

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Article 1. General Provisions

5 Section 1. Short title. This Act may be cited as the  
6 Benefit Corporation Act.

7 Section 1.05. Application and effect of the Act.

8 (a) This Act shall be applicable to all benefit  
9 corporations.

10 (b) The existence of a provision of this Act shall not of  
11 itself create an implication that a contrary or different rule  
12 of law is applicable to a corporation which is not a benefit  
13 corporation. This Act shall not affect a statute or rule of law  
14 that is applicable to a business corporation that is not a  
15 benefit corporation.

16 (c) The Business Corporation Act of 1983, as heretofore or  
17 hereafter amended, shall be applicable to such benefit  
18 corporations, including their organization, and they shall  
19 enjoy the powers and privileges and be subject to the duties,  
20 restrictions, and liabilities of other corporations, except so  
21 far as the same may be limited or enlarged by this Act. If any  
22 provision of this Act conflicts with the Business Corporation

1 Act of 1983, this Act shall take precedence.

2 (d) A provision of the articles of incorporation or bylaws  
3 of a benefit corporation may not relax, be inconsistent with,  
4 or supersede a provision of this Act.

5 Section 1.10. Definitions. As used in this Act, unless the  
6 context otherwise requires, the words and phrases defined in  
7 this Section shall have the meanings set forth herein.

8 "Benefit corporation" means a corporation organized under  
9 the Business Corporation Act of 1983:

10 (1) which has elected to become subject to this Act;  
11 and

12 (2) whose status as a benefit corporation has not been  
13 terminated under Section 2.10.

14 "Benefit director" means either:

15 (1) the director designated as the benefit director of  
16 a benefit corporation under Section 4.05; or

17 (2) a person with one or more of the powers, duties, or  
18 rights of a benefit director to the extent provided in the  
19 bylaws pursuant to Section 4.05.

20 "Benefit enforcement proceeding" means a claim or action  
21 for:

22 (1) the failure of a benefit corporation to pursue or  
23 create general public benefit or a specific public benefit  
24 set forth in its articles of incorporation; or

25 (2) a violation of an obligation, duty, or standard of

1           conduct under this Act.

2           "Benefit officer" means the individual designated as the  
3 benefit officer of a benefit corporation under Section 4.15.

4           "General public benefit" means a material positive impact  
5 on society and the environment, taken as a whole, assessed  
6 against a third-party standard, from the business and  
7 operations of a benefit corporation.

8           "Independent" means having no material relationship with a  
9 benefit corporation or a subsidiary of the benefit corporation.  
10 A person serving as benefit director or benefit officer may be  
11 considered independent. For the purposes of this definition, a  
12 percentage of ownership in an entity shall be calculated as if  
13 all outstanding rights to acquire equity interests in the  
14 entity have been exercised. A material relationship between a  
15 person and a benefit corporation or any of its subsidiaries  
16 will be conclusively presumed to exist if:

17           (1) the person is, or has been within the last 3 years,  
18 an employee other than a benefit officer of the benefit  
19 corporation or a subsidiary of the benefit corporation;

20           (2) an immediate family member of the person is, or has  
21 been within the last 3 years, an executive officer other  
22 than a benefit officer of the benefit corporation or its  
23 subsidiaries; or

24           (3) there is beneficial or record ownership of 5% or  
25 more of the outstanding shares of the benefit corporation  
26 by:

- 1 (A) the person; or  
2 (B) an entity:  
3 (i) of which the person is a director, an  
4 officer, or a manager; or  
5 (ii) in which the person owns beneficially or  
6 of record 5% or more of the outstanding equity  
7 interests.

8 "Minimum status vote" means that:

9 (1) in the case of a corporation, in addition to any  
10 other approval or vote required by the Business Corporation  
11 Act of 1983, the bylaws, or the articles of incorporation:

12 (A) the shareholders of every class or series shall  
13 be entitled to vote on the corporate action regardless  
14 of a limitation stated in the articles of incorporation  
15 or bylaws on the voting rights of any class or series;  
16 and

17 (B) the corporate action shall be approved by vote  
18 of the outstanding shares of each class or series  
19 entitled to vote by at least two-thirds of the votes  
20 that all shareholders of the class or series are  
21 entitled to cast on the action; and

22 (2) in the case of an entity organized under the laws  
23 of this State that is not a corporation, in addition to any  
24 other approval, vote, or consent required by the statutory  
25 law, if any, that principally governs the internal affairs  
26 of the entity or any provision of the publicly filed record

1 or document required to form the entity, if any, or of any  
2 agreement binding on some or all of the holders of equity  
3 interests in the entity:

4 (A) the holders of every class or series of equity  
5 interest in the entity that are entitled to receive a  
6 distribution of any kind from the entity shall be  
7 entitled to vote on or consent to the action regardless  
8 of any otherwise applicable limitation on the voting or  
9 consent rights of any class or series; and

10 (B) the action must be approved by a vote or  
11 consent of at least two-thirds of such holders.

