

BUSINESS ORGANIZATIONS CODE  
TITLE 2. CORPORATIONS  
CHAPTER 23. SPECIAL-PURPOSE CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 23.001. DETERMINATION OF APPLICABLE LAW. (a) A corporation created under this chapter or under a special statute outside this code, to the extent not inconsistent with a special statute regarding a particular corporation, is governed by:

(1) Title 1 and Chapter 21, if the corporation is organized for profit; and

(2) Title 1 and Chapter 22, if the corporation is organized not for profit.

(b) If a special statute does not contain any provision regarding a matter provided for in Title 1 or Chapter 21 or 22, or if the special statute specifically provides that the general laws for corporations supplement the statute, to the extent consistent with the special statute:

(1) Title 1 and Chapter 21 apply to a corporation organized for profit; and

(2) Title 1 and Chapter 22 apply to a corporation organized not for profit.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.002. APPLICABILITY OF FILING REQUIREMENTS. Except as otherwise provided by the special statute, a document to be filed with the secretary of state under a special statute shall be executed and filed in accordance with Chapter 4.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.003. DOMESTIC CORPORATION ORGANIZED UNDER SPECIAL STATUTE. A corporation organized under a special statute other than this code is not considered a "domestic corporation" formed under this code, although this code may apply to the corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER B. BUSINESS DEVELOPMENT CORPORATIONS

Sec. 23.051. DEFINITIONS. In this subchapter:

(1) "Corporation" means a business development corporation organized under this subchapter.

(2) "Financial institution" means a banking corporation or trust company, savings and loan association, governmental agency, insurance company, or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.

(3) "Loan limit" means the maximum amount permitted to be outstanding at one time on loans made by a member to a corporation.

(4) "Member" means a financial institution authorized to do business in this state that undertakes to lend money to a corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.052. ORGANIZERS. Subject to The Securities Act (Title 12, Government Code), 25 or more persons, the majority of whom must be residents of this state, may form a business development corporation to promote, develop, and advance the prosperity and economic welfare of this state.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 2.05, eff. January 1, 2022.

Sec. 23.053. PURPOSES. (a) A business development corporation may be organized as a:

- (1) for-profit corporation under Chapter [21](#); or
- (2) nonprofit corporation under Chapter [22](#).

(b) In accordance with Section [3.005\(a\)\(3\)](#), the certificate of formation of a business development corporation must state that the purposes of the corporation are to:

(1) promote, stimulate, develop, and advance the business prosperity and economic welfare of this state and the

residents of this state;

(2) encourage and assist, through loans, investments, or other business transactions, new business and industry in this state;

(3) rehabilitate and assist existing industry in this state;

(4) stimulate and assist in the expansion of business activity that will tend to promote the business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the residents of this state;

(5) cooperate and act in conjunction with other public or private organizations in the promotion and advancement of industrial, commercial, agricultural, and recreational developments in this state; and

(6) provide financing for the promotion, development, and conduct of business activity in this state.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 94, eff. September 1, 2007.

Sec. 23.054. POWERS. (a) The powers of a corporation include, in addition to the powers conferred on the corporation by Chapters [2](#) and [21](#) or [22](#), as applicable, the power to:

(1) elect, appoint, and employ officers, agents, and employees;

(2) make contracts and incur liabilities for a purpose of the corporation;

(3) borrow money on a secured or unsecured basis to carry out a purpose of the corporation;

(4) issue for the purpose of borrowing money a bond, debenture, note, or other evidence of indebtedness, whether secured or unsecured;

(5) secure an evidence of indebtedness by mortgage, pledge, deed of trust, or other lien on a property, franchise, right, or privilege of the corporation, or any part of or interest

in those items, without securing shareholder or member approval;

(6) make a secured or unsecured loan and establish and regulate the terms and conditions of that loan and the charges for interest or service connected with that loan;

(7) purchase, receive, hold, lease, or otherwise acquire, and sell, convey, transfer, lease, or otherwise dispose of, property and exercise those rights and privileges incidental and appurtenant to the acquisition or disposal of the property and to the use of the property, including any property acquired by the corporation periodically in the satisfaction of a debt or enforcement of an obligation;

