BYLAWS

OF

PACIFIC BEACH COMMUNITY DEVELOPMENT CORPORATION
A CALIFORNIA PUBLIC BENEFIT CORPORATION

ARTICLE 1
OFFICES

SECTION 1. PRINCIPAL OFFICE

The principal office of the corporation for the transaction of its business is located in San Diego County, California and Pacific Beach Business Improvement, as defined by the map and address ranges described in Article 15 of these by-laws and incorporated in these by-laws by reference.

SECTION 2. CHANGE OF ADDRESS

The county of the corporation's principal office can be changed only by amendment of these Bylaws and not otherwise. The Board of Directors may, however, change the principal office from one location to another within the named county by noting the changed address and effective date below, and such changes of address shall not be deemed an amendment of these Bylaws:

910 Grand Avenue, #113 Dated: September 7, 1998

1503 Garnet Avenue
San Diego, CA 92109 Dated: December 18, 2001
1001 Garnet Avenue Suite 200
San Diego, CA 92109 Dated: March 3, 2026

_____ Dated:

SECTION 3. OTHER OFFICES

The corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the board of directors may, from time to time, designate.

ARTICLE 2
PURPOSES

SECTION 1. OBJECTIVES AND PURPOSES

The primary objectives and purposes of this corporation shall be:

A. To bring about the revitalization of the Pacific Beach commercial and residential areas, which have deteriorated, become blighted, or have otherwise declined in their social or economic vitality.

B. To bring about the investment of private and public capital within the Pacific Beach commercial and residential areas and its surrounds for public benefit and charitable purposes.

C. To bring about the increased provision of quality public improvements and educational, cultural, artistic, charitable, and social services within Pacific Beach commercial and residential areas and its surrounds for the public benefit and charitable purposes.

D. To bring about the increased economic well-being of residents, employees, and businesses within the Pacific Beach commercial and residential areas and their surrounds.

E. To decrease the burden of public agencies by providing services, amenities, improvements and other physical improvements and to provide for the maintenance of area, including but not limited to, street cleaning, landscape maintenance, repairs to building and improvements, provisions of lighting and utilities, security and policing and other related activities. Related activities also include, without limitation, construction or maintenance of transportation and parking facilities for the benefit of the area, decoration and installation of art at any public places in the area, and furnishing of music in any public place in the area. Programs of education to promote security, community pride, and economic prosperity are included without limitation.

F. To bring about the improvement of the Pacific Beach commercial and residential areas, neighborhoods and its surrounds by increasing the quality of housing and enhancing neighborhood character and ownership opportunities. The promotion of the concept live, work, and own for residences and businesses shall be a purpose of this corporation and may include, without limitation, the organization and support of cooperatives of any kind or nature.

ARTICLE 3
ASSESSED, NON-ASSESSED, AND ASSOCIATE SUPPORTERS

SECTION 1. ASSESSED, NON-ASSESSED, AND ASSOCIATE SUPPORTERS

The broadest participation of business and resident community is desired by the corporation in effecting its objectives and purposes. To further this objective the bylaws, establish the rules that follow:

A. Holders of a valid and fully paid City of San Diego Business Tax Certificate for the Pacific Beach Business Improvement District shall be eligible to appoint a representative for selection as an Assessed Business Delegate. The representative must be in the employment no less than 30 hrs per week of or is a business partner of the City of San Diego Business Tax Certificate holder. In absence of an appointment of a different individual, the name appearing on valid Pacific Beach Business Tax certificate shall be the business representative.

B. Financial Institutions, Utilities or Insurance Companies located in the Pacific Beach Business Improvement District which are exempt from the payment of Business Tax in the Pacific Beach Business Improvement District shall be eligible to appoint a representative for selection as an Non-Assessed Business Delegate. Eligibility shall be conditional on payment of an amount equivalent to those paid by similar assessed businesses. The directors shall establish written rules and policies concerning the acceptance of Non-Assessed Business Delegates.

C. Persons, associations, governmental agencies, and corporations who desire to support the corporation's objectives and purposes may be eligible for Associate Supporter status under written rules and policies established by the directors.

D. The directors shall annually approve Assessed Business Delegates and Non-Assessed Business Delegates. The directors shall request from the City of San Diego a list of holders of a valid and fully paid City of San Diego Business Tax Certificate for the Pacific Beach Business Improvement District as of the last day of June of each year. All listed holders of a valid and fully paid City of San Diego Business Tax Certificate for the Pacific Beach Business Improvement District shall be eligible for selection as business delegates at the September meeting of the directors. All Non-Assessed Business Delegates (as defined in Section B above) whose term is valid as of the last day of June shall be eligible for selection as business delegates at the September meeting of the directors. A majority vote of the directors shall appoint eligible Assessed Business Delegates and Non-

Assessed Business

Delegates as Delegates.

Assessed Business Delegates and Non-Assessed Business Delegates shall thereafter be treated the same and referred to as "Delegates" for a term ending at the conclusion of the Annual meeting.

E. The directors may, at any time during the remainder of the fiscal year, reappoint delegates to conduct meetings of the delegates, support activities of the corporation, address concerns of Pacific Beach businesses, or for any other purpose. Should delegate reappointment be required, then the directors will follow a reasonably similar process to verify Assessed and Non-Assessed Businesses eligibility status and their representatives appointment. The appointment of delegates, necessity for meeting of delegates or balloting by delegates may be placed on the directors' next regular agenda by a petition signed by ten percent (10%) of the number of delegates appointed for the last annual meeting or ten percent (10%) of the number of current Assessed Businesses Tax Certificate holders at the time of the petitions submission, whichever is less.