12 "Specific public benefit" means:

13 (1) providing low-income or underserved individuals or  
14 communities with beneficial products or services;

15 (2) promoting economic opportunity for individuals or  
16 communities beyond the creation of jobs in the ordinary  
17 course of business;

18 (3) preserving the environment;

19 (4) improving human health;

20 (5) promoting the arts, sciences or advancement of  
21 knowledge;

22 (6) increasing the flow of capital to entities with a  
23 public benefit purpose; or

24 (7) the accomplishment of any other particular benefit  
25 for society or the environment.

26 "Subsidiary" of a person means an entity in which the

1 person owns beneficially or of record 50% or more of the  
2 outstanding equity interests. For the purposes of this  
3 subsection, a percentage of ownership in an entity shall be  
4 calculated as if all outstanding rights to acquire equity  
5 interests in the entity have been exercised.

6 "Third-party standard" means a standard for defining,  
7 reporting, and assessing overall corporate, social, and  
8 environmental performance that:

9 (1) is a comprehensive assessment of the impact of the  
10 business and the business' operations upon the  
11 considerations listed in subdivisions (a)(1)(B) through  
12 (a)(1)(E) of Section 4.01;

13 (2) is developed by an entity that has no material  
14 financial relationship with the benefit corporation or any  
15 of its subsidiaries;

16 (3) is developed by an entity that is not materially  
17 financed by any of the following organizations and not more  
18 than one-third of the members of the governing body of the  
19 entity are representatives of:

20 (A) associations of businesses operating in a  
21 specific industry, the performance of whose members is  
22 measured by the standard;

23 (B) businesses from a specific industry or an  
24 association of businesses in that industry; or

25 (C) businesses whose performance is assessed  
26 against the standard; and

1 (4) is developed by an entity that:

2 (A) accesses necessary and appropriate expertise  
3 to assess overall corporate social and environmental  
4 performance; and

5 (B) uses a balanced multi-stakeholder approach,  
6 including a public comment period of at least 30 days  
7 to develop the standard; and

8 (5) makes the following information regarding the  
9 standard publicly available:

10 (A) the factors considered when measuring the  
11 overall social and environmental performance of a  
12 business and the relative weight, if any, given to each  
13 of those factors;

14 (B) the identity of the directors, officers, any  
15 material owners, and the governing body of the entity  
16 that developed, and controls revisions to, the  
17 standard, and the process by which revisions to the  
18 standard and changes to the membership of the governing  
19 body are made; and

20 (C) an accounting of the sources of financial  
21 support for the entity, with sufficient detail to  
22 disclose any relationships that could reasonably be  
23 considered to present a potential conflict of  
24 interest.

25 Article 2. Formation of Benefit Corporations

1           Section 2.01. Formation of benefit corporations. A benefit  
2 corporation must be formed in accordance with Article 2 of the  
3 Business Corporation Act of 1983. In addition to the formation  
4 requirements of that Act, the articles of incorporation of a  
5 benefit corporation must state that it is a benefit corporation  
6 in accordance with the provisions of this Article.

7           Section 2.05. Election of status.

8           (a) A corporation may become a benefit corporation under  
9 this Act by amending its articles of incorporation so that they  
10 contain a statement that the corporation is a benefit  
11 corporation. In order to be effective, the amendment must be  
12 adopted by at least the minimum status vote.

13           (b) For any entity that is a party to a merger or  
14 consolidation or is the exchanging entity in a share exchange,  
15 where the surviving, new, or resulting entity in the merger,  
16 consolidation, or share exchange is intended to be a benefit  
17 corporation, such plan of merger, consolidation, or share  
18 exchange must be adopted by at least the minimum status vote in  
19 order to be effective.

20           Section 2.10. Termination of status.

21           (a) A benefit corporation may terminate its status as such  
22 and cease to be subject to this Act by amending its articles of  
23 incorporation to remove the statement that the corporation is a



1 benefit corporation. In order to be effective, the amendment  
2 must be adopted by at least the minimum status vote.

