

LEGISLATIVE HISTORY CHECKLIST

NJSA: 15A:1-1 et al. (Non profit corporation—revises law)

LAWS OF: 1983 CHAPTER: 127

Bill No: A366

Sponsor(s): Doyle

Date Introduced: Pre-filed

Committee: Assembly: Commerce and Industry

Senate: Revenue, Finance and Appropriations; Judiciary

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Oct. 25, 1982

Senate: Jan. 27, 1983

Date of Approval: April 7, 1983

Following statements are attached if available:

Sponsor statement:	Yes	//
Committee statement:	Assembly	Yes //
	Senate	Yes // 12-13-82 & 1-19-83
Fiscal Note:	///	No
Veto Message:	///	No
Message on Signing:	///	No
Following were printed:		
Reports:	Yes	//
Hearings:	///	No

See attached:
 Report on Nonprofit Law Revision Commission - 9-23-80 (as mentioned in committee statements) *REPRINTED AT BEGINNING OF NJSA VOLUME.*
 Note: Final version of act - not attached *COMMITTEE NOTES REPRINTED THROUGHOUT VOLUME.*
 See also: "The New Jersey Nonprofit Corporation Act," 112 N.J.L.J. 537 (11-17-83)

*BEING REVISED
 12/11/01
 M.G.*

A-366 (1982)

STATEMENT

This bill revises the New Jersey law relating to nonprofit corporations. The present law relating to nonprofit corporations is found in Title 15 of the Revised Statutes which had as its source, P. L. 1898, c. 181. This act enacted the first general law in New Jersey relating to nonprofit corporations. The law has remained virtually unchanged since the enactment of Title 15 of the Revised Statutes although supplements have been added thereto to fit particular circumstances.

Over the years the existing nonprofit law has been found wanting because it does not conform to modern business and social concepts brought about by the expansion of services provided by nonprofit corporations.

The provisions of this bill have, where possible, been patterned after provisions of the New Jersey Business Corporation Act, Title 14A of the New Jersey Statutes, to provide a broader and more flexible statutory framework for the formation of nonprofit corporations and the carrying out of their objects.

*Source
Sections*

R. S. 15:1-

R. S. 15:1-
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ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 366

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 30, 1982

The Assembly Commerce and Industry Committee favorably reports this bill, with committee amendments, to revise the laws of New Jersey regulating nonprofit corporations by creating a new Title 15A.

BACKGROUND

In New Jersey, there are nonprofit corporations which have charters dating from colonial times. The first codification of a comprehensive body of law governing nonprofit corporations, generally, was in 1898 and there has been no attempt at recodification until the drafting of this bill. Both before and after the 1898 statute, statutes dealing with nonprofit corporations have been adopted, from time to time, in piecemeal fashion to resolve particular problems that may have been brought to the attention of the Legislature. For its time, the 1898 statute may have been adequate. However, in the opinion of the State Bar Association, it left many questions unanswered. The drafters of this bill felt there was a need to set forth, in greater detail and with greater clarity, such aspects of law as nonprofit corporation formation, trustee liability, authorized and prohibited acts, and procedures of amendment, merger and dissolution. In the absence of a comprehensive body of case law, they wished to have the statute law explicit on these points, in order to avoid unnecessary litigation. The need for greater clarity has increased as services to society provided by nonprofit corporations have expanded in recent years. Moreover, the use and number of nonprofit corporations has grown.

The existing statutes do not provide a means of enforcing the State's filing requirements nor do they provide for the dissolution of nonprofit corporations or for other needed procedures. The filing requirements of existing law are so deficient in this respect that the Secretary of State has had difficulty just knowing who the active noncharity nonprofit firms are. The Attorney General was often unable to serve process because the current addresses of nonprofits were frequently unobtainable.

A three-man committee of the Corporate and Business Law Section of the State Bar Association felt that the nonprofit corporation law was deficient enough to warrant a thorough rewriting. In 1980, after years of study and review, a final draft of a revision of Title 15 of the Revised Statutes (Nonprofit Corporations) was completed by that committee and approved by the association's board of directors.

