

CHAPTER 11.

DISSOLUTION

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§11.1. Manner of effecting dissolution.

1. *Meeting of shareholders.* Except as otherwise provided in its articles of incorporation, and except where this Chapter otherwise provides, a corporation may be dissolved if, at a meeting of shareholders, the holders of two-thirds of all outstanding shares entitled to vote on a proposal to dissolve, by resolution consent that the dissolution shall take place.

2. *Consent without meeting.* Whenever the shareholders entitled to vote on a proposal to dissolve shall consent in writing to a dissolution in accordance with section 7.4, no meeting of shareholders shall be necessary.

3. *Articles of dissolution; contents, filing.* Articles of dissolution shall be signed, and filed with the Registrar or the Deputy Registrar in accordance with section 1.4. The articles of dissolution shall set forth the name of the corporation, the date of filing of the articles of incorporation, that the corporation elects to dissolve, and the manner in which the dissolution was authorized by the shareholders, a statement that the directors shall be the trustees of the corporation for the purpose of winding up the affairs of the corporation, and a listing of either the names and addresses of the directors and officers or the address of the corporation and the name and address of the corporation's legal representative for the purpose of winding up its affairs.

4. *Time when effective.* The dissolution shall become effective as of the filing date stated on the articles of dissolution.

5. *Dissolution before issuance of shares or beginning of business.* If a corporation has not issued shares or has not commenced the business for which the corporation was organized, a majority of the incorporators, or, if directors were named in the articles of incorporation or have been elected, a majority of the directors, may dissolve the corporation by filing in the Office of the Registrar or the Deputy Registrar a certificate, executed and acknowledged by a majority of the incorporators or directors, stating that:

- (a) No shares have been issued or that the business or activity for which the corporation

was organized has not been begun;

- (b) No part of the capital of the corporation has been paid, or, if some capital has been paid, that the amount actually paid in for the corporation's shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto;
- (c) If the corporation has begun business but it has not issued shares, all debts of the corporation have been paid;
- (d) If the corporation has not begun business but has issued share certificates, all issued share certificates, if any, have been surrendered and cancelled; and
- (e) All rights and interests of the corporation are surrendered,

and upon such certificate being filed in accordance with section 1.4, the corporation shall be dissolved.

6. *Rescission of dissolution.* A corporation may rescind articles of dissolution filed in error upon adoption of a resolution of the board of directors and a resolution adopted by the holders of two-thirds of all outstanding shares entitled to vote, both of which shall be filed with the Registrar or the Deputy Registrar. After being satisfied that all arrears of statutory fees have been paid, that the corporation has retained a registered agent and that fees in respect of the period from the date of dissolution to the date on which rescission is to take place have been paid to the former registered agent, the corporation may be restored to full existence.

Prior legislation: 1956 Code 4:37; Lib. Corp. L., 1948, §37; 1976 Liberian Code of Laws Revised, Chapter 11, §11.1, amended effective June 19, 2002.

§11.2. Judicial dissolution.

1. *Dissolution of corporation by court; general procedure.* A shareholders' meeting to consider adoption of a resolution to institute a special proceeding on any of the grounds specified below, may be called, notwithstanding any provision in the articles of incorporation, by the holders of ten percent of all outstanding shares entitled to vote thereon, or if the articles of incorporation authorize a lesser proportion of shares to call the meeting, by such lesser proportion. A meeting under this section may not be called more often than once in any period of twelve consecutive months. Except as otherwise provided in the articles of incorporation, the holders of one-half of all outstanding shares of a corporation entitled to vote in an election of directors may adopt at the meeting a resolution and institute a special proceeding in Liberia for dissolution on one or more of the following grounds:

- (a) That the directors are so divided respecting the management of the corporation's affairs that the votes required for action by the board cannot be obtained;
- (b) That the shareholders are so divided that the votes required for the election of directors cannot be obtained;
- (c) That there is internal dissension and two or more factions of shareholders are so divided that dissolution would be beneficial to the shareholders;

- (d) That the acts of the directors are illegal, oppressive or fraudulent;
- (e) That the corporate assets are being misapplied or wasted.