SECTION 2. MEMBERS IN GENERAL

A. This Corporation shall have no members, as that term is defined in section 5056 of the California Nonprofit Corporation Law. Unless otherwise provided herein or in the California Nonprofit Public Benefit Corporation Law, any action which would otherwise require approval by a majority of all members shall require only approval of the board of directors. All rights that would otherwise vest in the members shall vest in the board of directors. Nothing in these bylaws shall be construed as limiting the right of the Corporation to refer to persons associated with it, who participate in any activities of the Corporation, as "members" even though such persons are not members, as defined in section 5056 of the California Corporations Code. Such persons shall be deemed to be associated persons with respect to the corporation as that term is defined in section 5332 of the California Nonprofit Public Benefit Corporation Law, and no such reference shall constitute anyone a member of this Corporation.

B. "Delegates" are not members, as that term is defined in section 5056 of the California Nonprofit Corporation Law, nor are they vested in any rights other than provided by majority action of the directors, notwithstanding any reference to delegates as "members" by this organization or any of its representatives.

ARTICLE 4
ELECTION OF DIRECTORS

SECTION 1. ELECTION METHOD

A. The board of directors may determine, each August, whether elections are to be conducted using a written ballot by delegates or at the Annual meeting of delegates and directors.

B. In absence of a determination, the method of selection shall be by written ballot by delegates and confirmed by vote of the directors.

SECTION 2. NOMINATING COMMITTEE.

A. The President shall appoint a committee, to propose qualified candidates for election to the directors at the August directors meeting or at least 60 days before the date of any election of directors. The Nominating Committee shall consist of at least three members including the current President and two others selected by the President. The nominating committee shall make its report, to the directors and potential delegates by mail following the August director's meeting. The Secretary shall forward to each potential delegate, with a notice of the Annual meeting, a list of candidates nominated, by seat and method of nomination. The Secretary's Annual meeting notice and nomination materials should be mailed immediately following the August meeting to each director and potential delegate. The Secretary shall mail to the Pacific Beach businesses an election notice and materials and petition

forms concerning the elections for directors and require the receipt of completed petitions no later than seven days following the August Directors meeting. The notice should clearly indicate that the directors will consider, at the September directors' meeting, the eligibility of businesses to serve as voting delegates and for the Annual meeting. A notice of these materials should be published in a newspaper of general circulation and these materials may be incorporated into the corporation newsletter, if mailed by first class postage.

B. Potential delegates, representing at least twenty (20) businesses or two percent of the potential delegates, whichever is less, may nominate candidates for directorships at any time reasonably before the September meeting of the directors. On timely receipt of a petition signed by the required number of businesses, the Secretary shall cause the names of those candidates named on it to be placed on the ballot.

C. At the September directors' meeting, the director's will consider a report from the Secretary on a list of potential delegates. The directors' will consider delegate qualifications as Pacific Beach businesses and the status of their payments. All delegates found eligible may be selected for appointment to vote for directors and participate in the annual meeting. Pacific Beach businesses should review the Secretary's list and bring to the director's attention any concerns regarding eligibility of a business's representative to serve as delegates. It is the responsibility of persons and businesses wanting to serve as delegates to verify and check their eligibility for appointment and to raise any concerns or objections regarding eligibility at the September Board of Directors' meeting. Failure to object, at this time, shall extinguish any basis to object based on the principles of laches and waiver.

D. Following the Secretary's report the nominating committee report shall be considered, additional nominations may be made, by directors, from the floor provided that the nominee so named is a delegate in good standing and has, if absent, submitted in writing a statement indicating their interest in serving or is present. The directors may adopt a recommended slate of Candidates, close nominations, and order the preparation of a written ballot. The form of the written ballot may provide a recommended slate by majority vote of the directors and may contain proposals for consideration by the delegates. The board of directors shall appoint an Elections Committee and may appoint an inspector of elections and provide for his/her compensation, if any.

E. Following this meeting and no later than the 15th of September, a written ballot shall be prepared and mailed which lists Candidates for the Board of Directors and any proposals to be submitted to the delegates for consideration. The written ballot should be accompanied by the annual report and/or any other materials authorized by the directors. Written ballots shall be mailed by first class mail to all delegates of record as of the last day of the preceding June or that had demonstrated membership eligibility at the September meeting, as confirmed by vote of the directors. A ballot will be counted only if it is properly authenticated and received in a timely manner. Ballots may be hand delivered to the Corporation's principal office until 5:00 p.m. October 1st or delivered by mail with a postmark no later than October 1st and received at the principal office no later than October 3rd.

F. Those eligible to vote may cast as many votes by written ballot as there are vacancies to be filled, provided however, no one may cast more than one (1) vote for any one (1) candidate. Candidates for directors receiving the highest number of affirmative votes from eligible delegates shall be selected for directors' appointment. Preliminary results of the selection must be posted at the corporate office 24 hours (or a regular business day) after completion of the counting of the ballots, and at least 48 hours before the annual director's meeting. Any protest must be filed with the Election Committee after the posting of the preliminary results and before the vote of the directors confirming the selection at the annual board of director's meeting.

G. At the October regular director's meeting, or other time specified by the Board of Directors within the month of October, the Board of Directors will consider the voting results and confirm the newly elected directors by a majority vote. After a duly called meeting or written ballot of the Delegates, at which the Delegates voted to select a director, the directors shall elect that director unless the directors vote unanimously not to elect the director. The directors' action confirming a selection shall be final. If all vacancies have not been filled, then directors may fill the remaining vacancies.

