
106 revisions to the standard; (ii) the process by which revisions to the
107 standard and changes to the membership of the governing body are
108 made; and (iii) an accounting of the revenue and sources of financial
109 support for such entity, with sufficient detail to disclose any
110 relationships that could reasonably be considered to present a
111 potential conflict of interest.

112 Sec. 3. (NEW) (*Effective October 1, 2014*) (a) The provisions of this

113 section and sections 4 to 15, inclusive, of this act shall be applicable to
114 all benefit corporations.

115 (b) The provisions of this section and sections 4 to 15, inclusive, of
116 this act shall not create an implication that a contrary or different rule
117 of law is applicable to a business corporation that is not a benefit
118 corporation. The provisions of this section and sections 4 to 15,
119 inclusive, of this act shall not affect a statute or rule of law that is
120 applicable to a business corporation that is not a benefit corporation.

121 (c) Except as otherwise provided in this section and sections 4 to 15,
122 inclusive, of this act, the provisions of chapter 601 of the general
123 statutes shall be generally applicable to all benefit corporations. The
124 specific provisions of this section and sections 4 to 15, inclusive, of this
125 act shall control over the general provisions of chapter 601 of the
126 general statutes.

127 (d) A provision of the certificate of incorporation or bylaws of a
128 benefit corporation may not limit, be inconsistent with, or supersede a
129 provision of this section or sections 4 to 15, inclusive, of this act.

130 (e) Nothing in this section or sections 4 to 15, inclusive, of this act
131 shall (1) be construed as creating or granting to any person any
132 contractual right to, or proprietary interest in, the income or assets of a
133 benefit corporation by virtue of the fact that he or she may directly or
134 indirectly benefit from the general public benefit or any specific public
135 benefit of a benefit corporation, (2) be construed as imposing or
136 creating a charitable use, interest or restriction on any property or
137 assets of a benefit corporation, or (3) deprive the Attorney General of
138 jurisdiction over a benefit corporation under any other applicable law.

139 Sec. 4. (NEW) (*Effective October 1, 2014*) A benefit corporation shall
140 be incorporated in accordance with the provisions of chapter 601 of the
141 general statutes by filing a certificate of incorporation with the office of
142 the Secretary of the State that states that the corporation is a benefit
143 corporation.

144 Sec. 5. (NEW) (*Effective October 1, 2014*) (a) A business corporation
145 that is not a benefit corporation may elect to become a benefit
146 corporation by amending its certificate of incorporation to contain, in
147 addition to matters required by section 33-636 of the general statutes, a
148 statement that the corporation is a benefit corporation. Any such
149 amendment to the certificate of incorporation shall be approved by a
150 minimum status vote.

151 (b) If an entity that is not a benefit corporation is a party to (1) a
152 merger in which (A) the surviving entity will be a benefit corporation,
153 or (B) shares or other equity interests in such entity will be converted
154 into a right to receive shares of a benefit corporation, or (2) a share
155 exchange with a benefit corporation in which the shares or other
156 equity interests of the entity will be exchanged for shares of a benefit
157 corporation, the plan of merger or share exchange shall be approved
158 by a minimum status vote. If an entity other than a business
159 corporation is a party to any such transaction and a minimum status
160 vote by the equity owners of such entity is required for approval of the
161 transaction, the equity owners of such entity shall be entitled to
162 appraisal rights under the procedures set forth in chapter 601 of the
163 general statutes as if the entity were a business corporation.

164 Sec. 6. (NEW) (*Effective October 1, 2014*) (a) A benefit corporation
165 may, not earlier than twenty-four months after the date that it became
166 a benefit corporation, adopt a legacy preservation provision by
167 amending its certificate of incorporation to contain a statement that the
168 corporation is subject to a legacy preservation provision. Any such
169 amendment shall be adopted in accordance with the procedures set
170 forth in chapter 601 of the general statutes and shall be approved by
171 the unanimous vote or written consent of the shareholders of every
172 class or series, regardless of any limitation stated in the certificate of
173 incorporation or bylaws on the voting rights of any such class or series.

174 (b) A dissolved benefit corporation that has adopted a legacy
175 preservation provision shall distribute its remaining property only to
176 one or more (1) charitable organizations, or (2) other benefit

177 corporations that have adopted a legacy preservation provision.

