

FINAL BILL REPORT

HB 1139

C 32 L 99

Synopsis as Enacted

Brief Description: Removing a director of a nonprofit corporation from office.

Sponsors: Representatives Sheahan, Constantine and Kenney.

House Committee on Judiciary

Senate Committee on Judiciary

Background:

A nonprofit corporation is a corporation that does not have or issue shares of stock and that cannot distribute any part of the corporation's income to its members, directors, or officers. Nonprofit corporations may sue and be sued, make contracts, elect or appoint officers and agents, and generally do that which is necessary to lawfully conduct its business.

The corporation's board of directors manages the affairs of the corporation. A director has the duty to perform his or her functions in good faith, in a manner he or she believes to be in the best interests of the corporation, and with the care that a reasonable person in that position would use. The corporation's bylaws or articles of incorporation may establish how many directors the corporation has and in what manner the directors are elected or appointed.

The bylaws or articles of incorporation may also contain procedures for removing directors. Under the statutes governing nonprofit corporations, a director may be removed, with or without cause, by two-thirds of the votes cast by the members having voting rights with regard to the election of a director.

The statutes governing corporations for profit allow a court to remove a director in a proceeding commenced by the corporation or its shareholders when the director has engaged in fraudulent or dishonest conduct regarding the corporation and the removal is in the best interest of the corporation. The statutes governing nonprofit corporations do not contain such a provision allowing for the judicial removal of a director.

Summary:

A superior court may remove a director of a nonprofit corporation in a proceeding commenced by the corporation when the court finds that the director engaged in

fraudulent or dishonest conduct regarding the corporation and removal is in the best interest of the corporation. The court may bar the director from reelection for specified periods.

Votes on Final Passage:

House 94 0

Senate 43 0

Effective: July 25, 1999