(8) acquire improved or unimproved real property to construct an industrial plant or other business establishment on the property or dispose of the real property for the construction of an industrial plant or other business establishment;

(9) acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of an industrial plant or business establishment;

(10) protect the corporation's position as creditor by acquiring the goodwill, business, rights, property, including a share, bond, debenture, note, other evidence of indebtedness, other asset, or any part of an asset or interest in an asset, of a person to whom the corporation loaned money and assume, undertake, or pay an obligation, debt, or liability of the person;

(11) mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired under Subdivision (7), (8), (9), or (10), as security for the payment of a part of the purchase price;

(12) promote the establishment of local development corporations in the various communities of this state, enter into agreements with those local development corporations, and cooperate with, assist, or otherwise encourage the local foundations; and

(13) participate with a properly authorized federal lending agency in the making of loans.

(b) A corporation may approve an application for a loan under Subsection (a)(6) only if the applicant demonstrates that:

(1) the applicant applied for the loan through ordinary banking channels; and

(2) the loan has been refused by at least two banks or other financial institutions.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.055. STATEWIDE OPERATION. A corporation organized under this subchapter is a state development company as defined by Section 103, Small Business Investment Act of 1958 (15 U.S.C. Section 662), as amended, or similar federal legislation, and may operate on a statewide basis.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.056. CERTIFICATE OF FORMATION. (a) The certificate of formation of a corporation must state:

(1) the name of the corporation;

(2) the purpose or purposes for which the corporation is organized as required by Section 23.053; and

(3) any other information required by:

(A) Chapter 4; and

(B) Chapter 21 or 22, as applicable.

(b) The name of a corporation must include the words "Business Development Corporation."

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.057. MANAGEMENT BY BOARD OF DIRECTORS; NUMBER OF DIRECTORS. (a) The organization, control, and management of a corporation are vested in a board of directors. The board must consist of not fewer than 15 and not more than 21 directors.

(b) The board of directors may exercise any power of the corporation not conferred on the shareholders or members by law or by the corporation's bylaws.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.058. ELECTION OR APPOINTMENT OF DIRECTORS. (a) The organizers of a corporation shall name the directors constituting the initial board of directors of the corporation. Directors other

than the initial directors shall be elected at each annual meeting of the corporation. If an annual meeting is not held at the time designated by the bylaws of the corporation, the directors shall be elected at a special meeting held in lieu of the annual meeting.

(b) At an annual meeting or special meeting held in lieu of the annual meeting, the members of the corporation shall elect two-thirds of the directors, and the shareholders of the corporation shall elect the remaining directors.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 95, eff. September 1, 2007.

Sec. 23.059. TERM OF OFFICE; VACANCY. (a) A director of a corporation holds office until the next annual election of directors and until a successor is elected and qualified, unless the director is removed at an earlier date in accordance with the corporation's bylaws.

(b) A vacancy in the office of a director elected by the members shall be filled by the directors elected by the members, and a vacancy in the office of a director elected by the shareholders shall be filled by the directors elected by the shareholders.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.060. OFFICERS. The board of directors of a corporation shall appoint a president, a treasurer, and any other agent or officer of the corporation and shall fill each vacancy other than a vacancy on the board.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.061. PARTICIPATION AS OWNER. (a) An individual, corporation, or other organization authorized to conduct business in this state, including a public utility company, insurance and casualty company, or foreign corporation licensed to do business in this state, or a trust may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of a bond, security, or other evidence of indebtedness created by, or shares

of, the corporation.

(b) An owner of shares of the corporation may exercise any right, power, or privilege of that ownership, including the right to vote.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.062. FINANCIAL INSTITUTION AS MEMBER OF CORPORATION. (a) A financial institution may become a member of a corporation and may make loans to the corporation as provided by this chapter.

(b) A financial institution may request membership in the corporation by applying to the corporation's board of directors in the manner prescribed by the board. Membership in the corporation takes effect on the board's acceptance of the application.

(c) A financial institution that is a member of a corporation may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of a bond, security, or other evidence of indebtedness created by, or a share of, the corporation. As owner of shares of the corporation, a financial institution may exercise any right, power, or privilege of that ownership, including the right to vote. A member of a corporation may not acquire shares of the corporation in an amount greater than 10 percent of the member's loan limit. The amount of shares of the corporation that a member may acquire is in addition to the amount of shares of corporations that the member may otherwise acquire.