3 (b) If a plan of merger, conversion, or share exchange  
4 would have the effect of terminating the status of a  
5 corporation as a benefit corporation, in order to be effective,  
6 the plan must be adopted by at least the minimum status vote.

7 (c) A sale, lease, exchange or other disposition of all or  
8 substantially all of the assets of a benefit corporation,  
9 unless the transaction is in the usual and ordinary course of  
10 business, shall not be effective unless the transaction is  
11 adopted by at least the minimum status vote.

12 Article 3. Corporate Purposes

13 Section 3.01. Corporate purposes.

14 (a) A benefit corporation shall have a purpose of creating  
15 general public benefit. This purpose is in addition to its  
16 purposes under Section 3.05 of the Business Corporation Act of  
17 1983 and any specific purpose set forth in its articles of  
18 incorporation in accordance with subsection (b).

19 (b) The articles of incorporation of a benefit corporation  
20 may identify one or more specific public benefits the creation  
21 of which is a purpose of the benefit corporation in addition to  
22 its purposes under Section 3.05 of the Business Corporation Act  
23 of 1983 and subsection (a). The identification of a specific  
24 public benefit under this subsection does not limit the

1 obligation of a benefit corporation under subsection (a).

2 (c) The creation of general public benefit and specific  
3 public benefit under subsections (a) and (b) is in the best  
4 interests of the benefit corporation.

5 (d) A benefit corporation may amend its articles of  
6 incorporation to add, change, or remove a specific public  
7 benefit. In order to be effective, the amendment must be  
8 adopted by at least the minimum status vote.

9 (e) A professional corporation that is a benefit  
10 corporation does not violate Sections 3.4 or 6 of the  
11 Professional Service Corporation Act by having the purpose to  
12 create general public benefit or a specific public benefit.

13 Article 4. Accountability

14 Section 4.01. Standard of Conduct for Directors.

15 (a) Without regard to whether the benefit corporation is  
16 subject to Section 8.85 of the Business Corporation Act of  
17 1983, in discharging the duties of their respective positions,  
18 the board of directors, committees of the board, and individual  
19 directors of a benefit corporation in considering the best  
20 interests of the benefit corporation:

21 (1) shall consider the effects of any action upon:

22 (A) the shareholders of the benefit corporation;

23 (B) the employees and work force of the benefit  
24 corporation, its subsidiaries, and its suppliers;

1 (C) the interests of customers as beneficiaries of  
2 the general public benefit or specific public benefit  
3 purposes of the benefit corporation;

4 (D) community and societal considerations,  
5 including those of each community in which offices or  
6 facilities of the benefit corporation, its  
7 subsidiaries or its suppliers are located;

8 (E) the local and global environment;

9 (F) the short-term and long-term interests of the  
10 benefit corporation, including benefits that may  
11 accrue to the benefit corporation from its long-term  
12 plans and the possibility that these interests may be  
13 best served by the continued independence of the  
14 benefit corporation; and

15 (G) the ability of the benefit corporation to  
16 accomplish its general public benefit purpose and any  
17 specific public benefit purpose; and

18 (2) may consider:

19 (A) considerations listed in Section 8.85 of the  
20 Business Corporation Act of 1983; and

21 (B) any other pertinent factors or the interests of  
22 any other group that they deem appropriate; but

23 (3) need not give priority to the interests of a  
24 particular person or group referred to in paragraphs (1) or  
25 (2) over the interests of another person or group unless  
26 the benefit corporation has stated in its articles of

1 incorporation its intention to give priority to certain  
2 interests related to its accomplishment of its general  
3 public benefit purpose or a specific public benefit purpose  
4 identified in its articles of incorporation.

5 (b) The consideration of interests and factors in the  
6 manner required by subsection (a) is in addition to the ability  
7 of directors to consider interests and factors as provided in  
8 Section 8.85 of the Business Corporation Act of 1983.

9 (c) A director is not personally liable for monetary  
10 damages for:

11 (1) any action taken as a director if the director  
12 performed the duties of office in compliance with Article 8  
13 of the Business Corporation Act of 1983 and this Section;  
14 or

15 (2) a failure of the benefit corporation to pursue or  
16 create general public benefit or a specific public benefit.

17 (d) A director does not have a duty to a person that is a  
18 beneficiary of the general public benefit purpose or a specific  
19 public benefit purpose of a benefit corporation arising from  
20 the status of the person as a beneficiary.

