

## CHAPTER 16

### RECORDS AND REPORTS

#### SUBCHAPTER 1

#### RECORDS

##### §1601. Corporate records

**1. Minutes of meetings.** A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Accounting records.** A corporation shall maintain appropriate accounting records.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Record of shareholders.** A corporation or its agent shall maintain a record of its shareholders in a form that permits preparation of a list of the names and addresses of all shareholders in alphabetical order by class of shares showing the number and class of shares held by each.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Records; written, electronic.** A corporation shall maintain its records in the form of a document, including an electronic record, or in another form capable of conversion into paper form within a reasonable time.

[PL 2011, c. 274, §74 (AMD).]

**5. Copy of records.** A corporation shall keep a copy of the following records at its principal office or its registered office:

A. Its articles or restated articles of incorporation, all amendments to them currently in effect and any notices to shareholders referred to in section 121, subsection 10, paragraph E regarding facts on which a filed document is dependent; [PL 2003, c. 344, Pt. B, §131 (AMD).]

B. Its bylaws or restated bylaws and all amendments to them currently in effect; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. Resolutions adopted by its board of directors creating one or more classes or series of shares and fixing their relative rights, preferences and limitations, if shares issued pursuant to those resolutions are outstanding; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past 3 years; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

E. All written communications to shareholders generally within the past 3 years, including any financial statements furnished for the past 3 years under section 1620; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

F. A list of the names and business addresses of its current directors and officers; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

G. Its most recent annual report delivered to the Secretary of State under section 1621. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2003, c. 344, Pt. B, §131 (AMD).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B131 (AMD). PL 2011, c. 274, §74 (AMD).

#### §1602. Inspection of records by shareholders

**1. Shareholder defined.** For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Inspect; copy records.** A shareholder of a corporation is entitled to inspect and copy during regular business hours at the corporation's principal office or its registered office, if the corporation keeps such records at its registered office, any of the records of the corporation described in section 1601, subsection 5 if the shareholder gives the corporation a signed written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy, except that a shareholder's rights under this subsection are subject to any reasonable restrictions on the disclosure of financial information about the corporation that are set forth in the corporation's articles of incorporation or bylaws.  
[PL 2011, c. 274, §75 (AMD).]

**3. Certain documents inspected; copied.** A shareholder of a corporation is entitled to inspect and copy during regular business hours at a reasonable location specified by the corporation any of the following records of the corporation if the shareholder meets the requirements of subsection 4 and gives the corporation a signed written notice of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy:

A. Excerpts from minutes of any meeting of the board of directors or a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders and records of action taken by the shareholders, the board of directors or a committee of the board without a meeting, to the extent not subject to inspection under subsection 2; [PL 2011, c. 274, §76 (AMD).]

B. Accounting records of the corporation; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The record of shareholders. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2011, c. 274, §76 (AMD).]

**4. Requirements.** A shareholder may inspect and copy the records described in subsection 3 only if:

A. The shareholder's demand is made in good faith and for a proper purpose; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The records are directly connected with the shareholder's purpose; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

D. The shareholder complies with such reasonable restrictions regarding the disclosure of such records as may be set forth in the corporation's articles of incorporation or bylaws. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**5. Right of inspection.** The right of inspection granted by this section may not be abolished or limited, except as provided in subsections 2 and 4, by a corporation's articles of incorporation or bylaws. [PL 2003, c. 344, Pt. B, §132 (AMD).]

**6. Shareholder's rights.** Nothing in this section affects:

A. The right of a shareholder to inspect records under section 721 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The power of a court, independently of this Act, to compel the production of corporate records for examination. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]  
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**7. Notice and information to new shareholders.** For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, a person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its publicly accessible website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of an action taken at the meeting. [PL 2011, c. 274, §77 (NEW).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B132 (AMD). PL 2011, c. 274, §§75-77 (AMD).

#### §1603. Scope of inspection right

**1. Agent; attorney.** A shareholder's agent or attorney has the same inspection and copying rights as the shareholder that the agent or attorney represents. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Right to copy.** The right to copy records under section 1602 includes, if reasonable, the right to receive copies made by photographic, xerographic or other means. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. Charge for copies.** The corporation may impose a reasonable charge covering the costs of labor and material for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production or reproduction of the records. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Comply with demand.** The corporation may comply with a shareholder's demand to inspect the record of shareholders under section 1602, subsection 3, paragraph C by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF).

#### §1604. Court-ordered inspection

**1. Order inspection.** If a corporation does not allow a shareholder who complies with section 1602, subsection 2 to inspect and copy any records required by that subsection to be available for inspection, the Superior Court of the county where the corporation's principal office is located or, if none in this State, of Kennebec County may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

[PL 2007, c. 323, Pt. C, §37 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

**2. Court order.** If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record pursuant to this Act, the shareholder who complies with section 1602, subsections 3 and 4 may apply to the Superior Court in the county where the corporation's principal office is located or, if none in this State, in Kennebec County for an order to permit inspection and copying of the records demanded. An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[PL 2011, c. 559, Pt. A, §11 (AMD).]