178 Sec. 7. (NEW) (*Effective October 1, 2014*) (a) Except for a benefit
179 corporation that adopts a legacy preservation provision, a benefit
180 corporation may terminate its status as such and cease to be subject to
181 the provisions of sections 3 to 15, inclusive, of this act by amending its
182 certificate of incorporation to delete any provision stating that such
183 corporation is a benefit corporation. Any such amendment shall be
184 approved by a minimum status vote.

185 (b) Except for a benefit corporation that adopts a legacy
186 preservation provision, if a benefit corporation is a party to (1) a
187 merger in which (A) the surviving entity will not be a benefit
188 corporation, or (B) shares of such benefit corporation will be converted
189 into a right to receive shares or other equity interests of an entity that is
190 not a benefit corporation, or (2) a share exchange in which the shares of
191 the benefit corporation will be exchanged for shares or other equity
192 interests of an entity that is not a benefit corporation, the plan of
193 merger or share exchange shall be approved by a minimum status
194 vote.

195 (c) A benefit corporation that adopts a legacy preservation provision
196 may only be a party to (1) a merger in which (A) the surviving entity
197 will be a benefit corporation that has adopted a legacy preservation
198 provision, or (B) shares of such benefit corporation will be converted
199 into a right to receive shares of a benefit corporation that has adopted a
200 legacy preservation provision, or (2) a share exchange in which the
201 shares of the benefit corporation will be exchanged for shares of a
202 benefit corporation that has adopted a legacy preservation provision,
203 and such merger or share exchange is approved by a minimum status
204 vote.

205 (d) Except for a benefit corporation that adopts a legacy
206 preservation provision, any sale, lease, exchange or other disposition
207 of assets of a benefit corporation, other than a disposition described in
208 section 33-830 of the general statutes, that would leave the benefit

209 corporation without a significant continuing business activity shall be
210 approved by a minimum status vote. A benefit corporation that adopts
211 a legacy preservation provision shall not enter into a sale, lease,
212 exchange or other disposition of its assets, other than a disposition
213 described in section 33-830 of the general statutes, unless the
214 disposition is to one or more (1) charitable organizations, or (2) other
215 benefit corporations that have adopted legacy preservation provisions,
216 and such disposition is approved by a minimum status vote.

217 Sec. 8. (NEW) (*Effective October 1, 2014*) (a) A benefit corporation
218 shall have a purpose of creating a general public benefit. Such purpose
219 shall be in addition to any purpose under chapter 601 of the general
220 statutes.

221 (b) The certificate of incorporation of a benefit corporation may
222 identify one or more specific public benefits as a purpose for such
223 benefit corporation to create in addition to any purpose under chapter
224 601 of the general statutes and subsection (a) of this section. The
225 identification of a specific public benefit under this subsection shall not
226 limit the obligation of a benefit corporation under subsection (a) of this
227 section.

228 (c) The creation of a general public benefit and any specific public
229 benefit under subsections (a) and (b) of this section is in the best
230 interests of the benefit corporation.

231 (d) A benefit corporation may amend its certificate of incorporation
232 to add, amend or delete the identification of a specific public benefit
233 that it is the purpose of the benefit corporation to create. Any such
234 amendment shall be adopted by a minimum status vote.

235 Sec. 9. (NEW) (*Effective October 1, 2014*) (a) In discharging the duties
236 of their respective positions and considering the best interests of the
237 benefit corporation, the board of directors, any committee of the board
238 and the individual directors of the benefit corporation:

239 (1) Shall consider the effects of any corporate action or inaction

240 upon:

241 (A) The shareholders of the benefit corporation;

242 (B) The employees and workforce of the benefit corporation, its
243 subsidiaries and its suppliers;

244 (C) The interests of the customers of the benefit corporation as
245 beneficiaries of the general public benefit purpose and any specific
246 public benefit purpose of the benefit corporation;

247 (D) Community and societal factors, including those of each
248 community in which offices or facilities of the benefit corporation, its
249 subsidiaries or its suppliers are located;

250 (E) The local and global environment;

251 (F) The short-term and long-term interests of the benefit
252 corporation, including benefits that may accrue to the benefit
253 corporation from such corporation's long-term plans and the
254 possibility that such interests may be best served by the continued
255 independence of the benefit corporation; and

256 (G) The ability of the benefit corporation to accomplish its general
257 public benefit purpose and any specific public benefit purpose;