21 Section 4.05. Benefit director.

22 (a) The board of directors of a benefit corporation shall  
23 include a director, who:

24 (1) is designated as the benefit director; and

25 (2) has, in addition to the powers, duties, rights, and

1 immunities of the other directors of the benefit  
2 corporation, the powers, duties, rights, and immunities  
3 provided in this Section.

4 (b) The benefit director shall be elected, and may be  
5 removed, in the manner provided by Article 8 of the Business  
6 Corporation Act of 1983 and shall be an individual who is  
7 independent, as defined in Section 1.10. The benefit director  
8 may serve as the benefit officer at the same time as serving as  
9 the benefit director. The articles of incorporation or bylaws  
10 of a benefit corporation may prescribe additional  
11 qualifications of the benefit director not inconsistent with  
12 this Section.

13 (c) The benefit director shall prepare, and the benefit  
14 corporation shall include in the annual benefit report to  
15 shareholders required by Section 5.01 of this Act, the opinion  
16 of the benefit director on:

17 (1) whether the benefit corporation acted in  
18 accordance with its general public benefit purpose and any  
19 specific public benefit purpose in all material respects  
20 during the period covered by the report; and

21 (2) whether the directors and officers complied with  
22 subsection (a) of Section 4.01 and subsection (a) of  
23 Section 4.10, respectively, and if, in the opinion of the  
24 benefit director, the directors and officers did not so  
25 comply, a description of the failure to comply.

26 (d) The acts of an individual in the capacity of a benefit

1 director shall constitute, for all purposes, acts of that  
2 individual in the capacity of a director of the benefit  
3 corporation.

4 (e) If the bylaws of a benefit corporation provide that the  
5 powers and duties conferred or imposed upon the board of  
6 directors shall be exercised or performed by a person or  
7 persons other than the directors, in contrast to subsection (a)  
8 of Section 8.05 of the Business Corporation Act of 1983, or if  
9 the bylaws of a close corporation that is a benefit corporation  
10 provide that the business and affairs of the corporation shall  
11 be managed by or under the director of the shareholders, then  
12 the bylaws of the benefit corporation must provide that the  
13 person, persons, or shareholders who perform the duties of a  
14 board of directors shall include a person with the powers,  
15 duties, rights, and immunities of a benefit director.

16 A person who exercises one or more of the powers, duties,  
17 or rights of a benefit director pursuant to this subsection:

18 (i) does not need to be independent of the benefit  
19 corporation;

20 (ii) shall have the immunities of a benefit director;

21 (iii) may share the powers, duties, and rights of a  
22 benefit director with one or more other persons; and

23 (iv) shall not be subject to the procedures for  
24 election or removal of directors in Article 8 of the  
25 Business Corporation Act of 1983 unless the person is also  
26 a director of the benefit corporation or the bylaws make

1 those procedures applicable.

2 (f) Regardless of whether the bylaws of a benefit  
3 corporation include a provision eliminating or limiting the  
4 personal liability of directors authorized by paragraph (3) of  
5 subsection (b) of Section 2.10 of the Business Corporation Act  
6 of 1983, a benefit director shall not be personally liable for  
7 an act or omission in the capacity of a benefit director unless  
8 the act or omission constitutes self-dealing, willful  
9 misconduct, or a knowing violation of law.

10 Section 4.10. Standard of conduct for officers.

11 (a) Each officer of a benefit corporation shall consider  
12 the interests and factors described in subsection (a) of  
13 Section 4.01 in the manner provided in that subsection if:

14 (1) the officer has discretion to act with respect to a  
15 matter; and

16 (2) it reasonably appears to the officer that the  
17 matter may have a material effect on the creation by the  
18 benefit corporation of general public benefit or a specific  
19 public benefit identified in the articles of incorporation  
20 by the benefit corporation.

21 (b) Exoneration from personal liability. An officer is not  
22 personally liable for monetary damages for:

23 (1) action taken as an officer if the officer performed  
24 the duties of the position in compliance with this Section;  
25 or

1           (2) failure of the benefit corporation to pursue or  
2           create general public benefit or specific public benefit.

3           (c) Limitation on standing. An officer does not have a duty  
4           to a person that is a beneficiary of the general public benefit  
5           purpose or a specific public benefit purpose of a benefit  
6           corporation arising from the status of the person as a  
7           beneficiary.

8           Section 4.15. Benefit officer.

9           (a) A benefit corporation may have an officer designated as  
10          the benefit officer.