**3. Refuse inspection; good faith.** If the court orders inspection and copying of the records demanded under subsection 1 or 2, the court shall also order the corporation to pay the shareholder's expenses incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

[PL 2007, c. 289, §46 (AMD).]

**4. Restrictions.** If the court orders inspection and copying of the records demanded under subsection 1 or 2, the court may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2007, c. 289, §46 (AMD). PL 2007, c. 323, Pt. C, §§37, 38 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2011, c. 559, Pt. A, §11 (AMD).

### §1605. Inspection of records by directors

**1. Inspect; copy records.** A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent that the inspection or copying is reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**2. Court order.** The Superior Court of the county where the corporation's principal office is located or, if there is no principal office in this State, of Kennebec County may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused inspection rights under subsection 1, unless the corporation establishes that the director is not entitled to such inspection rights. An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[PL 2011, c. 559, Pt. A, §12 (AMD).]

**3. Provisions to protect corporation.** If an order is issued under subsection 2, the court may include provisions protecting the corporation from undue burden or expense and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's expenses incurred in connection with the application.

[PL 2007, c. 289, §47 (AMD).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2007, c. 289, §47 (AMD). PL 2007, c. 323, Pt. C, §39 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2011, c. 559, Pt. A, §12 (AMD).

#### §1606. Exception to notice requirement

**1. Notice.** Whenever notice would otherwise be required to be given under any provision of this Act to a shareholder, that notice need not be given if:

A. Notices to the shareholders of 2 consecutive annual meetings and all notices of meetings during the period between such 2 consecutive annual meetings have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered; or [PL 2011, c. 274, §78 (AMD).]

B. All, but not less than 2, payments of dividends on securities during a 12-month period, or 2 consecutive payments of dividends on securities during a period of more than 12 months, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered. [PL 2011, c. 274, §78 (AMD).]

[PL 2011, c. 274, §78 (AMD).]

**2. Shareholder's address.** If a shareholder to whom notice is not required pursuant to subsection 1 delivers to the corporation a written notice setting forth that shareholder's current address, the requirement that notice be given to that shareholder is reinstated.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2011, c. 274, §78 (AMD).

## SUBCHAPTER 2

### REPORTS

#### §1620. Financial statements for shareholders

**1. Financial statements.** No later than 5 months after the close of each fiscal year, each corporation that is not a close corporation shall deliver to its shareholders annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis. A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements or otherwise making them available in any manner permitted by the applicable rules and regulations of the United States Securities and Exchange Commission.

[PL 2011, c. 274, §79 (AMD).]

**2. Written demand for copy of financial statement.** Upon written demand of any shareholder of a corporation, the corporation shall deliver to that shareholder a copy of the most recent annual financial statement prepared in accordance with subsection 1. If the annual financial statement is reported upon by a public accountant, the accountant's report must accompany it. If the annual financial

statement is not reported upon by a public accountant, the statement must be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

A. Stating the reporter's reasonable belief whether the statement was prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. Describing any respects in which the statement was not prepared on a basis of accounting consistent with the statement prepared for the preceding year. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

[PL 2011, c. 274, §80 (AMD).]

**3. Restrictions on disclosure of financial statement.** The articles of incorporation or bylaws of a corporation may impose reasonable restrictions regarding the disclosure of financial information as a condition to delivery of an annual financial statement to a shareholder in accordance with this section. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2011, c. 274, §§79, 80 (AMD).

#### §1621. Annual report of domestic and foreign corporations; excuse

**1. Filing of annual report.** Each domestic corporation, unless excused as provided in subsection 4 or excluded by subsection 6, and each foreign corporation authorized to do business in this State, shall deliver to the Secretary of State for filing, within the time prescribed by this section, an annual report setting forth:

A. The name of the domestic or foreign corporation and the jurisdiction of its incorporation; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The information required by Title 5, section 105, subsection 1; [PL 2007, c. 323, Pt. C, §40 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

C. A brief statement of the character of the business in which the domestic or foreign corporation is actually engaged in this State, if any; [PL 2007, c. 323, Pt. C, §40 (AMD); PL 2007, c. 323, Pt. G, §4 (AFF).]

D. [PL 2007, c. 323, Pt. C, §40 (RP); PL 2007, c. 323, Pt. G, §4 (AFF).]

E. The address of its principal office, wherever located; [PL 2007, c. 323, Pt. C, §40 (NEW); PL 2007, c. 323, Pt. G, §4 (AFF).]

F. The names of its principal officers; [PL 2021, c. 385, §2 (AMD).]

G. The names of its directors, except that in the case of a corporation that has eliminated its board of directors pursuant to section 743 the annual report must set forth the names of the shareholders instead; [PL 2021, c. 385, §2 (AMD).]

H. An indication as to whether the domestic corporation is publicly held; [PL 2021, c. 385, §2 (NEW).]

I. An indication of how many female directors are on the board of directors of the publicly held domestic corporation; and [PL 2021, c. 385, §2 (NEW).]

