

### **Legislative Update**

On August 24, 2009, Public Act 096-0649 was enacted into law and will become effective on January 1, 2010. The Public Act is a substantial rewrite of the General Not for Profit Corporation Act, 805 Ill. Comp. Stat. 105. Its material changes include the following:

- Explicitly provides that, unless prohibited in the Articles of Incorporation or Bylaws, the definition of “Delivered” and “Written” include electronic means, such as e-mail.
- Sets forth the procedure for voting by members in actions in which they are entitled to vote. Such votes may be conducted electronically, and considered valid, provided that:
  - the number of members casting votes would constitute a quorum if such action had been taken at a meeting; and
  - voting must remain open for not less than five (5) days from the date the ballot is delivered, unless the action is for the removal of one (1) or more directors or a merger, consolidation, dissolution or sale, lease or exchange of assets, in which case the voting must remain open for a minimum of twenty (20) days.
- Institutes procedures that must be followed by voting member requesting to inspect the organization’s books, and challenges to the organization’s refusal to allow such an inspection.
- Provides that an amendment to the bylaws decreasing the number of, or eliminating a director may shorten the terms of the incumbent directors, provided that such amendment has been approved by the party with the authority to elect or appoint such directors.
- Provides that the provisions dealing with director conflicts of interest do not apply where a director of the corporation is directly or indirectly a party to a transaction involving a grant or contribution, without consideration, by one organization to another.
- Exempts directors of corporations organized under the General Not For Profit Act and exempt from federal income act under Section 501(c) of the Internal Revenue Code, from liability due to their judgment or discretion in connection with his or her responsibilities unless:
  - such director earns in excess of \$25,000<sup>1</sup> per year from his or her duties, excluding reimbursement for actual expenses; or
  - the act or omission involved willful or wanton misconduct.

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<sup>1</sup> Prior to the change the earnings limit was \$5,000.