ARTICLE 5
DIRECTORS

SECTION 1. NUMBER and QUALIFICATIONS

The corporation shall have fifteen (15) directors and collectively they shall be known as the Board of Directors. The number may be changed by amendment of this Bylaw, or by repeal of this Bylaw and adoption of a new Bylaw, as provided in these Bylaws. A director must be the designated representative of an assessed, non-assessed, or associate supporter business, which has a current and fully paid City of San Diego Business Tax Certificate.

SECTION 2. POWERS

Subject to the provisions of the California Nonprofit Public Benefit Corporation law, and any limitations in the Articles of Incorporation and Bylaws relating to action required or permitted to be taken or approved by the members, if any, of this corporation, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

SECTION 3. DUTIES

It shall be the duty of the directors to:

A. Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this corporation, or by these Bylaws;

B. Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all officers, agents and employees of the corporation;

C. Supervise all officers, agents and employees of the corporation to assure that their duties are performed properly;

D. Meet at such times and places, and under such conditions, as required by these Bylaws; and

E. Register their addresses with the Secretary of the corporation and notices of meetings mailed or telegraphed to them at such addresses shall be valid notice thereof.

SECTION 4. TERMS OF OFFICE

A. Each director shall hold office until the next annual meeting selection of his or her seat on the Board of Directors as specified in these Bylaws, and/or until his or her successor is elected and qualifies.

B. Directors shall be elected for three-year terms. Terms of directors shall normally end at the October annual meeting.

C. The terms of the directors shall be staggered as determined by election, so no more than five (5) are up for reelection at one time. One or more director's term shall be limited to a one (1) year term if

directors' terms are not appropriately staggered. Which director's terms are limited shall be determined by a unanimous vote of the board of directors. All candidates and voters shall be notified of the shortened length of term at the time of election.

D. Individuals are limited to serving two (2) consecutive three-year terms, and shall not be eligible to run for a fourth consecutive term. Partial terms shall be considered full terms in determining if a term limit applies to an individual's eligibility. Such individuals may regain their eligibility to serve on the Board of Director after they have not served for a period of three (3) or more years.

SECTION 5. COMPENSATION

Directors shall not be paid for service as a director. Directors shall serve without compensation except that they shall be allowed and paid their actual and necessary expenses incurred in attending Directors meetings, only after adoption of a written Board policy concerning this provision. In addition, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Directors may not be compensated for rendering services to the corporation in any capacity other than director unless such other compensation is reasonable and is allowable under the provisions of Section 6 of this Article.

SECTION 6. RESTRICTION REGARDING INTERESTED DIRECTORS

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the board may be interested persons. For purposes of this Section, "interested persons" means either:

A. Any person currently being compensated by the corporation for services rendered it within the previous twelve (12) months, whether as a full- or part-time officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or

B. Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

SECTION 7. PLACE OF MEETINGS

Meetings shall be held at the principal office of the corporation unless otherwise provided by the board or at such place within or without the State of California as has been designated from time to time by resolution of the Board of Directors. In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held on the written consent of all directors given either before or after the meeting and filed with the Secretary of the corporation or after all board members have been given written notice of the meeting as hereinafter provided for special meetings of the board. Any meeting, regular or special, may be held by conference telephone or similar communications equipment, so as long as all directors participating in such meeting can hear one another.

SECTION 8. REGULAR AND ANNUAL MEETINGS

A. Regular meetings of directors shall be held on the first Tuesday of each month at 12:00 noon., unless such day falls on a legal holiday or Election Day. The Board of Directors may adopt a different schedule of regular meeting than presented in this section. Should the directors adopt a different schedule then every director shall sign an acknowledgment of this different schedule, which waives any further notice of these re-scheduled regular meetings. A schedule of regular meetings shall be posted at the corporate office.

B. The annual meeting of directors, regularly scheduled for the third Tuesday of October, should provide for election of directors and presentation of annual reports. The Board of Directors shall elect directors in accordance with this section. Cumulative voting by directors for the selection of directors shall not be permitted. After a duly called meeting or written ballot of the Delegates, at which the Delegates voted to select a director, the directors shall elect that director unless the directors vote unanimously not to elect the director.

C. The participatory method of annual selection of directors shall provide for Pacific Beach delegates. Where delegates are provided for, the bylaws shall set forth delegates terms of office, any reasonable method for delegates selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates, and may set forth the manner in which delegates may act by written ballot similar to Section 5513 of the California Corporations Code for written ballot of members. Delegates may only act personally at a meeting or by written ballot and may not act by proxy. Delegates may be given a name other than "delegates."

D. As to directors selected by delegates, there shall be available to the delegates reasonable nomination and selection procedures given the nature, size and operations of the corporation. The procedures shall include:

1. A reasonable means of nominating persons for selection as directors.

2. A reasonable opportunity for a nominee to communicate to the delegates the nominee's qualifications and the reasons for the nominee's candidacy.

3. A reasonable opportunity for all nominees to solicit votes.

4. A reasonable opportunity for all delegates to choose among the nominees.

SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the President, the Vice President, the Secretary, or by any two directors, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

SECTION 10. NOTICE OF MEETINGS

. Special meetings of the board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone, or electronic mail (email). If sent by mail, facsimile, or e-mail, the notice shall be deemed to be delivered on its deposit in the mail or on its confirmed delivery by facsimile or e-mail, receipt being assumed. Such notices shall be addressed to each director at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to directors absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting. The notice for a special meeting shall contain a description of the purpose(s) of the special meeting.