The Bar Association feels that the laws governing nonprofit corporations and those governing other corporations should be parallel in construction, at least to the extent that it is practical. To achieve this, the Nonprofit Law Revision Committee followed the form of the New Jersey Business Corporation Act (Title 14A) except where the peculiar needs of nonprofit corporations required different treatment. The bar committee believes that the similarity between the two acts will lead to a body of case law in which the interpretation of either act may be used as a guide in interpreting the parallel section of the other, except where the context clearly indicates a fundamental difference. When the Bar Association Committee was transposing provisions of Title 14A (General Corporations) into Assembly Bill No. 366, it took a conservative approach and did not automatically delete all sections or paragraphs which were dated or which did not appear to be directly applicable to nonprofits. Therefore, some of the sections in the bill may well be without obvious utility. The Bar Association Committee did not feel entirely comfortable in deleting such sections since its members were unable to assess their applicability.

SUMMARY OF PRINCIPAL PROVISIONS

The following summary should be read only as a basic guide to most of the more significant provisions of the bill. It is not intended as an exhaustive description of any and all proposed changes in the law. The New Jersey State Bar Association has prepared a lengthy analysis describing, in some detail, individual sections of the bill, which it will soon make available to the Legislature. The Bar Association may also request that the analysis be incorporated in the New Jersey Statutes Annotated. The Assembly Commerce and Industry Committee believes its publication would be most helpful in understanding the legislative intent of this bill.

I. CLARIFICATION OF PROVISIONS OF EXISTING LAW :

1. *Powers (15A:3-1 et seq.)*

A. General powers of nonprofit corporations are expressly provided for. (Although some of these powers were thought to apply to nonprofit corporations, they were not specifically enumerated in Title 15.)

B. The power to provide reasonable indemnification to officers and

trustees has been specifically enumerated in the act, closing the gap that has existed in the indemnification provisions for nonprofit corporations since January 1, 1969.

2. *Sale of Assets (15A:10-9 et seq.)*

Although the act continues the prohibition regarding mergers of nonprofit and business corporations, nonprofit corporations are now expressly authorized to acquire assets including the assets of a business corporation, or to sell or dispose of all or substantially all of their assets both within and without the regular course of their activities.

3. *Filing fees*

As county by county filings have been eliminated, so have county filing fees.

4. *Title 16 (Religious Nonprofit Corporations) Saved from Repeal*

Title 15A applies to all nonprofit corporations organized, with the exception of nonprofit corporations organized under Title 16, which has been saved from repeal. Religious corporations organized under Title 16 will be permitted to adopt certain provisions of the act which are referred to as the "administrative provisions". Each Title 16 religious corporation will be provided an opportunity to adopt a modern legal framework in which to operate without departing from the organic law under which it was incorporated.

5. *Broad and Flexible Framework*

The act provides a broad and flexible statutory framework for the conduct of non-profit activities. The new act allows for certain corporate procedures to be varied by the certificate of incorporation or by the bylaws in several instances.

II. NEW PROVISIONS FOR NONPROFIT CORPORATIONS:

1. *Formation (15A:2-1 et seq.)*

A. Corporate name restrictions are imposed to be consistent with Title 14A.

B. A certificate of incorporation must be filed with the Office of the Secretary of State. (Advance filing with the various county clerks is eliminated.)

C. A copy of the Certification of Incorporation will be submitted to the Charities Registration Bureau in the Department of Law and Public Safety by the Secretary of State.

2. *Registered Office and Registered Agent (15:4-1 et seq.)*

Every nonprofit corporation must have a registered agent and a registered office in the State of New Jersey.

3. *Meetings of Members, Elections of Trustees, and Rights and Liabilities of Members 15A:5-1 et seq.*

Chapter 5 deals extensively with meetings, elections and rights and liabilities. The existing Title 15 is almost without provisions in this area.

A. In addition to any provisions for calling meetings in the bylaws, upon the application of 10% or more of members entitled to vote at a meeting, an application can be made to the Superior Court to call a special meeting.

B. This chapter permits routine corporate action to be implemented by written consent without calling a meeting. However, nonprofit corporations can eliminate this procedure if they so desire in the certificate of incorporation or the bylaws.

C. A quorum is a majority of the members, unless otherwise stated in the certificate of incorporation or bylaws.

D. A majority of votes cast at a meeting of members is required except for the election of trustees, where a plurality of those present is required, and except as otherwise required specifically in other sections of Title 15A. A greater than majority vote may be set forth in the certificate of incorporation or by-laws for certain actions that must be authorized by the members.

E. Proxies may be used by nonprofit corporations without specific authorization for proxies in the bylaws.

F. Where trustees are elected by members, the bylaws may provide that such elections be conducted by mail.

G. Members shall not be personally liable for debts, liabilities and obligations of the corporation, except to the extent of any unpaid portion of membership dues or assessments or other indebtedness of the member to the corporation, and then only after the creditor has first pursued the corporation's assets.