258 (2) May consider (A) in the circumstances described in subsection
259 (d) of section 33-756 of the general statutes, as amended by this act, the
260 interests referred to in said subsection, and (B) other pertinent factors
261 or the interests of any other group that the board of directors, any
262 committee of the board and the directors of the benefit corporation
263 deem appropriate; and

264 (3) Need not give priority to the interests of a particular person or
265 group referred to in subdivision (1) or (2) of this subsection over the
266 interests of any other person or group unless the certificate of
267 incorporation for such benefit corporation states an intention to give

268 priority to certain interests related to the accomplishment of the
269 corporation's general public benefit purpose or of a specific public
270 benefit purpose identified in the corporation's certificate of
271 incorporation.

272 (b) The consideration of interests and factors in the manner required
273 by subsection (a) of this section (1) shall not constitute a violation of
274 section 33-756 of the general statutes, as amended by this act, and (2) is
275 in addition to the power of directors to consider the interests and
276 factors listed in subsection (d) of section 33-756 of the general statutes,
277 as amended by this act, in the circumstances described in said
278 subsection.

279 (c) A director shall not be personally liable for (1) any act or
280 omission in the course of performing the duties of a director under
281 subsection (a) of this section if the director performed the duties of the
282 position in compliance with section 33-756 of the general statutes, as
283 amended by this act, and this section, or (2) failure of the benefit
284 corporation to pursue or create a general public benefit or any specific
285 public benefit.

286 (d) A director shall not have a duty to a person who is a beneficiary
287 of the general public benefit purpose or a specific public benefit
288 purpose of a benefit corporation based on the status of such person as
289 a beneficiary.

290 Sec. 10. (NEW) (*Effective October 1, 2014*) (a) The board of directors of
291 a benefit corporation that is a publicly traded corporation shall, and
292 the board of any other benefit corporation may, include a director who
293 shall (1) be designated the benefit director, and (2) have, in addition to
294 the powers, duties, rights and immunities of the other directors of the
295 benefit corporation, the powers, duties, rights and immunities
296 provided in sections 3 to 15, inclusive, of this act.

297 (b) The benefit director shall be elected, and may be removed, in the
298 manner provided under chapter 601 of the general statutes. The benefit

299 director shall be an individual who is independent. The benefit
300 director may serve as the benefit officer at the same time as serving as
301 the benefit director. The certificate of incorporation or bylaws or a
302 shareholder agreement of a benefit corporation may prescribe
303 additional qualifications of the benefit director that are consistent with
304 this subsection.

305 (c) The benefit director shall prepare, and the benefit corporation
306 shall include in the annual benefit report to its shareholders required
307 by section 14 of this act, the opinion of the benefit director on each of
308 the following: (1) Whether the benefit corporation acted in accordance
309 with its general public benefit purpose and any specific public benefit
310 purpose in all material respects during the period covered by the
311 report, (2) whether the directors and officers complied with subsection
312 (a) of section 9 of this act and subsection (a) of section 11 of this act,
313 respectively, and (3) if, in the opinion of the benefit director, the benefit
314 corporation or its directors or officers failed to comply with subsection
315 (a) of section 9 of this act or subsection (a) of section 11 of this act, a
316 description of the ways in which the benefit corporation or the
317 corporation's directors or officers failed to comply.

318 (d) The act or omission of an individual in the capacity of a benefit
319 director shall constitute for all purposes an act or omission of that
320 individual in the capacity of a director of the benefit corporation.

321 (e) Regardless of whether the certificate of incorporation of a benefit
322 corporation includes a provision limiting the personal liability of
323 directors, as authorized by chapter 601 of the general statutes, a benefit
324 director shall not be personally liable for any act or omission in the
325 capacity of a benefit director unless the act or omission constitutes self-
326 dealing, wilful misconduct or a knowing violation of law.

327 Sec. 11. (NEW) (*Effective October 1, 2014*) (a) Each officer of a benefit
328 corporation shall consider the interests and factors described in
329 subsection (a) of section 9 of this act in the manner provided in that
330 subsection if (1) the officer has discretion to act with respect to a

331 matter, and (2) it reasonably appears to the officer that the matter may
332 have a material effect on the creation by the benefit corporation of a
333 general public benefit or any specific public benefit identified in the
334 certificate of incorporation of the benefit corporation.