SECTION 11. CONTENTS OF NOTICE

Notice of meetings not herein dispensed with shall specify the place, day and hour of the meeting. The purpose of any board meeting need not be specified in the notice. The notice for a special meeting shall contain a description of the purpose(s) of the special meeting.

SECTION 12. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 13. QUORUM FOR MEETINGS

A quorum shall consist of a majority of the Board of Directors, excluding any vacancies.

Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this corporation, or by law, no business shall be considered by the board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. However, a majority of the directors present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the board.

When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this Article.

The directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of directors from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or Bylaws of this corporation.

SECTION 14. MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless the Articles of Incorporation or Bylaws of this corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a director has a material financial interest (Section 5233) and indemnification of directors (Section 5238 e), require a greater percentage or different voting rules for approval of a matter by the board.

SECTION 15. CONDUCT OF MEETINGS

Meetings of the Board of Directors shall be presided over by the President of the Board, or, if no such person has been so designated or, in his or her absence, by the Vice President of the corporation or, in the absence of each of these persons, by a Chairperson chosen by a majority of the directors present at the meeting. The Secretary of the corporation shall act as secretary of all meetings of the board, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the Meeting.

Meetings shall be governed by Roberts Rules of Order, as such rules may be revised from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, with the Articles of Incorporation of this corporation, or with provisions of law. Regular meetings of the Board shall be scheduled by action of the Board approving an annual schedule of meetings. All meetings shall be public, open, and noticed consistent with the spirit and intent of "Brown Act". Agendas for regular meetings and special meetings shall be provided upon four (4) day's notice by first-class mail or forty eight (48) hours' notice delivered personally or by telephone, or by mail, facsimile, or e-mail, the agenda shall be deemed to be delivered on its deposit in the mail or on its confirmed delivery by facsimile or email, receipt being assumed. Such notices shall be addressed to each director at his or her address as shown on the books of the corporation. Minutes of each meeting shall be prepared and delivered to each Board member with the agenda for the next meeting and in no case more than thirty (30) days following the conduct of any meeting. The Board may conduct closed private executive sessions, as required to protect confidentiality and sensitive corporate negotiations, litigation, and related interests. Prior to entering into such executive sessions, the Board of Directors shall vote, by a majority vote, to enter into executive session. Directors and all other persons attending such executive sessions shall sign a statement that such sessions are confidential and may not be disclosed to others or used as evidence without the written consent of the other attendees.

SECTION 16. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the board" shall not include any "interested director" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of the directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this corporation authorize the directors to so act, and such statement shall be prima facie evidence of such authority.

SECTION 17. VACANCIES

Vacancies on the Board of Directors shall exist on the death, resignation or removal of any director, and whenever the number of authorized directors is increased.

The Board of Directors may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 5230 and following of the California Nonprofit Public Benefit Corporation Law.

Directors may be removed with cause by a 3/4 vote of the directors then in office. After a duly called meeting or written ballot of the Delegates, at which the Delegates voted to remove a director by a majority vote, then the directors shall remove that director unless the directors vote unanimously to retain the director.

Any director may resign effective upon giving written notice to the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. No director may resign if the corporation would then be left without a duly elected director or directors in charge of its affairs, except upon notice to the Attorney General.

Vacancies on the board may be filled by the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with this Article of these Bylaws, or by a sole remaining director. Directors shall make their best efforts to fill vacancies within 90 days of a vacancy occurring.

A person elected to fill a vacancy as provided by this Section shall hold office until the next annual selection of the Board of Directors or until his or her death, resignation or removal from office.

SECTION 18. NON-LIABILITY OF DIRECTORS

The directors shall not be personally liable for the debts, liabilities, or other obligations of the corporation.

SECTION 19. INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

To the extent that a person who is, or was, a director, officer, employee or other agent of this corporation has been successful on the merits in defense of any civil, criminal, administrative or investigative proceeding brought to procure a judgment against such person by reason of the fact that he or she is, or was, an agent of the corporation, or has been successful in defense of any claim, issue or matter, therein, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with such proceeding.

If such person either settles any such claim or sustains a judgment against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with such proceedings shall be provided by this corporation but only to the extent allowed by, and in accordance with the requirements of, Section 5238 of the California Nonprofit Public Benefit Corporation Law.

SECTION 20. INSURANCE FOR CORPORATE AGENTS

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee or other agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE 6
OFFICERS

SECTION 1. NUMBER OF OFFICERS

The officers of the corporation shall be a President, a Vice-President, a Secretary, and a Chief Financial Officer who shall be designated the Treasurer. The corporation may also have, as determined by the Board of Directors, one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers, or other officers. The same person may hold any number of offices except that neither the Secretary nor the Treasurer may serve as the President.

SECTION 2. QUALIFICATION, SELECTION, AND TERM OF OFFICE

A. The President, Vice-President, Secretary, and Treasurer of this corporation shall be directors and shall not be paid for their service as officers.

B. The Board of Directors may elect officers at any time. Officers' terms will be for one year except if an Officer's directorship expires before such time and he or she is not elected. The Officer's term shall then expire upon the same date as the expiration of his or her directorship or until his/her successor is elected.

C. Excepting expiration of Officers' terms under Paragraph 6(2)(B); Each officer may hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified.