4. *Trustees and Officers (15:6-1 et seq.)*

A. No trustee's term of office shall be for less than one (1) year nor more than six (6) years, and where there are classes of trustees, the term of office of at least one class shall expire every two (2) years.

B. In all conflict situations involving common trusteeships and trustees' personal interest, a transaction or contract must be fair and reasonable to the corporation regardless of board or membership approval.

C. Loans may be authorized to officers or employees with a two-thirds vote of the entire board.

5. *Memberships (15:7-1 et seq.)*

A. The use of certificates or other written evidence of membership is permissive, but if they are used, then certain minimum requirements for their contents are statutorily required.

B. Memberships, unless otherwise provided for in the certificate of incorporation or bylaws, are not transferable.

6. *Beneficial Provisions for Employees (15A:8-1 et seq.)*

A statutory framework is set up to provide guidance as to the limits of the benefit plans which can be provided to employees and the methods by which such plans are adopted.

7. *Amendments, Changes or Alterations (15A:9-1 et seq.)*

A major act, such as the amendment of a certificate of incorporation, may be accomplished only by a two-thirds vote of the trustees (in a corporation without members), or by a two-thirds vote of the trustees and of the members (in a corporation with members), unless the certificate of incorporation otherwise expressly provides for a different number.

8. *Merger, Consolidation, and Sale of Assets (15A:10-1 et seq.)*

Mergers and consolidations shall be approved by a two-thirds vote of the trustees or the trustees and the members (in a membership corporation) unless the certificate of incorporation or the bylaws specify a higher or lower number.

9. *Dissolution (15A:12-1 et seq.)* Several inconsistent provisions in Title 15 have been replaced by statutorily established methods of dissolution applicable to all non-profit corporations.

A. Specific provisions have been made for the disposition of assets which are impressed with charitable trusts to assure that upon dissolution, the assets are properly devoted for the purposes for which they were intended.

B. The Attorney General can bring an action for the dissolution of a corporation which has been organized fraudulently, is violating law, is conducting its activities improperly, has misused its powers, or is insolvent. (These provisions were inserted at the request of an Attorney General during the Byrne Administration.)

10. *Foreign Corporations (15A:13-1 et seq.)*

A. Nonprofit corporations organized in other states must qualify to transact activities in New Jersey.

B. The Attorney General has the specific power to enjoin foreign corporations from conducting activities in New Jersey who do not qualify or who are conducting activities through fraudulent means or in excess of their authority.

11. *Insolvency, Receivers and Reorganization (15A:14-1 et seq.)*

The current Title 15 contains no provisions with respect to these matters. This chapter is based upon Chapter 14 of the New Jersey Business Corporation Act except that sections 14A:14-21 (Distribution of Assets, priorities), and section 14A:14-25 (Reorganization under act of Congress, etc.), have not been carried into the nonprofit act.

The Attorney General is given standing to commence receivership actions to reflect the interests of the public under this section.

12. *Fees of the Secretary of State (15A:15-1 et seq.)*

The filing fee for incorporation in the office of the Secretary of State will be \$10.00 for domestic corporations.

III. DISTINCTIONS BETWEEN THE NONPROFIT CORPORATION ACT (Title 15A) AND THE BUSINESS CORPORATION ACT (Title 14A):

The nonprofit corporation law was drafted to conform, to the greatest extent possible, with the statutory scheme set up in the New Jersey Business Corporation Act. However, inherent and fundamental differences between business and nonprofit corporations were carefully considered.

1. Title 15A provides for both non-profit corporations with members and nonprofit corporations without members.

2. Nonprofit corporations are not permitted to have capital stock. Since they have no capital stock, there are no licensing fees for the issuance of such stock, which Title 14A corporations are currently charged.

3. Any corporation for which organization is permitted under any other statute of this State may not be organized under Title 15A unless such statute permits organization under this act.

4. Instead of a monetary penalty for failure to file the corporation's annual report, a provision for the revocation of the certificate of incorporation or the certificate of authority of a foreign corporation has been included.

5. Nonprofit corporations may meet biennially instead of annually.

6. An action or special proceeding for the dissolution of a corporation may be discontinued at any stage when it is established that the cause for the dissolution did not exist or no longer exists. There is no counterpart in the Business Corporation Act.

COMMITTEE AMENDMENTS

Most of the committee's amendments were technical or of a clarifying nature. The following amendments were among those making substantive changes:

15A:2-1: The committee amended this section to make it clear that a nonprofit corporation organized under another statute may not be

organized under Title 15A unless that statute, but not this act, specifically permits organization under Title 15A. At the same time, the committee made it unmistakable that agricultural cooperatives would not be governed by this act.