11          (b) A benefit officer shall have:

12           (1) powers and duties relating to the purpose of the  
13          benefit corporation to create general public benefit or  
14          specific public benefit provided:

15                   (A) by the bylaws of the benefit corporation; or

16                   (B) absent controlling provisions in the bylaws,  
17          by resolutions or orders of the board of directors; and

18           (2) the duty to prepare the benefit report required by  
19          Section 5.01 of this Act.

20          Section 4.20. Right of action; benefit enforcement  
21          proceeding.

22          (a) No person may bring an action or assert a claim against  
23          a benefit corporation or its directors or officers with respect  
24          to failure to pursue or create general public benefit or a



1 specific public benefit set forth in its articles of  
2 incorporation or violation of a duty or standard of conduct  
3 under this Act except in a benefit enforcement proceeding.

4 (b) A benefit enforcement proceeding may be commenced or  
5 maintained only:

6 (1) directly by the benefit corporation; or

7 (2) derivatively by:

8 (A) a shareholder;

9 (B) a director;

10 (C) a person or group of persons that owns  
11 beneficially or of record 5% or more of the equity  
12 interests in an entity of which the benefit corporation  
13 is a subsidiary; or

14 (D) other persons as specified in the articles of  
15 incorporation or bylaws of the benefit corporation.

16 (c) A benefit corporation shall not be liable for monetary  
17 damages under this Act for any failure of the benefit  
18 corporation to pursue or create general public benefit or a  
19 specific public benefit.

20 Article 5. Transparency

21 Section 5.01. Annual benefit report.

22 (a) A benefit corporation shall prepare an annual benefit  
23 report including all of the following:

24 (1) A narrative description of:

1 (A) the process and rationale for selecting the  
2 third party standard used to prepare the benefit  
3 report;

4 (B) the ways in which the benefit corporation  
5 pursued general public benefit during the year and the  
6 extent to which general public benefit was created;

7 (C) the ways in which the benefit corporation  
8 pursued a specific public benefit that the articles  
9 state it is the purpose of the benefit corporation to  
10 create and the extent to which that specific public  
11 benefit was created; and

12 (D) any circumstances that have hindered the  
13 pursuit by the benefit corporation of its general  
14 public benefit purpose and any specific public benefit  
15 purpose or the creation by the benefit corporation of  
16 general public benefit and any specific public  
17 benefit.

18 (2) An assessment of the overall social and  
19 environmental performance of the benefit corporation  
20 against a third-party standard:

21 (A) applied consistently with any application of  
22 that standard in prior benefit reports; or

23 (B) accompanied by an explanation of the reasons  
24 for any inconsistent application.

25 (3) The name of the benefit director and the benefit  
26 officer, if any, and the address to which correspondence to

1 each of them may be directed.

2 (4) The compensation paid by the benefit corporation  
3 during the year to each director in the capacity of a  
4 director.

5 (5) The name of each person that owns 5% or more of the  
6 outstanding shares of the benefit corporation either:

7 (A) beneficially, to the extent known to the  
8 benefit corporation without independent investigation;  
9 or

10 (B) of record.

11 (6) The statement of the benefit director required by  
12 subsection (c) of Section 4.05.

13 (7) A statement of any connection between the  
14 organization that established the third-party standard, or  
15 its directors, officers, or material owners, and the  
16 benefit corporation or its directors, officers or material  
17 owners, including any financial or governance relationship  
18 that might materially affect the credibility of the use of  
19 the third-party standard.

20 (8) If the benefit corporation has dispensed with, or  
21 restricted the discretion or powers of, the board of  
22 directors, its annual benefit report must describe the  
23 persons who exercise the powers, duties, and rights, and  
24 have the immunities of the board of directors and the  
25 benefit director as required by subsection (e) of Section  
26 4.05.

1           (b) The benefit corporation shall send a benefit report  
2 annually to each shareholder:

3           (1) within 120 days following the end of the fiscal  
4 year of the benefit corporation; or

5           (2) at the same time that the benefit corporation  
6 delivers any other annual report to its shareholders.

7           (c) A benefit corporation shall post all of its benefit  
8 reports on the public portion of its Internet website, if any,  
9 but the compensation paid to directors and financial or  
10 proprietary information included in the benefit reports may be  
11 omitted from the benefit reports as posted.

12           (d) If a benefit corporation does not have an Internet  
13 website, the benefit corporation shall provide a copy of its  
14 most recent benefit report, without charge, to any person that  
15 requests a copy.