D. Individuals are limited to serving three (3) consecutive one-year terms in a single officer position. An individual regains eligibility to serve in that term limited officer position if he or she does not serve in that position for a period of three or more years. This term limit applies only to single officer positions and does not limit an individual from holding two or more different officer positions for a total time period greater than three years. *For example, a person may serve as Secretary for 3 years, Vice President for 3 years and as President for 3 years for a total of 9 consecutive years as an officer as long as he or she does not occupy any one period for more than 3 years.*

SECTION 3. SUBORDINATE OFFICERS

The Board of Directors may appoint such other officers or agents as it may deem desirable, and such officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the Board of Directors.

SECTION 4. REMOVAL AND RESIGNATION

The Board of Directors may remove any officer, either with or without cause, at any time. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board of Directors relating to the employment of any officer of the corporation.

SECTION 5. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of President, such vacancy may be filled temporarily by appointment by the President until such time as the Board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled as the board shall determine.

SECTION 6. DUTIES OF PRESIDENT

The President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Unless another person is specifically appointed as Chairperson of the Board of Directors, he or she shall preside at all meetings of the Board of Directors. If applicable, the President shall preside at all meetings of the members. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors.

SECTION 7. DUTIES OF VICE PRESIDENT

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have other powers and perform such other duties as may be prescribed by law, by the Articles of Incorporation, or by these Bylaws, or as may be prescribed by the Board of Directors.

SECTION 8. DUTIES OF SECRETARY

The Secretary shall:

Certify and keep at the principal office of the corporation the original or a copy of these Bylaws as amended or otherwise altered to date.

Keep at the principal office of the corporation or at such other place as the board may determine, a book of minutes of all meetings of the directors, and, if applicable, meetings of committees of directors and of members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

Be custodian of the records and of the seal of the corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the corporation under its seal is authorized by law or these Bylaws.

Keep at the principal office of the corporation a membership book containing the name and address of each and any members, and, in the case where any membership has been terminated, he or she shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any director of the corporation, or to his or her agent or attorney, on request therefor, the Bylaws, the membership book, and the minutes of the proceedings of the directors of the corporation. Pacific Beach businesses shall have reasonable and appropriate similar rights of inspection as provided by action of the directors.

In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 9. DUTIES OF TREASURER

Subject to the provisions of these Bylaws relating to the "Execution of Instruments, Deposits and Funds," the Treasurer shall:

Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors.

Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the Board of Directors, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any director of the corporation, or to his or her agent or attorney, on request therefor. Pacific Beach businesses shall have reasonable and appropriate similar rights of inspection as provided by action of the directors.

Render to the President and directors, whenever requested, an account of any or all of his or her transactions as Treasurer and of the financial condition of the corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation of the corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 10. COMPENSATION

The President, Vice-President, Secretary, and Treasure of this corporation shall be directors and shall not be paid for their service as officers. The salaries of other officers, if any, shall be fixed from time to time by resolution of the Board of Directors, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a director of the corporation, provided, however, that such compensation paid a director for serving as an officer of this corporation shall only be allowed if permitted under the provisions of Article 5, Sections 5 and 6 of these Bylaws. In all cases, any salaries received by officers of this corporation shall be reasonable and given in return for services actually rendered for the corporation which relate to the performance of the charitable or public purposes of this corporation.

ARTICLE 7
COMMITTEES

SECTION 1. EXECUTIVE COMMITTEE

The Board of Directors may, by a majority vote of directors adopting a resolution, designate two (2) or more of its members (who may also be serving as officers of this corporation) to constitute an Executive Committee and delegate to such Committee any of the powers and authority of the board in the management of the business and affairs

of the corporation, except with respect to:

A. The approval of any action which, under law or the provisions of these Bylaws, requires the approval of the members or of a majority of all of the members.

B. The filling of vacancies on the board or on any committee which has the authority of the board.

C. The amendment or repeal of Bylaws or the adoption of new Bylaws. The amendment or repeal or any resolution of the board which by its express terms is not so amendable or repealable.

E. The appointment of committees of the board or the members thereof.

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

G. The approval of any transaction to which this corporation is a party and in which one or more of the directors has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the board. The Committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board, as the board may require.

SECTION 2. OTHER COMMITTEES

The corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the board. These additional committees shall act in an advisory capacity only to the board and shall be clearly titled as "advisory" committees.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of resolution and executive committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be fixed by resolution of the Board of Directors or by the committee. The Board of Directors may also fix the time for special meetings of committees. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

ARTICLE 8
EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

SECTION 1. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

SECTION 2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required

by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed byand countersigned by any combination of two (2) members of the Executive Committee and/or the Executive Director of the corporation.

SECTION 3. DEPOSITS

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 4. GIFTS

The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation.

ARTICLE 9
CORPORATE RECORDS, REPORTS AND SEAL

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

A. Minutes of all meetings of directors and resolution committees of the board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;

B. Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;

C. A copy of the corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by Pacific Beach delegates at all reasonable and appropriate times during office hours.

SECTION 2. CORPORATE SEAL AND NAME

The Board of Directors may adopt, use, and, alter at will a corporate seal. Such seal shall be kept at the principal office of the corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument. The Board of directors may secure and use business names and trademarks to further the purposes and objectives of this corporation; provided however that such names shall not lead to any confusion contrary to the corporations purposes and such names shall be appropriately registered and published to the public.

SECTION 3. DIRECTORS' INSPECTION RIGHTS

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

SECTION 4. DELEGATE'S INSPECTION RIGHTS

Pacific Beach businesses as delegates shall have the following limited inspection rights, for a proper purpose reasonably related to such person's interest as a delegate:

A. To inspect and copy the record of all delegates' names, addresses and voting rights, at reasonable times, upon five (5) business days' prior written demand on the corporation, which demand shall state the purpose for which the inspection rights are requested.