15A:2-8 and 15A:4-5: These sections were amended to incorporate the intent of Assembly Bill No. 1776 that, upon filing a certificate of incorporation, the actual location of the corporation's registered office and agent, as well as the postal designation, if different, be provided by the nonprofit corporation. In addition, every annual report filed under 15A:4-5 would have to specify similar address information so as to make the serving of process easier.

15A:15-1 and 15A:15-2: Committee amendments to these sections conform the fee schedule of the bill to revisions contained in P. L. 1982, c. 52, sections 5 and 6, for Title 14A corporations. Two exceptions were made, however. In order to encourage incorporations, the fee for filing an original certificate of incorporation was set at \$10.00 (\$50.00 under Title 14A) and the fee for filing an application by a foreign corporation for a certificate of authority to conduct activities in the State was fixed at \$15.00 (\$175.00 for Title 14A corporations). Section 2 of the bill was amended to contain an effective date of July 1, 1983 so that the start-up cost of implementing this bill could be included in the FY 1983-4 budget.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY, No. 366
STATE OF NEW JERSEY

DATED: DECEMBER 13, 1982

Assembly Bill No. 366, the "New Jersey Nonprofit Corporation Act" revises the current statutes governing the operation of nonprofit corporations in New Jersey by establishing a new Title 15A.

PURPOSE AND BACKGROUND

Title 15 which presently governs the operation of nonprofit corporations in New Jersey was first adopted in 1898 and while, over the years, specific statutes dealing with nonprofit corporations have been adopted to solve particular problems, Assembly Bill No. 366 represents the first attempt at a comprehensive revision of the body of law governing nonprofit corporations. This revision of Title 15 was deemed necessary because the growth in the number of nonprofit corporations and the expansion in the type of services provided by nonprofit corporations, led many legal commentators to feel that provisions of Title 15 were inadequate to properly govern nonprofit corporations in today's society.

It was felt that there was a need to set forth in greater detail such aspects of the law as nonprofit corporation formation, trustee liability, authorized and prohibited acts, and procedures of amendment, merger and dissolution. It was further felt that explicit statutory law on these points would avoid unnecessary litigation. Additionally, Title 15 did not provide a means of enforcing the State's filing requirements nor did it provide for the dissolution of nonprofit corporations or for other needed procedures. The filing requirements of Title 15 are so deficient in this respect that the Secretary of State has had difficulty just knowing who the active non-charity nonprofit firms are. The Attorney General was often unable to serve process because the current addresses of nonprofits were frequently unobtainable.

To effectuate this revision, a three-member committee of the Corporate and Business Law Section of the Bar Association was formed to rewrite Title 15. In 1980, after six years of study and review, a final draft of a revision of Title 15 was completed by that committee and approved by the Bar Association's Board of Directors.

The Bar Association takes the position reflected in Assembly Bill No. 366, that the laws governing nonprofit corporations and those governing

other corporations should be parallel in construction to the extent that it is practical. To achieve this, the Nonprofit Law Revision Committee followed the form of the New Jersey Business Corporation Act (Title 14A) except where the peculiar needs of nonprofit corporations required different treatment. The Bar committee believes that the similarity between the two acts will lead to a body of case law in which the interpretation of either act may be used as a guide in interpreting the parallel section of the other, except where the context clearly indicates a fundamental difference.

SOURCES

The main sources of Assembly Bill No. 366 are existing Title 15 of the Revised Statutes, the New Jersey Business Corporation Act, and the case law interpreting those statutes. However, in the drafting of Assembly Bill No. 366, the Model Nonprofit Corporation Act, the New York Nonprofit Corporation Law, and the Pennsylvania Nonprofit Corporation Act were also reviewed and utilized. In addition, statutes of other states and writings on nonprofit corporations were consulted.

Principal Changes Provided by the New Jersey Nonprofit Corporation Act.

Chapter 1—General Provisions

The new act will be known as the New Jersey Nonprofit Corporation Act. An underlying purpose of the act as set forth in Section 15A:1-1 is to provide general corporate form for the conduct of nonprofit activities and to make the law governing nonprofit corporations as nearly compatible with the New Jersey Business Corporation Act as may be practicable.

Definitions of various terms applicable to the entire statutes are set forth in Section 15A:1-2. The reference throughout the statute to a "corporation" means a New Jersey nonprofit corporation. Where it has been necessary to refer to business corporations, the term "corporate business entity" is utilized. The terms "member" and "trustee" are defined in the act.

