

IC 27-1-8

Chapter 8. Procedures for Amending Articles of Incorporation

IC 27-1-8-1

Authority to amend

Sec. 1. Any corporation may, at any time, amend its articles of incorporation without limitation so long as the articles as amended would have been authorized by this article as original articles, by complying with the provisions of this chapter.

(Formerly: Acts 1935, c.162, s.101.) As amended by P.L.252-1985, SEC.32.

IC 27-1-8-2

Proposal of amendment

Sec. 2. Every amendment to the articles of incorporation shall first be proposed by the board of directors, by the adoption of a resolution setting forth the proposed amendment and directing that it be submitted to a vote of the shareholders, members, or policyholders entitled to vote in respect thereof at a designated meeting of such shareholders, members, or policyholders which may be an annual meeting of the shareholders, members, or policyholders or a special meeting of the shareholders, members, or policyholders entitled to vote in respect thereof. If the resolution shall direct that the proposed amendment is to be submitted at an annual meeting, notice of the submission of the proposed amendment shall be included in the notice of such annual meeting. If the said resolution shall direct that the proposed amendment is to be submitted to a special meeting of the shareholders, members, or policyholders entitled to vote thereon, such special meeting shall be called by the resolution proposing the amendment, and notice of such meeting shall be given at the time in the manner provided in IC 27-1-7-7.

(Formerly: Acts 1935, c.162, s.102.) As amended by P.L.252-1985, SEC.33.

IC 27-1-8-3

Vote of shareholders, policyholders, or members; exceptions; notice of corporation name change

Sec. 3. (a) Except as provided in subsection (b), an amendment to the articles of incorporation so proposed shall be submitted to a vote of the shareholders, members, or policyholders at the annual or at the special meeting directed by the resolution of the board of directors proposing the amendment, and the proposed amendment shall be adopted upon receiving the affirmative votes of at least a majority of the stock, or such greater portion as the articles of incorporation may require, of the outstanding shares of stock entitled to vote, if a stock company; and upon receiving the affirmative votes of at least two-thirds (2/3) of the members or policyholders voting at such annual or special meeting, if other than a stock company.

(b) Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more

amendments to the corporation's articles of incorporation without shareholder, member, or policyholder action to:

- (1) extend the duration of the corporation, if the corporation was incorporated at a time when limited duration was required by law;
- (2) delete the names and addresses of the initial directors, officers, or incorporators;
- (3) delete the name and address of the initial registered agent or registered or principal office, if a statement of change is on file with the secretary of state;
- (4) change each issued and unissued authorized share of an outstanding class into a greater number of whole shares or a lesser number of whole shares and fractional shares if the corporation has only shares of that class outstanding;
- (5) reduce the number of authorized shares solely as the result of a cancellation of treasury shares; or
- (6) change the corporate name, if the new name complies with IC 27-1-6-3.

(c) If a corporation changes its name under subsection (b)(6), the corporation shall, not more than thirty (30) days after the effective date of the amendment changing the corporate name, mail or deliver a written or printed notice of the new corporate name to each shareholder, member, or policyholder of record of the corporation. *(Formerly: Acts 1935, c.162, s.103.) As amended by P.L.185-1997, SEC.2.*

IC 27-1-8-4

Form and content of articles of amendment

Sec. 4. Upon the proposal and adoption of any amendment to the articles of incorporation, there shall be executed articles of amendment setting forth the following:

- (a) The amendment so adopted;
- (b) The manner of its adoption and the vote by which it was adopted;
- (c) In the case of a stock corporation;
 - (1) If the total authorized amount or number of shares is increased by such amendment, a statement of the shares theretofore authorized and a statement of the additional shares authorized by the amendment;
 - (2) If the total authorized amount or number of shares is reduced by such amendment, a statement of the shares theretofore authorized and the amount thereof that has been issued, and a statement of the reduction authorized by the amendment and the manner in which the reduction shall be effected; and
 - (3) If any change is made in the shares without increasing or reducing the total authorized amount or number of shares, a statement of the shares theretofore authorized and the amount thereof that has been issued, and a statement of the change to be made by the amendment and the manner in which the change shall be effected.

(Formerly: Acts 1935, c.162, s.104.)

IC 27-1-8-5**Execution and presentation of articles of amendment to department**

Sec. 5. The form of the articles of amendment shall be prescribed and furnished by the department. The articles of amendment shall be prepared and signed in triplicate originals by the president or a vice-president and by the secretary or an assistant secretary of the corporation, and shall be acknowledged before a notary public by the officers signing the articles and shall be presented in triplicate originals to the department at its office, for the approval or disapproval of the department.