335 (b) The consideration of interests and factors in the manner
336 described in subsection (a) of this section shall not constitute a
337 violation of section 33-765 of the general statutes, as amended by this
338 act.

339 (c) An officer shall not be personally liable for (1) an act or omission
340 as an officer in the course of performing the duties of an officer under
341 subsection (a) of this section if the officer performed the duties of the
342 position in compliance with section 33-765 of the general statutes, as
343 amended by this act, and this section, or (2) the failure of the benefit
344 corporation to pursue or create a general public benefit or any specific
345 public benefit.

346 (d) An officer shall not have a duty to a person that is a beneficiary
347 of the general public benefit purpose or any specific public benefit
348 purpose of a benefit corporation based on the status of such person as
349 a beneficiary.

350 Sec. 12. (NEW) (*Effective October 1, 2014*) A benefit corporation may
351 designate a benefit officer. A benefit officer shall have (1) the powers
352 and duties relating to the purpose of the corporation to create a general
353 public benefit or any specific public benefit provided (A) by the
354 bylaws, or (B) absent controlling provisions in the bylaws, by
355 resolutions or orders of the board of directors, and (2) the duty to
356 prepare the benefit report required by section 14 of this act.

357 Sec. 13. (NEW) (*Effective October 1, 2014*) (a) Except in a benefit
358 enforcement proceeding, no person may bring an action or assert a
359 claim against a benefit corporation or its directors or officers with
360 respect to (1) the failure to pursue or create a general public benefit or
361 any specific public benefit identified in its certificate of incorporation,

362 or (2) the violation of an obligation, duty or standard of conduct under
363 sections 3 to 15, inclusive, of this act.

364 (b) A benefit corporation shall not be liable for monetary damages
365 under sections 3 to 15, inclusive, of this act for any failure of the benefit
366 corporation to pursue or create a general public benefit or any specific
367 public benefit.

368 (c) A benefit enforcement proceeding may be commenced or
369 maintained only (1) directly by the benefit corporation, or (2)
370 derivatively in accordance with the provisions of chapter 601 of the
371 general statutes by (A) a person or group of persons that owns
372 beneficially or of record not less than five per cent of the total number
373 of shares of a class or series outstanding at the time of the act or
374 omission complained of, (B) a person or group of persons that owns
375 beneficially or of record ten per cent or more of the outstanding equity
376 interests in an entity of which the benefit corporation is a majority-
377 owned subsidiary at the time of the act or omission complained of, or
378 (C) other persons as specified in the certificate of incorporation or
379 bylaws of the benefit corporation.

380 (d) For purposes of this section, a person is the beneficial owner of
381 shares or equity interests if the shares or equity interests are held in a
382 voting trust or by a nominee on behalf of the beneficial owner.

383 Sec. 14. (NEW) (*Effective October 1, 2014*) (a) A benefit corporation
384 shall select a third-party standard by which to assess such
385 corporation's pursuit of a general public benefit and any specific public
386 benefit. Selecting or changing a third-party standard shall require
387 approval by (1) the greater of (A) a majority of all the directors in office
388 when the action is taken, or (B) the number of directors required by the
389 certificate of incorporation or bylaws of the benefit corporation to take
390 action under this section, or (2) the vote or written consent of the
391 shareholders required by the certificate of incorporation or bylaws of
392 the benefit corporation to take action under this section.

393 (b) A benefit corporation shall prepare an annual benefit report that
394 includes each of the following:

395 (1) A narrative description of (A) the ways in which the benefit
396 corporation pursued a general public benefit during the year and the
397 extent to which a general public benefit was created; (B) both (i) the
398 ways in which the benefit corporation pursued any specific public
399 benefit identified in the benefit corporation's certificate of
400 incorporation, and (ii) the extent to which such specific public benefit
401 was created; (C) any circumstances that have hindered the creation by
402 the benefit corporation of a general public benefit or any specific
403 public benefit; and (D) the process and rationale for selecting or
404 changing the third-party standard used to prepare the benefit report;

405 (2) An assessment of the overall social and environmental
406 performance of the benefit corporation against a third-party standard
407 (A) applied consistently with any application of that standard in prior
408 benefit reports, or (B) accompanied by an explanation of the reasons
409 for any inconsistent application or the change to that standard from
410 the standard used in the most recent prior report;

411 (3) The name of the benefit director and the benefit officer, if any,
412 and the address to which correspondence to the benefit director or the
413 benefit officer may be directed;

414 (4) The compensation paid by the benefit corporation during the
415 year to each director in his or her capacity as a director;

416 (5) The opinion of the benefit director described in subsection (c) of
417 section 10 of this act; and

418 (6) A statement of any connection between the organization that
419 established the third-party standard, its directors or officers or any
420 holder of five per cent or more of the voting power or capital interests
421 in the organization, and the benefit corporation, its directors or officers
422 or any holder of five per cent or more of the outstanding shares of the
423 benefit corporation, including any financial or governance relationship

424 that might materially affect the credibility of the use of the third-party
425 standard.