The new act will be applicable to all corporations which organize under the act after its effective date, to corporations which reincorporate under the act, to foreign corporations to the extent provided under the act, and to every other nonprofit corporation which was previously organized and which could be organized under the new act. In addition, the provisions concerning dissolution and insolvency will be applicable to corporations organized under Title 16 (religious corporations) except as may otherwise be provided by law.

Although corporations in existence prior to the effective date of the new act will be governed by its terms, the new act will not divest existing

corporations of any rights or privileges and will not require the corporation to do anything except in limited circumstances. The new act would require existing foreign corporations to register in New Jersey if they conduct activities in New Jersey and will require existing corporations to register any alternate names they use unless their real name is also used. Existing law requires each corporation to file an annual report. That requirement is contained in the new act but sanctions are added for those corporations that refuse to file the annual report for two consecutive years after notice of the delinquency.

Religious corporations organized under Title 16 will be permitted to adopt certain provisions of the act which are referred to as the "administrative provisions" of the act. Each Title 16 religious corporation is thereby provided an opportunity to adopt a modern legal framework in which to operate without departing from the organic law under which it was incorporated.

Chapter 2—Formation

The procedure for forming nonprofit corporations will be changed by the act. A certificate of incorporation must be filed in the Office of the Secretary of State. Advance filing with the Department of Human Services and the various county clerks have been eliminated. The filing with the Office of the Secretary of State will require each corporation to submit an original and a copy of the certificate of incorporation. The copy of the certificate of incorporation will be submitted to the Charities Registration Bureau in the Department of Law and Public Safety. Accordingly, the statute requires that a copy of each filing in the Office of the Secretary of State is to be furnished by the Secretary of State to the Attorney General. Pursuant to the informal procedure now followed, the Department of Human Services forwards a copy of each filing to the Bureau of Charities Registration.

Names of nonprofit corporations will be permitted only where they are not the same as or confusingly similar to business corporations. Presently, nonprofit corporations and business corporations may have identical or similar names. Names of nonprofit corporations (except religious corporations) will be required to include a word or phrase indicating that the entity is a corporation.

Nonprofit corporations which use an abbreviation of their name or an acronym to identify themselves or otherwise use a name which is not their precise corporate name, will be required to register their alternate name with the Secretary of State unless they also use their real name as well.

Chapter 3—Powers

The powers provided for nonprofit corporations generally include the powers previously available to nonprofit corporations. The act

specifies some powers which were always thought to apply to nonprofit corporations but were not specified previously in Title 15.

The power to provide reasonable indemnification to officers and trustees has been specified in the new act. Provisions similar to the ones included were inadvertently eliminated in 1969 upon adoption of the New Jersey Business Corporation Act. The inclusion of the indemnification provisions here closes the gap which has existed since January 1, 1969.

The rights of members to bring an action against the corporation is clarified.

Chapter 4—Registered Office and Registered Agent

The provisions concerning registered offices and registered agents substantially follow the requirements for business corporations. The failure to file an annual report after notice from the Secretary of State, would permit the Secretary of State to revoke the charter of a nonprofit corporation, thus relieving the file load of the Secretary of State of the accumulation of old defunct nonprofit entities.

The addresses of trustees as set forth in the annual report will be home addresses or another address where the trustee regularly receives mail. This provision was included at the request of the Secretary of State who believes that use of "business addresses" makes it extremely difficult to communicate with nonprofit corporations.

Chapter 5—Meeting of Members, Election of Trustees, and Rights and Liabilities of Members in Certain Cases

Because Title 15 is almost entirely devoid of procedures with respect to rights and liabilities of members, chapter 5 of Assembly Bill No. 366 provides extensive details in this area.

Section 15A:5-2 (annual or bi-annual meetings) requires that nonprofit corporations whose members elect trustees, must conduct a meeting of members at least once every two years.

Section 15A:5-3 (special meeting of members) provides that special meetings may be called not only by the president or the board or other officers, trustees or members as provided in the by-laws, but also upon application to the Superior Court by not less than 10% of all members entitled to vote at a meeting.

Section 15A:5-6 (action by members without a meeting), adopts the approach of Section 14A:5-6 of the New Jersey Business Corporate Act permitting action by written consent of the members, but makes clear that nonprofit corporations can eliminate this flexible approach if they so desire by provisions in the certificate of incorporation or by-laws.