(Formerly: Acts 1935, c.162, s.105.)

IC 27-1-8-6**Approval or disapproval of articles of amendment by department**

Sec. 6. The department is hereby authorized to approve or disapprove such articles of amendment, and the approval of them, if given, shall be evidenced in the manner prescribed in IC 27-1-6-8.

(Formerly: Acts 1935, c.162, s.106.) As amended by P.L.252-1985, SEC.34.

IC 27-1-8-7**Submission of articles of amendment to attorney general**

Sec. 7. In the event the department approves the articles of amendment, they shall then be submitted to the attorney general for the state of Indiana who shall examine said articles. And his approval, if given, shall be evidenced in the manner provided in IC 27-1-6-9, and he shall return the same to the department.

(Formerly: Acts 1935, c.162, s.107.) As amended by P.L.252-1985, SEC.35.

IC 27-1-8-8**Presentation of articles of amendment to secretary of state; duties of secretary of state**

Sec. 8. When the articles of amendment have been approved by the attorney-general and returned to the department, then the department shall present the same to the secretary of state for the state of Indiana. If the secretary of state finds that the articles conform to law, he shall indorse his approval upon each of the triplicate copies of the articles, and when all fees have been paid as required by law, he shall file one (1) copy in his office and shall return the other two (2) copies of the articles of amendment bearing the indorsement of his approval, to the corporation, one (1) of which copies the corporation shall file with the department.

(Formerly: Acts 1935, c.162, s.108.)

IC 27-1-8-9**Amended certificate of authority**

Sec. 9. When the provisions of sections 2 through 8 of this chapter have been complied with, then the commissioner may issue an

amended certificate of authority, which shall license the company to transact the kind or kinds of insurance specified in its articles of incorporation and in the amendment to its articles of incorporation, and which shall expire at midnight, April 30, next following the date of issuance.

(Formerly: Acts 1935, c.162, s.109.) As amended by P.L.252-1985, SEC.36.

IC 27-1-8-10

Effect of amendment

Sec. 10. Upon the issuance of the amended certificate of authority by the commissioner, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly. No amendment shall effect any existing cause of action in favor of or against such corporation, or any pending suit in which such corporation shall be a party, or the existing rights of persons other than shareholders of a stock company, or the members or policyholders in companies other than stock companies; and in the event the corporate name shall be changed by any amendment, no suit brought against such corporation under its former name shall be abated for that reason.

(Formerly: Acts 1935, c.162, s.110.)

IC 27-1-8-11

Prerequisites to corporate acts under amendment

Sec. 11. (a) A corporation whose articles of incorporation have been amended in accordance with the provisions of this chapter shall not exercise any power, right, or authority conferred by, or take any action pursuant to, such amendment until:

(1) the corporation shall have filed one (1) of the triplicate copies of the articles of amendment, bearing the endorsement of the approval of the secretary of state as provided in section 8 of this chapter, for record in the office of the county recorder of the county in which the articles of incorporation of such corporation were or should have been filed for record as provided in IC 27-1-6-13; and

(2) the company shall have filed a certified copy of such amended certificate of authority for record with the county recorder of the county wherein the principal office is located, which certified copy shall be evidence only that the company is authorized and licensed to transact the kind or kinds of insurance set out therein, for the period stated therein.

(b) If a corporation exercises any such power, right, or authority, or takes any such action, in violation of this section, the officers and directors who participated therein shall be severally liable for any debts or liabilities of the corporation incurred thereby or arising therefrom.

(Formerly: Acts 1935, c.162, s.111.) As amended by P.L.252-1985, SEC.37.

IC 27-1-8-12**Restrictions on amendments; decreasing capital stock**

Sec. 12. A company may amend its articles by providing for a decrease of its capital stock to an amount not less than the minimum capital required for the kind or kinds of insurance theretofore transacted by the company. The department shall not approve or issue its certified copy of such amendment to the company if it shall be of the opinion that the interests of policyholders or creditors may be prejudiced thereby. No distribution of the assets of the company shall be made to shareholders upon any such decrease of capital which shall reduce the surplus of its assets over its liabilities, including capital, to less than the minimum surplus required by this article. Upon any such amendment so decreasing the capital, such company may require each shareholder to return his certificate of stock and accept a new certificate for such proportion of the amount of its original stock as the reduced capital shall bear to the original capital.

(Formerly: Acts 1935, c.162, s.113.) As amended by P.L.252-1985, SEC.38.

IC 27-1-8-13**Repealed**

(Repealed by P.L.94-1999, SEC.4.)