



Ohio Revised Code

Section 1701.88 Winding up or obtaining reinstatement - powers and duties of directors.

Effective: May 4, 2012

Legislation: House Bill 48 - 129th General Assembly

(A) When a corporation is dissolved voluntarily, when the articles of a corporation have been canceled, or when the period of existence of the corporation specified in its articles has expired, the corporation shall cease to carry on business and shall do only such acts as are required to wind up its affairs, or to obtain reinstatement of the articles in accordance with section 1701.07, 1701.921, 1785.06, or 5733.22 of the Revised Code, or are permitted upon reinstatement by division (C) of section 1701.922 of the Revised Code, and for such purposes it shall continue as a corporation for a period of five years from the dissolution, expiration, or cancellation. A court acting pursuant to section 1701.89 of the Revised Code may extend the five-year period allowed under this division.

(B) The voluntary dissolution of a corporation, cancellation of the articles of a corporation, expiration of the period of existence of a corporation, appointment of a receiver to wind up the affairs of the corporation, or other action to dissolve a corporation under this chapter shall not eliminate or impair any remedy available to or against the corporation or its directors, officers, or shareholders for any right or claim existing, or liability incurred, prior to the dissolution, if either of the following brings such an action:

(1) The corporation within the time limits otherwise permitted by law;

(2) Any other person before five years after the date of the dissolution or within the time limits otherwise required by section 1701.881 of the Revised Code or any other provision of law, whichever is less.

(C) Any claim existing or action or proceeding pending by or against the corporation or which would have accrued against it may be prosecuted to judgment, with right of appeal as in other cases, but any proceeding, execution, or process, or the satisfaction or performance of any order, judgment, or decree, may be stayed as provided in section 1701.89 of the Revised Code. Any action, suit, or proceeding begun by or against the corporation within the time limits established in division (B) of



this section shall not abate, and the corporation shall, solely for the purpose of such action, suit, or proceeding, be continued as a body corporate beyond the five-year period and until any judgments, orders, or decrees are fully executed, without the necessity for any court order required under division (A) of this section.

(D) The directors of the corporation and their successors shall act as a board of directors in accordance with the articles and regulations until the affairs of the corporation are completely wound up. Subject to the orders of courts of this state having jurisdiction over the corporation acting pursuant to section 1701.89 of the Revised Code, the directors shall proceed as speedily as is practicable to a complete winding up of the affairs of the corporation. For that purpose, the directors may exercise all the authority of the corporation. Without limiting the generality of such authority, they may do all of the following:

- (1) Fill vacancies;
- (2) Elect officers;
- (3) Appoint agents, liquidators, or other entities or persons to carry out the winding up of the corporation's business;
- (4) Carry out contracts of the corporation;
- (5) Make new contracts;
- (6) Borrow money;
- (7) Mortgage or pledge the property of the corporation as security;
- (8) Sell its assets at public or private sale;
- (9) Make conveyances in the corporate name;
- (10) Lease real estate for any term, including ninety-nine years renewable forever;



- (11) Settle or compromise claims in favor of or against the corporation;
- (12) Employ one or more persons as liquidators to wind up the affairs of the corporation with such authority as the directors see fit to grant;
- (13) Cause the title to any of the assets of the corporation to be conveyed to such liquidators for that purpose;
- (14) Apply assets to the payment of obligations;
- (15) Distribute the remainder of the assets either in cash or in kind among the shareholders according to their respective rights and interests after paying or adequately providing for the payment of all known obligations of the corporation under section 1701.882 of the Revised Code and for claims that have not been made known to the corporation or that have not arisen but that, based on facts known to the corporation, are likely to arise or to become known to the corporation within five years after the date of dissolution or such longer period of time as the directors or a court acting under section 1701.89 of the Revised Code may determine, not to exceed ten years after the date of dissolution;
- (16) Perform all other acts necessary or expedient to the winding up of the affairs of the corporation.

Division (E) of section 1701.76 of the Revised Code applies to the disposition of a voluntarily dissolved corporation's assets by its directors.

(E) At any time during the winding up of its affairs, the corporation by its directors may make application to have the winding up continued under supervision of the court, as provided in section 1701.89 of the Revised Code.

(F) If any property right of a corporation is discovered after the winding up of the corporation, any member or members of the board of directors that wound up the affairs of the corporation, or a receiver appointed by the court, may enforce the property right, collect and divide the assets discovered among the persons entitled to those assets, and prosecute actions or proceedings in the



corporate name of the corporation. Any assets collected under this division shall be distributed and disposed of in accordance with any applicable court order or, in the absence of a court order, in accordance with this section.

(G) In the event a receiver is appointed to wind up the affairs of the corporation, or an action is commenced under section 1701.91 of the Revised Code to dissolve the corporation, the five-year period specified in divisions (A) and (B)(2) of this section shall not commence until:

(1) The effective date of dissolution under division (J) of section 1701.86 of the Revised Code, if a certificate of dissolution is filed under that section; or

(2) The date of filing of a certified copy of an order of dissolution in the office of the secretary of state under division (D) of section 1701.91 of the Revised Code.