Section 15A:5-9 (quorum of members), while establishing as the statutory norm for a quorum a majority of the members, permits in the certificate of incorporation or by-laws provision for a smaller per-

centage or a finite number of members as sufficient for general meetings or special meetings.

Section 15A:5-11 (votes required), contains a general statutory norm that a majority of the votes cast at a meeting of members is required, except for the election of trustees (where a plurality is required), and except as required specifically in other sections of the act. Some other sections of the act require a two-thirds vote of members.

Section 15A:15-12 (greater or lesser voting requirements), permits a higher than majority vote requirement to be set forth in the certificate of incorporation or by-laws. Furthermore, it permits the use of a voting requirement less than two-thirds but more than a majority. Where there are only trustees and no members, the two-thirds voting requirement for certain transactions may not be lessened.

Section 15A:18 (proxy voting), prohibits the use of proxies by non-profit corporations without specific authorization for proxies being set forth in the by-laws.

Section 15A:5-20 (election of trustees; cumulative voting), provides that where trustees are to be elected by members, the by-laws may provide that such elections may be conducted by mail.

Section 15A:5-25 (liabilities of members), has no precedent in the New Jersey Business Corporation Act, and is intended to make clear that members shall not be personally liable for the debts, liabilities and obligations of the corporation, except to the extent of any unpaid portion of membership dues or assessments or other indebtedness of the member to the corporation, and then only after the creditor has first pursued the corporation's assets.

Chapter 6—Trustees and Officers.

Because Title 15 is almost devoid of provisions with respect to the authority and obligations of trustees and officers, Chapter 6 of the act provides extensive details in this area.

Section 15A:6-2 (number of trustees), consistent with the current law, requires that there be at least three trustees.

Section 15A:6-4 (classification of trustees; restriction of right to choose trustees), provides that no trustee's term of office shall be for less than one year nor more than six years, and where there are classes of trustees, that the term of office of at least one class shall expire every two years.

Section 15A:6-8 (effect of common trusteeships and trustees' personal interest), requires in all conflict situations that the transaction be fair to the corporation, regardless of board or membership approval.

Section 15A:6-11 (loans to officers or employees), permits loans to officers or employees (but not to trustees) but the transaction may be authorized only with a two-thirds vote of the entire board.

Section 15A:6-15 (officers), provides that a nonprofit corporation may provide alternative titles to those of president, secretary, treasurer, chairman of the board, executive director, or vice president, providing that the certificate of incorporation or by-laws specify which of the alternative titles corresponds to the president, secretary and treasurer, and the alternative titles are not used in filling out the annual report.

Chapter 7—Memberships.

Section 15:7-1 (certificates or other written evidence of membership), makes permissive the use of certificates or other written evidence of membership, but if any are used, then certain minimum requirements for the contents are set forth.

Section 15A:7-2 (restrictions on transfer of membership), provides that unless otherwise provided for in the certificate of incorporation or by-laws, memberships are not transferable.

Chapter 8—Beneficial Provisions for Employees.

This chapter specifies the methods by which employee benefit plans can be adopted. Although it has generally been held that nonprofit corporations may provide employee benefits in addition to a basic salary, there was no existing statutory framework in which to provide guidance as to the limits of the benefit plans which can be provided to employees or the method of adoption of such plans.

Chapter 9—Amendments, Changes or Alterations.

The powers provided to nonprofit corporations to amend their certificates of incorporation are broad to allow members or trustees to amend the certificate, within limits, to meet the needs of changing times or changing views. Nevertheless, unless the certificate otherwise expressly provides for a lesser (or greater) number, a major act such as the amendment of the certificate may be accomplished only by a two-thirds vote of the trustees (in a corporation without members), or by a two-thirds vote of the trustees and of the members (in a corporation with members).

The provision for class voting on amendments carries through the concept of class memberships in nonprofit corporations.

The modern concept of providing for a restated certificate of incorporation for those corporations which have had several amendments is carried over from the New Jersey Business Corporation Act.

Chapter 10—Merger, Consolidation, and Sale of Assets.

Chapter 10 closely follows Chapter 10 of the New Jersey Business Corporation Act both as to effecting a merger or consolidation and its consequences. There are different provisions for corporations with members and those without members.

Mergers between domestic nonprofit corporations and domestic and foreign nonprofit corporations are authorized. The merger of nonprofit

corporations, either domestic or foreign, with business corporations, domestic or foreign, is not authorized.

Nonprofit corporations are expressly authorized to acquire assets including the assets of a business corporation, or to sell or dispose of all or substantially all of their assets both within and without the regular course of their activities.