J. An indication as to whether the domestic publicly held corporation has the minimum number of female directors on its board of directors required by section 803, subsection 4. [PL 2021, c. 385, §2 (NEW).]

[PL 2021, c. 385, §2 (AMD).]

**2. Information current.** The information contained in the annual report required in subsection 1 must be current as of the date the report is executed. The annual report must be executed as provided by section 121.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**3. First annual report.** The first annual report required in subsection 1 must be delivered to the Secretary of State between January 1st and June 1st of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the Secretary of State between January 1st and June 1st of the following calendar years. Proof to the satisfaction of the Secretary of State that, prior to the date when penalties become effective for late delivery of annual reports as provided in section 1622, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, is compliance with this requirement. One copy of the report, together with the filing fee required by this Act, must be delivered for filing to the Secretary of State who shall file the report, if the Secretary of State finds that the report conforms to the requirements of this Act. If the Secretary of State finds that the report does not conform to the requirements of this Act, the Secretary of State shall promptly mail or otherwise return the report to the domestic or foreign corporation for any necessary corrections, in which case the penalties prescribed by this Act for failure to file the report within the time herein provided do not apply, as long as the report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days from the date on which it was mailed or otherwise returned to the domestic or foreign corporation by the Secretary of State.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**4. Certificate of excuse.** The Secretary of State, upon application by any domestic corporation and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the domestic corporation, after which the corporation is excused from filing annual reports with the Secretary of State, as long as the domestic corporation in fact transacts no business. The name of a corporation remains in the Secretary of State's records of corporate names and is protected for a period of 5 years following excuse.

[PL 2003, c. 344, Pt. B, §134 (AMD).]

**5. Resume transaction of business.** The shareholders of a domestic corporation that has been excused from filing annual reports pursuant to subsection 4 may vote to resume transacting business at a meeting duly called and held for that purpose. A certificate executed and filed as provided in section 121 setting forth that a shareholders' meeting was held, the date and location of same, and that a majority of the shareholders voted to resume transacting business authorizes that domestic corporation to transact business; and after that certificate is filed, the domestic corporation is required to file annual reports beginning with the next reporting deadline following resumption.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

**6. Exempt from filing annual report.** The requirement under subsection 1 does not apply to religious, charitable, educational or benevolent corporations nor to corporations organized under Title 13, chapters 81, 83, 91 and 93.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

## SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B133,134 (AMD). PL 2007, c. 323, Pt. C, §40 (AMD). PL 2007, c. 323, Pt. G, §4 (AFF). PL 2021, c. 385, §2 (AMD).

### §1622. Failure to file annual report; incorrect report; penalties

**1. Penalty.** A domestic or foreign corporation required to deliver an annual report for filing as provided by section 1621 that fails to deliver its properly completed annual report to the Secretary of

State shall pay, in addition to the regular annual report fee, the late filing penalty described in section 123, subsection 1, paragraph EE, as long as the report is received by the Secretary of State prior to administrative dissolution or revocation. Upon a corporation's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 5 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and administratively dissolve a domestic corporation. The Secretary of State shall use the procedures set forth in section 1421 to administratively dissolve a corporation and the procedures set forth in section 1532 to revoke a foreign corporation's authority to do business in this State. A domestic corporation that has been administratively dissolved under section 1421 must follow the procedures set forth in section 1422 to reinstate.

[PL 2003, c. 631, §34 (AMD).]

**2. Excusable neglect.** If the annual report of a domestic or foreign corporation is not delivered for filing within the time specified in section 1621, the corporation is excused from the liability provided in this section and from any other penalty for failure to timely file the report if it establishes, to the satisfaction of the Secretary of State, that its failure to file was the result of excusable neglect and it furnishes the Secretary of State with a copy of the report within 30 days after it learns that the Secretary of State failed to receive the original report.

[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

#### SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 631, §34 (AMD).

#### §1623. Amended annual report of domestic or foreign corporations

**1. Amended annual report.** If the information contained in an annual report filed under section 1621 has changed, a domestic or foreign corporation may, if it determines necessary, deliver to the Secretary of State for filing an amended annual report to change the information on file. The amended annual report must be executed as provided by section 121, subsection 5.

[PL 2003, c. 344, Pt. B, §135 (NEW).]

**2. Contents.** The amended annual report under subsection 1 must set forth:

A. The name of the domestic corporation or foreign corporation and the jurisdiction of its incorporation; [PL 2003, c. 344, Pt. B, §135 (NEW).]

B. The date on which the original annual report was filed; and [PL 2003, c. 344, Pt. B, §135 (NEW).]

C. The information that has changed and the date on which it changed. [PL 2003, c. 344, Pt. B, §135 (NEW).]

[PL 2003, c. 344, Pt. B, §135 (NEW).]

**3. Period for filing.** An amended annual report under subsection 1 may be filed by the domestic corporation or foreign corporation from the date of the original filing until December 31st of that filing year.

[PL 2003, c. 344, Pt. B, §135 (NEW).]

#### SECTION HISTORY

PL 2003, c. 344, §B135 (NEW).

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