426 (c) If, during the year covered by a benefit report, a benefit director
427 or benefit officer resigned from or refused to stand for reelection to the
428 position of benefit director or benefit officer, or was removed from the
429 position of benefit director or benefit officer, and the benefit director or
430 benefit officer furnished the benefit corporation with a written
431 statement or correspondence concerning the circumstances
432 surrounding the resignation, refusal or removal, the benefit report
433 shall include that statement or correspondence as an exhibit.

434 (d) Neither the benefit report nor the assessment of the performance
435 of the benefit corporation in the benefit report required by subdivision
436 (2) of subsection (b) of this section shall be required to be audited or
437 certified by the third-party standards provider.

438 Sec. 15. (NEW) (*Effective October 1, 2014*) (a) A benefit corporation
439 shall send its annual benefit report to each shareholder (1) not later
440 than one hundred twenty days following the end of the fiscal year of
441 the benefit corporation, or (2) at the same time that the benefit
442 corporation delivers any other annual report to its shareholders,
443 whichever is earlier.

444 (b) A benefit corporation shall post and maintain each annual
445 benefit report on the public portion of its Internet web site, if any,
446 except that the compensation paid to directors and any financial,
447 confidential or proprietary information included in any benefit report
448 may be omitted from the benefit report as posted.

449 (c) If a benefit corporation does not have an Internet web site, the
450 benefit corporation shall provide a copy of such corporation's most
451 recent benefit report, without charge, to any person who requests a
452 copy, but the compensation paid to directors and any financial,
453 confidential or proprietary information included in any benefit report
454 may be omitted from such copy.

455 Sec. 16. Section 33-856 of the general statutes is repealed and the
456 following is substituted in lieu thereof (*Effective October 1, 2014*):

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

460 (1) Consummation of a merger to which the corporation is a party
461 (A) if shareholder approval is required for the merger by section 33-
462 817 and the shareholder is entitled to vote on the merger, except that
463 appraisal rights shall not be available to any shareholder of the
464 corporation with respect to shares of any class or series that remain
465 outstanding after consummation of the merger, or (B) if the
466 corporation is a subsidiary and the merger is governed by section 33-
467 818;

468 (2) Consummation of a share exchange to which the corporation is a
469 party as the corporation whose shares will be acquired, if the
470 shareholder is entitled to vote on the exchange, except that appraisal
471 rights shall not be available to any shareholder of the corporation with
472 respect to any class or series of shares of the corporation that is not
473 exchanged;

474 (3) Consummation of a disposition of assets pursuant to section 33-
475 831 if the shareholder is entitled to vote on the disposition, except that
476 appraisal rights shall not be available to any shareholder of the
477 corporation with respect to shares of any class or series if (A) under the
478 terms of the corporate action approved by the shareholders there is to
479 be distributed to shareholders in cash its net assets, in excess of a
480 reasonable amount reserved to meet claims of the type described in
481 sections 33-886 and 33-887, (i) within one year after the shareholders'
482 approval of the action, and (ii) in accordance with their respective
483 interests determined at the time of such distribution, and (B) the
484 disposition of assets is not an interested transaction;

485 (4) An amendment of the certificate of incorporation with respect to

486 a class or series of shares that reduces the number of shares of a class
487 or series owned by the shareholder to a fraction of a share if the
488 corporation has the obligation or right to repurchase the fractional
489 share so created; [or]

490 (5) If the corporation is not a benefit corporation, as defined in
491 section 2 of this act, (A) an amendment of the certificate of
492 incorporation to state that the corporation is a benefit corporation; (B)
493 consummation of a merger to which the corporation is a party in
494 which the surviving entity will be a benefit corporation or in which
495 shares in the corporation will be converted into a right to receive
496 shares of a benefit corporation; or (C) consummation of a share
497 exchange to which the corporation is a party and the shares of the
498 corporation will be exchanged for shares of a benefit corporation; or

499 ~~[(5)]~~ (6) Any other merger, share exchange, disposition of assets or
500 amendment to the certificate of incorporation to the extent provided by
501 the certificate of incorporation, the bylaws or a resolution of the board
502 of directors.