Since merger and consolidation are major corporate transactions which may affect the rights of members and, in the case of certain nonprofit corporations, the public, Chapter 10 requires a two-thirds vote of the trustees or the trustees and the members (in a membership corporation) unless the certificate of incorporation or by-laws specify a higher or lower percentage.

Chapter 11—Limitations on Rights of Dissenting Members.

Dissenters' rights are not provided to members of nonprofit corporations. The utility of such rights would be extremely limited. A member who is dissatisfied with a vote on a merger or similar corporate action may, if the transaction is fraudulent or fundamentally unfair, seek relief from the Superior Court to enjoin the transaction.

Chapter 12—Dissolution.

The several inconsistent provisions in Title 15 for the dissolution of corporations have been replaced by one set of methods of dissolution applicable to all nonprofit corporations. The methods of dissolution are generally the same as the methods of dissolving business corporations.

Specific provisions have been made for the disposition of assets which are impressed with charitable trusts, to assure that upon dissolution, assets impressed with such trusts are properly devoted to the purposes for which they were intended.

The Attorney General is provided in Section 15A:12-11 specific circumstances in which to bring an action for the dissolution of a corporation which has been organized fraudulently, is violating law, is conducting its activities improperly, has misused its powers, or is insolvent. These provisions were inserted at the request of the Attorney General.

Chapter 13—Foreign Corporations.

Nonprofit corporations which organize in other states have not been required to qualify to transact activities in New Jersey since January 1, 1969, when the provisions applicable to foreign corporations were made applicable solely to business corporations.

The new provisions will require nonprofit corporations organized in other states to qualify to transact activities in New Jersey. The filings with the Secretary of State will also be provided to the Attorney General so that the Bureau of Charities Registration will be aware that

the foreign nonprofit corporation is conducting its activities in New Jersey. The qualification requirements will be applicable 90 days after the remainder of Assembly Bill No. 366 is effective.

The Attorney General is given specific powers in Section 15A:13-12 to enjoin foreign corporations from conducting activities through fraudulent activities or activities in excess of its authority.

Chapter 14—Insolvency, Receivers and Reorganization.

Title 15 contained no provisions with respect to these matters. Chapter 14 of this act is based upon Chapter 14 of the New Jersey Business Corporation Act, except that Section 14A:14-21 (distribution of assets, priorities), and Section 14A:14-25 (reorganization under act of congress, rights of certain shareholders) have not been carried into the act and additional grounds for a receivership action have been added.

The Attorney General is given standing to commence a receivership action to reflect the interest of the public in the proper administration on nonprofit corporations.

Chapter 15—Fees of the Secretary of State.

Generally, the fees to be paid to the Secretary of State for filing a variety of different documents will be the same fees applicable to business corporations. However, certain filings will be unnecessary for nonprofit corporations thus reducing the actual impact of the increases. For example, the filing of the certificate of incorporation with the County Clerk has been eliminated. The current cost for filing a certificate of incorporation is \$15.00 including the filing in the Office of the Secretary of State and the County Clerk. The new filing fee will be \$35.00 for the single filing in the Office of the Secretary of State. Therefore, the increase is only \$20.00. The filing for a business corporation would be, at a minimum, \$60.00. The difference is the requirement for business corporations to pay a license fee for the issuance of shares which will not be applicable to nonprofit corporations.

Although the fees have been increased, the new fees are not substantial in all instances and are identical with respect to certificates relating to changes of registered officers and registered agents.

COMMITTEE AMENDMENTS:

At the request of the Department of State, the committee added an appropriation of \$250,000.00 to cover costs incurred by the Department of State in implementing Assembly Bill No. 366. Also, at the suggestion of the Department of State, the effective date of the bill was changed from July 1, 1983 to the first day of the sixth calendar month following enactment. This is to permit sufficient time for the Department of State to institute the new procedures established by Assembly Bill No. 366.

At the suggestion of the Division of Consumer Protection, Section 15A:6-12 which proscribes the liability of trustees of non-profit corporations was also amended. The amendment clarifies that, in addition to creditors and other interested parties, under some circumstances, the trustees are liable to the non-profit corporation itself.

The remainder of the committee amendments are of a technical nature.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 366

[SENATE REPRINT]

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JANUARY 19, 1983

This bill, the "New Jersey Nonprofit Corporation Act," revises current statutes governing the operation of nonprofit corporations in New Jersey by establishing the new Title 15A.

The statements of the Assembly Commerce and Industry Committee and Senate Judiciary Committee adequately explain the provisions of the bill.