(d) A financial institution that is not a member of the corporation may not acquire any shares of the corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.063. WITHDRAWAL OF MEMBER. (a) On written notice to the corporation's board of directors, a member may withdraw from a corporation on the date stated in the notice. The date of a member's withdrawal must be at least six months after the date notice is given under this subsection.

(b) A member is not obligated to make a loan to the corporation pursuant to a call made after the date of the member's withdrawal from the corporation, but a member shall fulfill any

obligation that has accrued or for which a commitment has been made before the withdrawal date.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.064. POWERS OF SHAREHOLDERS AND MEMBERS. The shareholders and members of a corporation may:

(1) determine the number of directors and elect the directors as provided by Section 23.058;

(2) make, amend, and repeal bylaws of the corporation;  
or

(3) exercise any other power of the corporation that is conferred on the shareholders and members by the bylaws.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.065. VOTING BY SHAREHOLDER OR MEMBER. (a) Each shareholder of a corporation has one vote, in person or by proxy, for each share held by the shareholder.

(b) Each member of a corporation has one vote in person or by proxy.

(c) A member with a loan limit that exceeds \$1,000 has one additional vote, in person or by proxy, for each additional \$1,000 the member may have outstanding on loans to the corporation at any one time as determined under Section 23.068.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.066. LOAN TO CORPORATION. (a) When called on by a corporation to make a loan to the corporation, a member of the corporation shall make the loan on those terms and conditions periodically approved by the board of directors.

(b) A loan made to the corporation by a member shall be evidenced by a bond, debenture, note, or other evidence of indebtedness of the corporation that:

(1) is freely transferable at any time; and

(2) accrues interest at a rate of not less than one-fourth of one percent more than the rate of interest determined by the board of directors to be the prime rate prevailing on the date of issuance on unsecured commercial loans.



Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.067. PROHIBITED LOAN. (a) A member may not make a loan to a corporation if, immediately after the loan would be made, the total amount of the obligations of the corporation would exceed 50 times the capital of the corporation.

(b) For purposes of this section, the capital of the corporation includes the amount of the outstanding shares of the corporation, whether common or preferred, and the earned or paid-in surplus of the corporation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.068. LOAN LIMITS. (a) A loan limit shall be established at the \$1,000 amount nearest to the amount computed in accordance with this section.

(b) The total amount outstanding on loans made to a corporation by a member at any one time, when added to the amount of the investment in the shares of the corporation then held by the member, may not exceed:

(1) 20 percent of the total amount then outstanding on loans to the corporation by all members, including outstanding amounts validly called for a loan but not yet loaned; or

(2) the following limit, to be determined as of the time the member becomes a member of the corporation, or at any time requested by a member on the basis of the audited balance sheet of the member at the close of its fiscal year immediately preceding its application for membership or, in the case of an insurance company, its last annual statement to the Texas Department of Insurance:

(A) an amount equal to the lesser of \$750,000 or two percent of the capital and surplus of a commercial bank or trust company;

(B) an amount equal to one percent of the total outstanding loans made by a savings and loan association;

(C) an amount equal to one percent of the capital and unassigned surplus of a stock insurance company other than a fire insurance company;

(D) an amount equal to one percent of the

unassigned surplus of a mutual insurance company other than a fire insurance company;

(E) an amount equal to one-tenth of one percent of the assets of a fire insurance company; or

(F) the limits approved by the board of directors of the corporation for a government pension fund or other financial institution.

(c) Subject to Subsection (b), each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members.

(d) For purposes of Subsection (c), the adjusted loan limit of a member is the amount of the member's loan limit, reduced by the balance of outstanding loans made by the member to the corporation and the investment in shares of the corporation held by the member at the time of the call.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.069. SURPLUS. (a) A corporation shall set apart as earned surplus not less than 10 percent of the corporation's net earnings each year until the surplus, with any unimpaired surplus paid in, is equal to one-half of the amount paid in on the shares then outstanding. The surplus shall be kept to secure against losses and contingencies. If the surplus becomes impaired, the surplus shall be reimbursed in the manner provided for its accumulation.