503 (b) Notwithstanding subsection (a) of this section, the availability of
504 appraisal rights under subdivisions (1) [~~, (2), (3) and (4)]~~ to (5),
505 inclusive, of subsection (a) of this section shall be limited in accordance
506 with the following provisions:

507 (1) Appraisal rights shall not be available for the holders of shares of
508 any class or series of shares which is:

509 (A) A covered security under Section 18(b)(1)(A) or (B) of the
510 Securities Act of 1933, as amended;

511 (B) Traded in an organized market and has at least two thousand
512 shareholders and a market value of at least twenty million dollars,
513 exclusive of the value of such shares held by the corporation's
514 subsidiaries, senior executives, directors and beneficial shareholders
515 owning more than ten per cent of such shares; or

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

520 (2) The applicability of subdivision (1) of this subsection shall be
521 determined as of: (A) The record date fixed to determine the
522 shareholders entitled to receive notice of the meeting of shareholders
523 to act upon the corporate action requiring appraisal rights; or (B) the
524 day before the effective date of such corporate action if there is no
525 meeting of shareholders.

526 (3) Subdivision (1) of this subsection shall not be applicable and
527 appraisal rights shall be available pursuant to subsection (a) of this
528 section for the holders of any class or series of shares (A) who are
529 required by the terms of the corporate action requiring appraisal rights
530 to accept for such shares anything other than cash or shares of any
531 class or any series of shares of any corporation, or any other
532 proprietary interest of any other entity, that satisfies the standards set
533 forth in subdivision (1) of this subsection at the time the corporate
534 action becomes effective, or (B) in the case of the consummation of a
535 disposition of assets pursuant to section 33-831, unless such cash,
536 shares or proprietary interests are, under the terms of the corporate
537 action approved by the shareholders, to be distributed to the
538 shareholders, as part of a distribution to shareholders of the net assets
539 of the corporation in excess of a reasonable amount to meet claims of
540 the type described in sections 33-886 and 33-887, (i) not later than one
541 year after the shareholders' approval of the action, and (ii) in
542 accordance with their respective interests determined at the time of the
543 distribution.

544 (4) Subdivision (1) of this subsection shall not be applicable and
545 appraisal rights shall be available pursuant to subsection (a) of this
546 section for the holders of any class or series of shares where the
547 corporate action is an interested transaction.

548 (c) Notwithstanding any other provision of this section, the
549 certificate of incorporation as originally filed or any amendment
550 thereto may limit or eliminate appraisal rights for any class or series of
551 preferred shares, but any such limitation or elimination contained in
552 an amendment to the certificate of incorporation that limits or
553 eliminates appraisal rights for any of such shares that are outstanding
554 immediately prior to the effective date of such amendment or that the
555 corporation is or may be required to issue or sell thereafter pursuant to
556 any conversion, exchange or other right existing immediately before
557 the effective date of such amendment shall not apply to any corporate
558 action that becomes effective within one year of that date if such action
559 would otherwise afford appraisal rights.

560 (d) Where the right to be paid the value of shares is made available
561 to a shareholder by this section, such remedy shall be the exclusive
562 remedy as holder of such shares against the corporate actions
563 described in this section, whether or not the shareholder proceeds as
564 provided in sections 33-855 to 33-872, inclusive.

565 Sec. 17. Section 33-756 of the general statutes is amended by adding
566 subsection (f) as follows (*Effective October 1, 2014*):

567 (NEW) (f) A director is not liable under this section for any act or
568 omission in the course of performing the duties of a director under
569 subsection (a) of section 9 of this act if the director performed such
570 duties in compliance with this section and section 9 of this act.

571 Sec. 18. Section 33-765 of the general statutes is amended by adding
572 subsection (e) as follows (*Effective October 1, 2014*):

573 (NEW) (e) An officer is not liable under this section for any act or
574 omission in the course of performing the duties of an officer under
575 subsection (a) of section 11 of this act if the officer performed such
576 duties in compliance with this section and section 11 of this act.

