

CHAPTER 5
EXTENSION AND DISSOLUTION OF CORPORATIONS

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§ 5101. Winding Up.

Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and of enabling it gradually to settle and close its affairs, to dispose of and convey its property and to divide its capital stock, but not for the purpose of continuing the business for which it was established.

At any time during said three (3) years said corporation is authorized and empowered to convey all of its property to trustees for the benefit of members, stockholders, creditors, and others interested. From and after any such conveyance by the corporation of its property in trust for the benefit of its members, stockholders, creditors, and others in interest, all interest which the corporation had in the property terminates, the legal interest vests in the trustees, and the beneficial interest in the members, stockholders, creditors, or other persons in interest.

SOURCE: CC § 399.

§ 5102. Voluntary Dissolution. Application to Superior Court.

(a) A corporation may be dissolved at any time by the Superior Court upon the voluntary application of a majority of the members or of the stockholders holding at least two-thirds (2/3) of all shares of stock issued or subscribed.

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(b) The Director of Revenue and Taxation *shall* charge a filing fee of Twenty-five Dollars (\$25.00) for each voluntary corporate dissolution filed with the Department.

SOURCE: CC § 400; amended by P.L. 9-98 (8/17/67). Amended by P.L. 29-002:V:1:57 (May 18, 2007).

2007 COMMENT: The amendment by P.L. 29-002 added a new subsection (a) to the existing, unnumbered provision. To better organize the section, the existing provision was designated subsection (a) and the new subsection (from P.L. 29-002) was re-designated subsection (b) by the Compiler.

§ 5103. Extension of Corporate Existence.

Every corporation heretofore or hereafter formed, and existing under the laws of the Territory of Guam, may at any time prior to the expiration of the term of its corporate existence extend such term to a period not exceeding fifty (50) years from the date of such extension.

Such extension may be made at any meeting of the stockholders, or members, called by the directors especially for considering the subjects, if voted for by the stockholders representing two-thirds (2/3) of the capital stock; or by two-thirds (2/3) of the members where there is no capital stock; or may be made upon the written consent of two-thirds (2/3) of the members or of the stockholders representing two-thirds (2/3) of the capital stock; provided, the written consent of the Governor of Guam shall first be obtained. A certificate of such vote or consent of the stockholders or members, bearing the corporate seal and signed and sworn to by the president and secretary and by a majority of the directors or trustees of the corporation, together with a duly certified copy of such written consent of the Governor of Guam, shall be filed in the Department of Revenue and Taxation and thereupon the term of existence of the corporation shall be extended for the period specified in such certificate. The Director of Revenue and Taxation shall forthwith issue a certified copy of said certificate. The fees for certifying such certificate and filing the same and the certified copy thereof, shall be the same as those prescribed by law for certifying and filing articles of incorporation.

In no event shall such extensions be construed to prolong or extend the term of existence of any franchise or privilege heretofore granted to any corporation or joint-stock company by executive act, beyond the term fixed by the provisions of said act, conferring such privilege or franchise, or beyond the term fixed for the maximum period of existence, of such corporation or joint-stock company by laws in force and governing the

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formation and organization thereof at the time such corporation or joint-stock company was formed or organized.

SOURCE: CC § 401. References to *Director*, *Department of Finance* changed to *Revenue and Taxation* pursuant to P.L. 9-228.

§ 5104. Application, Contents of.

The application for dissolution must be in writing and shall set forth all claims and demands against the corporation, and that, at a meeting of the members or stockholders of the corporation called for that purpose, the dissolution of the corporation was resolved upon by a majority of the members or, if a stock corporation, by the affirmative vote of the stockholders holding or representing two-thirds (2/3) of all shares of stock issued or subscribed.

SOURCE: CC § 402.

§ 5105. Application, Signing by Majority.

The application for dissolution must be signed by a majority of the board of directors or other officers having the management of the affairs of the corporation and must be verified by the president or secretary or clerk or some director of the corporation.

SOURCE: CC § 402a.

§ 5106. Notice by Clerk of Court.

Notice of the application for dissolution must be given by the clerk of the court upon order of the court by publication for not less than thirty (30) days nor more than sixty (60) days of notice. The notice must be posted in at least three (3) public places at the place where the principal office of the corporation is established or located. The date on which the right of objection to the application expires must be set out in the notice and must be subsequent to the period prescribed for the publication of such notice.

SOURCE: CC § 402b.

§ 5107. Filing Objection.

On or before the date on which the right of objection expires as declared in the notice, any person may file objections to the dissolution of the corporation. The issue made by the application and the objection thereto shall be tried by the court upon five (5) days' notice to the applicants and to the persons who have filed objections, and shall be determined by the court as justice and right may require. Should no objections to the application be

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filed on or before the date prescribed for filing the same, the court shall proceed to hear the application, and if the application is sufficient and all the material statements made therein are shown to be true, the court may appoint receivers to collect and take charge of the assets of the corporation and shall declare the corporation dissolved and decree such disposition of its assets and property remaining as the law may permit and justice may require.

SOURCE: CC § 402c.

§ 5108. Record: Appeal.

The application, notices thereof, and proof of publication and posting of notices, the objections filed to the dissolution, if any there be, the declaration of dissolution, and the evidence and proofs taken of dissolution shall constitute the record in the case, and an appeal from the judgment may be taken to the District Court as from other judgments of the Superior Court.

SOURCE: CC § 402d.

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