

HOUSE BILL No. 2213

By Representative Davis

1-27

9 AN ACT concerning formation of corporations; amending K.S.A. 2004
10 Supp. 17-6002 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2004 Supp. 17-6002 is hereby amended to read as
14 follows: 17-6002. (a) The articles of incorporation shall set forth:

15 (1) The name of the corporation which, except for banks, shall con-
16 tain one of the words “association,” “church,” “college,” “company,” “cor-
17 poration,” “club,” “foundation,” “fund,” “incorporated,” “institute,” “so-
18 ciety,” “union,” “*university*,” “syndicate” or “limited,” or one of the
19 abbreviations “co.,” “corp.,” “inc.,” “ltd.,” or words or abbreviations of
20 like import in other languages if they are written in Roman characters or
21 letters, and which shall be such as to distinguish it upon the records in
22 the office of the secretary of state from the names of other corporations,
23 limited liability companies and limited partnerships organized, reserved
24 or registered under the laws of this state, unless there shall be obtained
25 the written consent of such other corporation, limited liability company
26 or limited partnership executed and filed in accordance with K.S.A. 17-
27 6003, and amendments thereto. The name of every corporation hereto-
28 fore organized, except for banks, may be changed to conform to the pro-
29 visions of this section, but such change of name for existing corporations
30 shall not be required, and nothing herein shall be construed as requiring
31 any corporation which is subject to special statutory regulation to include
32 any of such names or abbreviations in the name of such corporation if
33 such name or abbreviation would be inconsistent or in conflict with such
34 special statutory regulation;

35 (2) the address, which shall include the street, number, city and zip
36 code of the corporation’s registered office in this state, and the name of
37 its resident agent at such address;

38 (3) the nature of the business or purposes to be conducted or pro-
39 moted. It shall be sufficient to state, either alone or with other businesses
40 or purposes, that the purpose of the corporation is to engage in any lawful
41 act or activity for which corporations may be organized under the Kansas
42 general corporation code, and by such statement all lawful acts and ac-
43 tivities shall be within the purposes of the corporation, except for express

1 limitations, if any;

2 (4) if the corporation is to be authorized to issue only one class of
3 stock, the total number of shares of stock which the corporation shall
4 have authority to issue and the par value of each of such shares, or a
5 statement that all such shares are to be without par value. If the corpo-
6 ration is to be authorized to issue more than one class of stock, the articles
7 of incorporation shall set forth the total number of shares of all classes of
8 stock which the corporation shall have authority to issue and the number
9 of shares of each class, and shall specify each class the shares of which
10 are to be without par value, and each class the shares of which are to have
11 a par value and the par value of the shares of each such class. The articles
12 of incorporation shall also set forth a statement of the designations and
13 the powers, preferences and rights, and the qualifications, limitations or
14 restrictions thereof, which are permitted by K.S.A. 17-6401, and amend-
15 ments thereto, in respect to any class or classes of stock or any series of
16 any class of stock of the corporation and the fixing of which by the articles
17 of incorporation is desired, and an express grant of such authority as it
18 may then be desired to grant to the board of directors to fix by resolution
19 or resolutions any thereof that may be desired but which shall not be
20 fixed by the articles of incorporation. The provisions of this subsection
21 shall not apply to corporations which are not organized for profit and
22 which are not to have authority to issue capital stock. In the case of such
23 corporations, the fact that they are not to have authority to issue capital
24 stock shall be stated in the articles of incorporation and unless otherwise
25 provided in the articles of incorporation or bylaws, the directors of such
26 corporation shall be members for all purposes under the Kansas general
27 corporation code. The conditions of membership of such corporations
28 shall likewise be stated in the articles of incorporation or the articles may
29 provide that the conditions of membership shall be stated in the bylaws,
30 and if a corporation not organized for profit is to have authority to issue
31 capital stock, such fact shall be stated in the articles of incorporation;

32 (5) the name and mailing address of the incorporator or incorpora-
33 tors; and

34 (6) if the powers of the incorporator or incorporators are to terminate
35 upon the filing of the articles of incorporation, the names and mailing
36 addresses of the persons who are to serve as directors until the first annual
37 meeting of stockholders or until their successors are elected and qualify.