(b) Net earnings and surplus shall be determined by the board of directors after providing for the required reserves as the directors consider advisable. A good faith determination of net earnings and surplus by the directors under this subsection is conclusive.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.070. DEPOSITORY. (a) A corporation may deposit the corporation's funds in a banking institution that has been designated as a depository by a vote of the majority of the

directors present at an authorized meeting of the board of directors of the corporation, excluding a director who is an officer or director of the designated depository.

(b) The corporation may not receive money on deposit.  
Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.071. ANNUAL REPORT; PROVISION OF REQUIRED INFORMATION. (a) A corporation shall annually make a report of its condition to the banking commissioner and the Texas Department of Insurance.

(b) A corporation shall provide any information that is required by the secretary of state.  
Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

#### SUBCHAPTER C. GRAND LODGES

Sec. 23.101. FORMATION. (a) An institution or order, by resolution or other consent of its members, may incorporate under this subchapter if the institution or order is:

- (1) the grand lodge of Texas, Ancient, Free and Accepted Masons;
- (2) the Grand Royal Arch Chapter of Texas;
- (3) the Grand Commandery of Knights Templars of Texas;
- (4) the grand lodge of the Independent Order of Odd Fellows of Texas; or
- (5) another similar institution or order organized for charitable or benevolent purposes.

(b) A corporation formed under this subchapter shall file a certificate of formation in accordance with Chapter 4 that complies with this subchapter.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.102. APPLICABILITY OF CHAPTER 22. If this subchapter does not contain any provision regarding a matter provided for in Chapter 22, to the extent consistent with this subchapter, Chapter 22 applies to a corporation formed under this subchapter.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.103. DURATION. A grand body that incorporates under this subchapter may provide in the grand body's certificate of formation for the expiration of its corporate powers at the end of a stated number of years. If the certificate of formation does not provide for the duration of the grand body, the grand body has perpetual existence. The grand body may by its corporate name have perpetual succession of its officers and members.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.104. SUBORDINATE LODGES. (a) The incorporation of a grand body includes each of its subordinate lodges or bodies holding a warrant or charter under the grand body.

(b) A subordinate body has all of the rights of other corporations under and by the name given to the grand body in the warrant or charter issued to the grand body to which it is attached. Those rights shall be provided for in the charter of the grand body.

(c) A subordinate body is subject to the jurisdiction and control of its respective grand body, and the warrant or charter of the subordinate body may be revoked by the grand body.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.105. TRUSTEES AND DIRECTORS. A grand body and a subordinate of the grand body may elect trustees and directors or may appoint trustees or directors from among their officers.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.106. FRANCHISE TAXES. A corporation formed under this subchapter is not subject to or required to pay a franchise tax, except that a corporation is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.107. GENERAL POWERS. A grand body and a subordinate of the grand body may take action as directed or provided by law in

the case of other corporations and may make constitutions and bylaws to govern their affairs.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.108. AUTHORITY REGARDING PROPERTY. (a) A grand body or subordinate body may acquire and hold property as necessary or convenient for a site on which to erect a building for the use and occupancy of the body and to erect homes and schools for members' widows or orphans or elderly, disabled, or indigent members and may sell or mortgage the property.

(b) A conveyance must be executed by the presiding officer and attested to by the secretary with the seal.

(c) The authority of a subordinate body to sell or to mortgage property is subject to the conditions periodically prescribed or established by the grand body to which the subordinate is attached.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.109. AUTHORITY REGARDING LOANS. (a) A grand body incorporated under this subchapter may:

(1) loan money held and owned by the grand body for charitable purposes, for the endowment of any of the institutions of the grand body, or otherwise; and

(2) secure loans by taking and receiving liens on real property or by another method elected by the grand body.

(b) On sale of real property secured by a lien, a grand body may become the purchaser of the real property and hold title to the property.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 23.110. WINDING UP AND TERMINATION OF SUBORDINATE BODY. (a) On the winding up and termination of a subordinate body attached to a grand body, all property and rights existing in the subordinate body pass to and vest in the grand body to which it was attached, subject to the payment of any debt owed by the subordinate body.

(b) Notwithstanding a grand body's liability for the debt of

a subordinate body under Subsection (a), the grand body is not liable for an amount greater than the actual cash value of the subordinate body's effects or authority.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.