



## Nebraska Attorney General's Office Consumer Protection Bureau Nonprofit Corporation Dissolution Checklist

A public benefit or religious corporation<sup>1</sup> must give the Attorney General written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the Secretary of State pursuant to *Neb. Rev. Stat. §21-19,131*. This notice must include a copy or summary of the corporation's plan of dissolution.<sup>2</sup> **No assets shall be transferred or conveyed by a public benefit or religious corporation as part of the dissolution process until twenty days after it has given adequate written notice** to the Attorney General or until the Attorney General has consented in writing to the dissolution or indicated in writing that he or she will take no action with respect to the transfer or conveyance, whichever is earlier.

The following is a checklist of information the Attorney General needs to review in order to determine whether the proposed dissolution is in accord with the Nebraska Nonprofit Corporation Act and other applicable law and is in the public interest. **Please address each item below and label accordingly in your response.** Additional information beyond the following may be necessary, depending on each specific situation.

- 1. **Contact information** for the dissolving nonprofit corporation.
- 2. The **authority** the person providing the dissolution notice has to act on behalf of the nonprofit corporation and documentation demonstrating how that authority was derived or granted. If you are an attorney supplying the information, indicate specifically whom you represent.

*Example:* Board of Directors votes to hire attorney X to assist in dissolving the corporation at its annual meeting. A copy of the meeting minutes signed by an appropriate officer is acceptable.

- 3. If you are a corporation that **does not have members and/or does not require membership approval** of dissolution,<sup>3</sup> provide evidence the board of directors:
  - Complied with relevant notice provisions in regard to dissolution;
  - Properly voted to dissolve the corporation; and
  - Adopted the plan of dissolution.

*Example:* A copy of notice sent to the board of directors indicating that a vote to dissolve the corporation is to be held and a copy of the meeting minutes of the board of directors in which the dissolution was approved and the plan of dissolution was adopted.

- 4. If you are a corporation that **requires membership approval** of dissolution,<sup>4</sup> provide evidence that the board of directors:
  - Properly voted to dissolve the corporation;
  - Developed the plan of dissolution; and
  - Complied with notice provisions in regard to the vote of the board of directors.

*Example:* A copy of notice sent to the board of directors indicating that a vote to dissolve the corporation is to be held and a copy of the meeting minutes of the board of directors in which the dissolution was approved and the proposed plan of dissolution was formed.

- a. **Membership Approval by Membership Meeting**-If the board of directors sought to have dissolution approved by the members at a membership meeting, provide evidence:
  - The board of directors provided appropriate notice of the proposed membership meeting, and
  - The membership:
    - Properly voted to dissolve the corporation; and
    - Approved the proposed plan of dissolution.

<sup>1</sup> *Neb. Rev. Stat. § 21-1914(27)* defines "public benefit corporation." *Neb. Rev. Stat. § 21-1914(29)* defines "religious corporation."

<sup>2</sup> There are no further definitions for the plan of dissolution in either the Nebraska Nonprofit Corporation Act or the comments to the Model Nonprofit Corporation Act upon which Nebraska's Act is based. The Attorney General requests information in the plan of dissolution necessary to protect the public's interest and protect charitable assets from misappropriation.

<sup>3</sup> *Neb. Rev. Stat. § 21-19,129* allows dissolution by incorporators or directors when a corporation has no members. When approving the dissolution, the incorporators or directors must adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after creditors have been paid.

<sup>4</sup> *Neb. Rev. Stat. § 21-19,130* allows dissolution by directors, members, and third persons. Subsequent notice of meetings to vote on the dissolution by directors and members shall contain or be accompanied by a copy or summary of the plan of dissolution. The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

*Example:* A copy of the notice to the corporation's members of the proposed membership meeting that states the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and that includes a copy or summary of the plan of dissolution and a copy of the membership meeting minutes in which the dissolution was approved.

- b. Membership Approval by Written Consent**-If the board of directors sought to have dissolution approved by the members by written consent or written ballot, provide evidence:
  - The board of directors supplied the membership with the appropriate dissolution materials, and
  - The membership:
    - Properly voted to dissolve the corporation; and
    - Approved the proposed plan of dissolution.

*Example:* A copy of the members' written consent and a copy of the materials used to solicit the approval, which must include a copy or summary of the plan of dissolution.

- 5. Plan of Dissolution**-The Plan should contain at a minimum:
  - A list of asset(s) to be distributed in contemplation of dissolution (including cash, real and personal property), indicating if any of the assets are restricted-use. If any assets are restricted, please indicate their value, explain the restriction, and state whether there is a reversionary interest, gift over, etc.
  - The corresponding entity receiving each asset, not including creditors; and
  - The address and contact person for each entity that will receive the asset(s). If applicable, please include the EIN number for those tax-exempt organizations that will receive charitable assets upon dissolution.
- 6. Articles of Dissolution**<sup>5</sup>
- 7. Articles of Incorporation (current)**
- 8. Bylaws (current)**
- 9. Date of the Proposed Distribution of Assets**
- 10. Notice of Dissolution in Publication**<sup>6</sup>-Notice of dissolution must be published for three successive weeks in some legal newspaper of general circulation in the county where the corporation's principal office or, if none in this state, its registered office is located. A notice of dissolution shall show:
  - The terms and conditions of such dissolution;
  - The names of the persons who are to wind up and liquidate its affairs and their official titles; and
  - A statement of assets and liabilities of the corporation.
- 11. After Asset Transfer is Complete**-When all or substantially all of the assets of a *public benefit corporation*<sup>7</sup> have been transferred or conveyed following approval of dissolution, the board shall deliver to the Attorney General a list showing those (other than creditors) to whom the assets were transferred or conveyed.

**Attorney General Contact Information:** To submit a dissolution notice to the Nebraska Attorney General's Office, send the requisite information to Office of the Attorney General, Attention: Consumer Protection Division, 2115 State Capitol, Lincoln, NE 68509-8920. If you have questions, please contact our office at (402) 471-4722.

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<sup>5</sup> See *Neb. Rev. Stat.* § 21-19,132 for a list of the information required to be in the Articles of Dissolution.

<sup>6</sup> See *Neb. Rev. Stat.* § 21-19,173(b).

<sup>7</sup> Not required for religious corporations.