38 (b) In addition to the matters required to be set forth in the articles
39 of incorporation by subsection (a), the articles of incorporation may also
40 contain any or all of the following matters:

41 (1) Any provision for the management of the business and for the
42 conduct of the affairs of the corporation, and any provision creating, de-
43 fining, limiting and regulating the sale or other disposition of stock and

1 the powers of the corporation, the directors and the stockholders, or any
2 class of the stockholders, or the members of a nonstock corporation, if
3 such provisions are not contrary to the laws of this state. Any provision
4 which is required or permitted by any section of this act to be stated in
5 the bylaws may be stated instead in the articles of incorporation;

6 (2) the following provisions, in these words: “Whenever a compro-
7 mise or arrangement is proposed between this corporation and its cred-
8 itors or any class of them or between this corporation and its stockholders
9 or any class of them, any court of competent jurisdiction within the state
10 of Kansas, on the application in a summary way of this corporation or of
11 any creditor or stockholder thereof or on the application of any receiver
12 or receivers appointed for this corporation under the provisions of K.S.A.
13 17-6808 and 17-6901, and amendments thereto, may order a meeting of
14 the creditors or class of creditors, or of the stockholders or class of stock-
15 holders of this corporation, as the case may be, to be summoned in such
16 manner as the court directs. If a majority in number representing $\frac{3}{4}$ in
17 value of the creditors or class of creditors, or of the stockholders or class
18 of stockholders of this corporation, as the case may be, agree to any com-
19 promise or arrangement and to any reorganization of this corporation as
20 consequence of such compromise or arrangement and the reorganization,
21 if sanctioned by the court to which the application has been made, shall
22 be binding on all the creditors or class of creditors, or on all the stock-
23 holders or class of stockholders, of this corporation, as the case may be,
24 and also on this corporation”;

25 (3) such provisions as may be desired granting to the holders of the
26 stock of the corporation, or the holders of any class or series of a class
27 thereof, the preemptive right to subscribe to any or all additional issues
28 of stock of the corporation of any or all classes or series thereof, or to any
29 securities of the corporation convertible into such stock. No stockholder
30 shall have any preemptive right to subscribe to an additional issue of stock
31 or to any security convertible into such stock unless, and except to the
32 extent that, such right is expressly granted to such stockholder in the
33 articles of incorporation. All such rights in existence on July 1, 1972, shall
34 remain in existence unaffected by this paragraph (3) unless and until
35 changed or terminated by appropriate action which expressly provides for
36 such change or termination;

37 (4) provisions requiring for any corporate action, the vote of a larger
38 portion of the stock or of any class or series thereof, or of any other
39 securities having voting power, or a larger number of the directors, than
40 is required by this act;

41 (5) a provision limiting the duration of the corporation’s existence to
42 a specified date; otherwise, the corporation shall have perpetual existence;

43 (6) a provision imposing personal liability for the debts of the cor-

1 poration on its stockholders or members to a specified extent and upon
2 specified conditions; otherwise, the stockholders or members of a cor-
3 poration shall not be personally liable for the payment of the corporation's
4 debts except as they may be liable by reason of their own conduct or acts;
5 (7) the manner of adoption, alteration and repeal of bylaws; and
6 (8) a provision eliminating or limiting the personal liability of a di-
7 rector to the corporation or its stockholders, policyholders or members
8 for monetary damages for breach of fiduciary duty as a director, provided
9 that such provision shall not eliminate or limit the liability of a director
10 (A) for any breach of the director's duty of loyalty to the corporation or
11 its stockholders, policyholders or members, (B) for acts or omissions not
12 in good faith or which involve intentional misconduct or a knowing vio-
13 lation of law, (C) under the provisions of K.S.A. 17-6424, and amend-
14 ments thereto, or (D) for any transaction from which the director derived
15 an improper personal benefit. No such provision shall eliminate or limit
16 the liability of a director for any act or omission occurring prior to the
17 date when such provision becomes effective. All references in this sub-
18 section to a director shall be deemed also to refer to a member of the
19 governing body of a corporation which is not authorized to issue capital
20 stock.

21 (c) It shall not be necessary to set forth in the articles of incorporation
22 any of the powers conferred on corporations by this act.

23 Sec. 2. K.S.A. 2004 Supp. 17-6002 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its
25 publication in the statute book.