B. To obtain from the Secretary of the corporation, upon written demand and payment of a reasonable

charge, an alphabetized list of the names, addresses and voting rights of those delegates entitled to

vote for the selection of directors as of the most recent record date for which the list has been compiled or as of the date specified by the delegate subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The delegate list shall be made available on or before the later of ten (10) business days after the demand is received or after the date specified therein as of which the list is to be compiled. The corporation, at its option, may determine to supervise and conduct any communication to delegates and charge the demanding individual all reasonably related costs. The delegate list shall be considered a valuable corporate asset and not used for any purpose that does not directly advance the corporation's interests and purposes.

C. To inspect at any reasonable time the books, records, or minutes of proceedings of the delegates or of the board or committees of the board, upon written demand on the corporation by the delegate, for a purpose reasonably related to such person's interests as a delegate.

SECTION 5. RIGHT TO COPY AND MAKE EXTRACTS

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

SECTION 6. ANNUAL REPORT

The board shall cause an annual report to be furnished, not later than one hundred and twenty (120) days after the close of the corporation's fiscal year, to all directors of the corporation and to any appointed delegate. Such report shall contain the following information in appropriate detail:

A. The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;

B. The principal changes in assets and liabilities, including trust funds, during the fiscal year;

C. The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

D. The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year; and

E. Any information required by Section 7 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

If this corporation receives TWENTY-FIVE THOUSAND DOLLARS ($25,000), or more, in gross revenues or receipts during the fiscal year, this corporation shall automatically send the above annual report to all directors, in such manner, at such time, and with such contents, including an accompanying report from independent accountants or certification of a corporate officer, as specified by the above provisions of this Section relating to the annual report.

SECTION 7. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS

This corporation shall mail or deliver to all directors a statement within one hundred and twenty (120) days after the close of its fiscal year that briefly describes the amount and circumstances of any indemnification or transaction of the following kind:

A. Any transaction in which the corporation, or its parent or its subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:

B. Any director or officer of the corporation, or its parent or subsidiary (a mere common directorship shall not be considered a material financial interest); or

C. Any holder of more than ten percent (10%) of the voting power of the corporation, its parent or its subsidiary.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than FIFTY THOUSAND DOLLARS ($50,000) or which was one of a number of transactions with the same persons involving, in the aggregate, more than FIFTY THOUSAND DOLLARS ($50,000).

Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than TEN THOUSAND DOLLARS ($10,000) paid during the previous fiscal year to any director or officer, except that no such statement need be made if such indemnification was approved pursuant to Section 5238(e)(2) of the California Nonprofit Public Benefit Corporation Law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the corporation, the nature of such person's interest in the transaction and, where practical, the amount of such interest, provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

ARTICLE 10
FISCAL YEAR AND CORPORATE CALENDAR

SECTION 1. FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on the July 1 and end on the June 30 in each year.

SECTION 2. CORPORATE CALENDAR

The Board of Directors shall consider adoption of a corporate calendar, of agenda items and activities, at their November meeting following the election of new Board members. The Corporate calendar shall include the following:

A. Schedule of regular and annual meetings;

B. Appointment of necessary committees and their regular meeting dates;

C. Schedule for adoption of a consolidated annual corporate, programs, and committee budgets and a public forum for such adoption;

D. Schedule for completion of annual financial reports, audits, Secretary of State filings, and tax filings;

E. Schedule and process for employee performance evaluation(s) and work plan approval;

F. Schedule for renewal or replacement of any lease, insurance premium, agreement for services, equipment, goods, or employment and other long term commitments; and

G. Schedule for preparation and submission of funding and grant applications and fund raising activities.

SECTION 3. ESTABLISHMENT OF RESERVES AND ENCUMBRANCES

The Board of Directors shall establish as part of the corporate budget such reserves and encumbrance accounts to meet unanticipated expenses and to provide funding for liabilities that may occur due to the conditions of agreements, leases, and contracts. Board policy shall be to encumber such funding as is necessary to fully fund employee vacation leaves and retirement costs, if any, at the time such liabilities accrue. Additionally, such reserves shall be reasonably sufficient to provide for the replacement of aging equipment and assets, operating expenses should any funding source

not pay as planned, and to pay any insurance deductibles or premiums.

The form of the consolidated annual corporate, programs, and committee budgets shall conform to generally accepted activity based cost accounting principles. Corporate administrative/overhead/indirect costs and direct program costs shall be portrayed to accurately distribute costs to programs, projects, and committees. Employee time and costs shall be distributed proportionally to the employee work plans consistent with the CORPORATE CALENDAR, described in Section 2.

ARTICLE 11
AMENDMENT OF BYLAWS

SECTION 1. AMENDMENT

Subject to any provision of law applicable to the amendment of Bylaws of public benefit nonprofit corporations, these Bylaws, or any of them, may be altered, amended, or repealed and new Bylaws adopted as follows:

A. Subject to the power of members, if any, to change or repeal these Bylaws under Section 5150 of the Corporations Code, by approval of the Board of Directors unless the Bylaw amendment would materially and adversely affect the rights of members, if any, as to voting or transfer, provided, however, if this corporation has admitted any members, then a Bylaw specifying or changing the fixed number of directors of the corporation, the maximum or minimum number of directors, or changing from a fixed to variable board or vice versa, may not be adopted, amended, or repealed except as provided in subparagraph B. of this Section; or

B. By approval of the members, if any, of this corporation. These bylaws have been adopted by the members, if any, and it is their specific intent that upon adoption there shall be no members.