If it appears, following due notice to all interested persons and hearing that any of the foregoing grounds for dissolution of the corporation exists, the court in Liberia shall make a judgment that the corporation shall be dissolved. The clerk of the court shall transmit certified copies of the judgment to the Minister of Foreign Affairs who shall provide a copy to the Registrar or the Deputy Registrar. Upon filing with the Registrar or the Deputy Registrar, the corporation shall be dissolved.

2. *Dissolution of joint venture corporation having two shareholders.* If the shareholders of a corporation having only two shareholders each of which own 50% of the shares therein, shall be engaged in the prosecution of a joint venture and if such shareholders shall be unable to agree upon the desirability of discontinuing such joint venture and disposing of the assets used in such venture, either shareholder may, unless otherwise provided in the articles of incorporation of the corporation or in a written agreement between the shareholders, file with the court a petition stating that it desires to discontinue such joint venture and to dispose of the assets used in such venture in accordance with a plan to be agreed upon by both shareholders or that, if no such plan shall be agreed upon by both shareholders, the corporation be dissolved. Such petition shall have attached thereto a copy of the proposed plan of discontinuance and distribution and a certificate stating that copies of such petition and plan have been transmitted in writing to the other shareholder and to the directors and officers of such corporation. The petition and certificate shall be executed and acknowledged in accordance with section 1.4. Unless both shareholders file with the court:

- (a) Within three months of the date of the filing of such petition, a certificate similarly executed and acknowledged stating that they have agreed on such plan, or a modification thereof; and
- (b) Within one year from the date of the filing of such petition, a certificate similarly executed and acknowledged stating that the distribution provided by such plan had been completed,

the court may dissolve such corporation and may by appointment of one or more trustees or receivers with all the powers and title of a trustee or receiver appointed under section 11.4.3, administer and wind up its affairs. Either or both of the above periods may be extended by agreement of the shareholders, evidenced by a certificate similarly executed, acknowledged and filed with the court prior to the expiration of such period.

Prior legislation: 1976 Liberian Code of Laws Revised, Chapter 11, §11.2, amended effective June 19, 2002.

§11.3. Dissolution on failure to pay annual registration fee or appoint or maintain registered agent.

1. *Procedure for dissolution.* On failure of a corporation to pay the annual registration fee or to maintain a registered agent for a period of one year, the Registrar or the Deputy Registrar shall cause a notification to be sent to the corporation through its last recorded registered agent that its

articles of incorporation will be revoked unless within ninety days of the date of the notice, payment of the annual registration fee has been received or a registered agent has been reappointed, as the case may be. On the expiration of the ninety day period, the Registrar or the Deputy Registrar, in the event the corporation has not remedied its default, shall issue a proclamation declaring that the articles of incorporation have been revoked and the corporation dissolved as of the date stated in the proclamation. The proclamation of the Minister of Foreign Affairs shall be filed in his office and he shall mark on the record of the articles of incorporation of the corporation named in the proclamation the date of revocation and dissolution, and he shall give notice thereof to the last recorded registered agent. Thereupon the affairs of the corporation shall be wound up in accordance with the procedure provided in this Chapter.

2. *Erroneous annulment.* Whenever it is established to the satisfaction of the Minister of Foreign Affairs that the articles of incorporation were erroneously revoked and the corporation involuntarily dissolved (annulled), he may restore the corporation to full existence by publishing and filing in his office a proclamation to that effect provided that neither the Minister nor the Registrar or the Deputy Registrar shall be held liable for any such error.

3. *Rescission of dissolution.* Whenever the articles of a corporation have been revoked and the corporation dissolved pursuant to this section, the corporation may request the Minister to reinstate the corporation. After being satisfied that all arrears of statutory fees have been paid, that the corporation has retained a registered agent and that fees in respect of the period from the date of dissolution to the date on which rescission is to take place have been paid to the former registered agent, the corporation may be restored to full existence.

Prior legislation: L. 1959-60, ch. IX; 1956 Code 4:48; Lib. Corp. L., 1948, §48; 1976 Liberian Code of Laws Revised, Chapter 11, §11.3, amended effective June 19, 2002.

§11.4. Winding up affairs of corporation after dissolution.