ARTICLE 13
AMENDMENT OF ARTICLES

SECTION 1. AMENDMENT OF ARTICLES

Any amendment of the Articles of Incorporation may be adopted by approval of the Board of Directors.

SECTION 2. CERTAIN AMENDMENTS

Notwithstanding the above sections of this Article, this corporation shall not amend its Articles of Incorporation to alter any statement which appears in the original Articles of Incorporation of the names and addresses of the first directors of this corporation nor the name and address of its initial agent, except to correct an error in such statement or to delete either statement after the corporation has filed a "Statement by a Domestic Non-Profit Corporation" pursuant to Section 6210 of the California Nonprofit Corporation Law.

ARTICLE 13
PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

SECTION 1. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS

No delegate, director, officer, employee, or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these Bylaws and is fixed by resolution of the Board of Directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. All members, if any, of the corporation shall be deemed to have expressly consented and

agreed that on such dissolution or winding up of the affairs of the corporation, whether voluntarily or involuntarily, the assets of the corporation, after all debts have been satisfied, shall be distributed as required by the Articles of Incorporation of this corporation and not otherwise.

ARTICLE 14
MEMBERS

SECTION 1. DETERMINATION OF MEMBERS

This corporation makes no further provision for members and pursuant to Section 5310(b) of the Nonprofit Public Benefit Corporation Law of the State of California, any action which would otherwise require approval by a majority of all members or approval by the members, shall only require the approval of the Board of Directors.

ARTICLE 15
PACIFIC BEACH DEFINED

SECTION 1. DEFINITION

The "Pacific Beach " or "Pacific Beach Business Improvement District" or "Area" or "District" shall mean that portion of the City of San Diego portrayed in Exhibit "A," which is incorporated by reference. Nothing shall prohibit this corporation from serving the entire area commonly known as “Pacific Beach” and its surrounds.

SECTION 2. EXHIBIT A MAP

A map is attached to these by laws as its last page.

SECTION 3. ADDRESS RANGES

The Pacific Beach Business Improvement District shall be that are described in the City of San Diego Ordinance which established, and its successors, the Pacific Beach Business Improvement District.

WRITTEN CONSENT ADOPTING BYLAWS

We, the undersigned, are all of the persons named directors and members in the restated Articles of Incorporation of **PACIFIC BEACH COMMUNITY DEVELOPMENT CORPORATION**, a California nonprofit corporation, and, pursuant to the authority granted to the directors or members by these Bylaws to take action consent to, and hereby do, adopt the foregoing Bylaws, consisting of nineteen (19) pages and one attached exhibit, as the Bylaws of this corporation.

Dated: _____

_____RANDALL ENGSTROM	_____JENNIFER NOWAK
_____ERIC MARENBERG	_____CHRISTINE LANDINI
_____MARGY GOODMAN	_____CARINA GARFIELD
_____WILBER LAI	_____REBEKAH WINN
_____JOHN ANDERSON	_____LISA GOSSMANN
_____SHYLAH HALES	_____KAYLA SALVAS

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the Bylaws of the corporation named in the title thereto and that such Bylaws were duly adopted the date set forth below. The vote of the directors and members are reflected in the minutes of the adopting meeting.

Dated: _____ _____ WILBER LAI, SECRETARY

ADDENDUM ONE

The California Corporations Code regulates the conduct of Directors as follows:

ARTICLE 3

Standards of Conduct

§ 5230. Application of Article to All Directors.
Statute text

(a) Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation.

(b) Part 4 (commencing with Section 16000) of Division 9 of the Probate Code does not apply to the directors of any corporation.

History

Leg.H. 1978 ch. 567, operative January 1, 1980, 1987 ch. 923.

§ 5231. Duties and Liabilities.
Statute text

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

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

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

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

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

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

History

Leg.H. 1978 ch. 567, 1979 ch. 724, operative January 1, 1980.

§ 5231.5. Enacted 1986. Repealed 1990 ch. 107.

§ 5232. Applicability of § 5231 to Selection of Directors.
Statute text

(a) Section 5231 governs the duties of directors as to any acts or omissions in connection with the election, selection, or nomination of directors.

(b) This section shall not be construed to limit the generality of Section 5231.

History

Leg.H. 1978 ch. 567, operative January 1, 1980.

§ 5233. Actions; Parties; Remedies.
Statute text

(a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest and which does not meet the requirements of paragraph (1), (2), or (3) of subdivision (d). Such a director is an "interested director" for the purpose of this section.

(b) The provisions of this section do not apply to any of the following:

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation.

(2) A transaction which is part of a public or charitable program of the corporation if it: (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program.

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of 1 percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000).

(c) The Attorney General or, if the Attorney General is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710.

(2) A director of the corporation.

(3) An officer of the corporation.

(4) Any person granted relator status by the Attorney General.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated; or

(2) The following facts are established:

(A) The corporation entered into the transaction for its own benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph; and

(D) (i) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or (ii) the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances; or

(3) The following facts are established:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or, if no such notice is filed, within three years after the transaction occurred, except for the Attorney General, who shall have 10 years after the transaction occurred within which to file an action.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the

obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate. The court may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

History

Leg.H. 1978 ch. 567, 1979 ch. 724, January 1, 1980, 1980 ch. 1155, 1981 ch. 587.