1. *Continuation of corporation for winding up.* All corporations, whether they expire by their own limitations or are otherwise dissolved, shall nevertheless be continued for the term of three years from such expiration or dissolution as bodies corporate for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to settle and close their business, to dispose of and convey their property, to discharge their liabilities, and to distribute to the shareholders any remaining assets, but not for the purpose of continuing the business for which the corporation was organized. With respect to any action, suit, or proceeding begun by or against the corporation either prior to or within three years after the date of its expiration or dissolution, and not concluded within such period, the corporation shall be continued as a body corporate beyond that period for the purpose of concluding such action, suit or proceeding and until any judgment, order, or decree therein shall be fully executed.

2. *Trustees.* Upon the dissolution of any corporation, or upon the expiration of the period of its corporate existence, the directors shall be trustees thereof, with full power to settle the affairs, collect the outstanding debts, sell and convey the property, real and personal, as may be required by the laws of the country where situated, prosecute and defend all such suits as may be necessary or proper for the purposes aforesaid, distribute the money and other property among the shareholders after paying or adequately providing for payment of its liabilities and obligations, and do all other

acts which might be done by the corporation, before dissolution, that may be necessary for the final settlement of the unfinished business of the corporation.

3. *Supervision by court of liquidation.* At any time within three years after the filing of the articles of dissolution, the circuit court in Liberia in the judicial circuit where the office of the corporation or the registered address was located at the date of its dissolution, in a special proceeding instituted under this paragraph, upon the petition of the corporation, or of a creditor, claimant, director, officer, shareholder, subscriber for shares, incorporator or the Minister of Justice, may continue the liquidation of the corporation under the supervision of the court in Liberia and may make all such orders as it may deem proper in all matters in connection with the dissolution or in winding up the affairs of the corporation, including the appointment or removal of a receiver, who may be a director, officer or shareholder of the corporation.

Prior legislation: 1956 Code 4:37 (par. 4), 38, 39, 40; Lib. Corp L., 1948, §§37 (par.4), 38, 39, 40.

§11.5. Settlement of claims against the corporation.

1. *Notice to creditors.* Any time within one year after dissolution, a domestic corporation shall give notice requiring all creditors and claimants, including any with unliquidated or contingent claims and any with whom the corporation has unfulfilled contracts, to present their claims in writing and in detail at a specified place and by a specified day, which shall not be less than six months after the first publication of such notice. Such notice shall be published at least once a week for four successive weeks in a newspaper of general circulation in the county in which the office of the corporation was located at the date of dissolution, or if none exists, in a newspaper of general circulation in Liberia or elsewhere in a location in which the corporation regularly conducted its business. On or before the date of the first publication of such notice, the corporation shall mail a copy thereof, postage prepaid and addressed to his last known address, to each person believed to be a creditor of or claimant against the corporation whose name and address are known to or can with due diligence be ascertained by the corporation. The giving of such notice shall not constitute a recognition that any person is a proper creditor or claimant, and shall not revive or make valid or operate as a recognition of the validity of, or a waiver of any defense or counter claim in respect of any claim against the corporation, its assets, directors, officers or shareholders, which has been barred by any statute of limitations or become invalid by any cause, or in respect of which the corporation, its directors, officers or shareholders, have any defense or counterclaim.

2. *Filing or barring claim.* Any claims which shall have been filed as provided in such notice and which shall be disputed by the corporation may be submitted for determination to the circuit court. Any person whose claim is, at the date of the first publication of such notice, barred by any statute of limitations is not a creditor or claimant entitled to any notice under this section. The claim of any such person and all other claims which are not timely filed as provided in such notice except claims which are the subject of litigation on the date of the first publication of such notice, and all claims which are so filed but are disallowed by the court, shall be forever barred as against the corporation, its assets, directors, officers and shareholders, except to such extent, if any, as the court may allow them against any remaining assets of the corporation in the case of a creditor who shows satisfactory reason for his failure to file his claim as so provided. Any claim not so barred may be reviewed by the court to determine the amount and form of security sufficient to compensate claimants.

3. *Claims by Government.* Notwithstanding this section, tax claims and other claims by the Government shall not be required to be filed under those sections, and such claims shall not be barred because not so filed, and distribution of the assets of the corporation, or any part thereof, may be deferred until determination of any such claims.

Prior legislation: 1976 Liberian Code of Laws Revised, Chapter 11, §11.5, amended effective June 19, 2002.