§ 5234. Transactions Between Corporations Having Common Directorship.

Statute text

(a) No contract or other transaction between a corporation and any domestic or foreign corporation, firm or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors; or

(2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified.

(b) This section does not apply to transactions covered by Section 5233.

History

Leg.H. 1978 ch. 567, operative January 1, 1980.

§ 5235. Compensation of Directors or Officers.

Statute text

(a) The board may fix the compensation of a director, as director or officer, and no obligation, otherwise valid, to pay such compensation shall be voidable merely because the persons receiving the compensation participated in the decision to pay it, unless it was not just and reasonable as to the corporation at the time it was authorized, ratified or approved.

(b) In the absence of fraud, any liability under this section shall be limited to the amount by which the compensation exceeded what was just and reasonable, plus interest from the date of payment.

History

Leg.H. 1978 ch. 567, operative January 1, 1980.

§ 5236. Corporate Loans, Guarantees, and Advances to Directors or Officers.

Statute text

(a) A corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer, unless approved by the Attorney General; provided, however, that a corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses

reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of such advance, such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent, or any subsidiary.

(b) The provisions of subdivision (a) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

(c) The provisions of subdivision (a) do not apply to a loan of money to or for the benefit of an officer in circumstances where the loan is necessary, in the judgment of the board, to provide financing for the purchase of the principal residence of the officer in order to secure the services or continued services of the officer and the loan is secured by real property located in the state.

History

Leg.H. 1978 ch. 567, 1979 ch. 724, operative January 1, 1980, 1981 ch. 587.

§ 5237. Directors' Liability for Distributions, Loans, and Guarantees.

Statute text

(a) Subject to the provisions of Section 5231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for:

(1) The making of any distribution.

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710).

(3) The making of any loan or guaranty contrary to Section 5236.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 5420;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment;

(3) Under paragraph (1), (2) or (3) of subdivision (a), by the Attorney General.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

History

Leg.H. 1978 ch. 567, 1979 ch. 724, operative January 1, 1980.

§ 5238. Indemnification of Corporate "Agent."

Statute text

(a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director,

officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this subdivision:

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 5034), with the persons to be indemnified not being entitled to vote thereon; or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section. The provisions of subdivision (a) of Section 5236 do not apply to advances made pursuant to this

subdivision.

(g) No provision made by a corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this section. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section; provided, however, that a corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 5233.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

History

Leg.H. 1978 ch. 567, operative January 1, 1980, 1995 ch. 154.

§ 5239. Enacted 1987. Repealed 1988 ch. 1204 § 4.

Statute text

Another § 5239 follows.

§ 5239. Personal Liability of Volunteer Director or Officer for Negligence.

(a) There shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive officer" means the president, vice president, secretary, or treasurer of a corporation, or such other individual who serves in like capacity, who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 5233 or 5237.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

(h) As used in this section as applied to nonprofit public benefit corporations which have an annual budget of less than twenty-five thousand dollars ($25,000) and that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, the condition of making "all reasonable efforts in good faith to obtain available liability insurance" shall be satisfied by the corporation if it makes at least one inquiry per year to purchase a general liability insurance policy and that insurance was not available at a cost of less than 5 percent of the previous year's annual budget of the corporation. If the corporation is in its first year of operation, this subdivision shall apply for as long as the budget of the corporation does not exceed twenty-five thousand dollars ($25,000) in its first year of operation.

An inquiry pursuant to this subdivision shall obtain premium costs for a general liability policy with an amount of coverage of at least five hundred thousand dollars ($500,000).

History

Leg.H. 1987 ch. 1206, 1988 ch. 1204 § 5, 1990 ch. 107, 1993 ch. 634.

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ARTICLE 4

Investments

§ 5240. Standards for Investment or Retention of Assets.

Statute text

(a) This section applies to all assets held by the corporation for investment. Assets which are directly related to the corporation's public or charitable programs are not subject to this section.

(b) Except as provided in subdivision (c), in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments, the board shall do the following:

(1) Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital.

(2) Comply with additional standards, if any, imposed by the articles, bylaws or express terms of an instrument or agreement pursuant to which the assets were contributed to the corporation.

(c) No investment violates this section where it conforms to provisions authorizing the investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation. No investment violates this section or Section 5231 where it conforms to provisions requiring the investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation.

(d) In carrying out duties under this section, each director shall act as required by subdivision (a) of Section 5231, may rely upon others as permitted by subdivision (b) of Section 5231, and shall have the benefit of subdivision (c) of Section 5231, and the board may delegate its investment powers as permitted by Section 5210.

(e) Nothing in this section shall be construed to preclude the application of the Uniform Management of Institutional Funds Act, Part 7 (commencing with Section 18500) of Division 9 of the Probate Code, if that act would otherwise be applicable, but nothing in the Uniform Management of Institutional Funds Act alters the status of governing boards, or the duties and liabilities of directors, under this part.

History

Leg.H. 1978 ch. 567, 1979 ch. 724, operative January 1, 1980, 1981 ch. 587, 1990 ch. 1307.

§ 5241. Court's Power to Permit Deviation From Trust or Agreement.

Statute text

Nothing in Section 5240 shall abrogate or restrict the power of the appropriate court in proper cases to direct or permit a corporation to deviate from the terms of a trust or agreement regarding the making or retention of investments. Notice of such action or proceeding shall be given to the Attorney General who may intervene.

History
Leg.H. 1978 ch. 567, 1979 ch. 724, operative January I, 1980.