Regarding fees to be paid to the Secretary of State, nonprofit corporations will pay fees in the same amounts for the same purposes currently charged to corporations organized for profit. There are, however, some exceptions. A corporation organized for profit is charged \$50.00 for filing the original certificate of incorporation. Nonprofit corporations will be charged \$10.00. Out-of-State corporations for profit must pay a \$175.00 fee for filing an application for certificate of authority to conduct activities in New Jersey. Out-of-State nonprofit corporations will be charged a \$15.00 fee. The Department of State estimates that additional revenues between \$600,000.00 and \$1.2 million will be realized each year as a result of this bill.

The bill appropriates \$250,000.00 to the Department of State to implement provisions of the act.

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REVISION COMMITTEE

September 23, 1980

To the Board of Trustees of the New Jersey
State Bar Association

A comprehensive revision of the New Jersey laws regulating nonprofit corporations is submitted to you by the Non-profit Law Revision Committee of the Corporate and Business Law Section of the New Jersey State Bar Association.

The enclosed revision is in the form of a new comprehensive New Jersey Nonprofit Corporation Act (the "Act") to be designated as Title 15A to replace Title 15 of the Revised Statutes. This is the first comprehensive revision of the laws of New Jersey regulating nonprofit corporations since 1898.

The Committee was formed in September, 1975. It submitted its first report to the Corporate and Business Law Section on May 22, 1976. At that time, it completed its review of Titles 15 and 16 of the Revised Statutes of New Jersey and recommended a complete revision of Title 15 with additional provisions accommodating existing provisions of Title 16. The report of the Committee was accepted by the Section and was published in Volume 99 of the New Jersey Law Journal at page 617. Thereupon, the Committee commenced work on the drafting of a comprehensive nonprofit corporation law.

An interim report of the Committee dated April 27, 1978, was presented to the Corporate and Business Law Section

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

business, commerce and social relationships have developed and the services to society provided by nonprofit corporations have expanded in the intervening years, the number of unanswered questions, particularly those concerning modern concepts and issues, have increased. Moreover, the use and number of nonprofit corporations has grown.

Nonprofit corporations do not appear to become involved in litigation as often as business corporations do. The body of case law interpreting Title 15 is smaller than that involving business corporations, and consequently, there has been less filling of statutory interstices.

The Committee's primary aim was to draft a body of statutory law to be applicable to all nonprofit corporations no matter for what purpose organized. This differs from Chapters 2 through 17 of Title 15 of the Revised Statutes which make separate provisions for different types of nonprofit corporations.

The second objective of the Committee was to conform the nonprofit corporation law, to the greatest extent possible, to the statutory scheme dealing with business corporations, the New Jersey Business Corporation Act. Except for inherent fundamental differences between business and nonprofit corporations, practitioners and courts should not have to seek or consider fine points of distinction between the two types of corporate entities. To achieve this, the Committee followed

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

the form of the New Jersey Business Corporation Act except where the peculiar needs of nonprofit corporations required different treatment. The Committee expects that the similarity between the two acts will lead to a body of case law in which the interpretation of either act may be used as a guide in interpreting the parallel section of the other, except where the context clearly indicates a fundamental difference.

Finally, as more and more people become involved in nonprofit corporations as trustees or other officers of fund raising corporations, school boards, religious organizations, civic bodies, social clubs, or cooperative housing projects (to cite only a few examples), enabling legislation is necessary to make explicit what might be considered implicit by expressly authorizing or prohibiting particular practices and procedures. Items such as formation, trustee liability, authorized and prohibited acts, and procedures for amendment, merger and dissolution have all been modernized and streamlined to bring the New Jersey nonprofit corporation into the current age.

The Act, like the New Jersey Business Corporation Act, contains a separate chapter dealing with foreign corporations. As nonprofit corporations have become larger and more regional and national in their activities, comprehensive provisions for foreign nonprofit corporations operating in New Jersey are necessary.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Despite the foregoing, the New Jersey Nonprofit Corporation Act is not the mirror image of the New Jersey Business Corporation Act. Basic differences between business and nonprofit corporations are recognized. The statute makes express provisions for corporations without members, a common feature of many nonprofit corporations, but one unknown to business entities where every corporation must have a constituency of at least one shareholder.

Nonprofit corporations, unlike business corporations, are often endowed with or subject to a public trust. There are practical differences between business and nonprofit corporations. In the former, the profit motive induces shareholder interest in the corporation's operation and affairs. On the other hand, in membership nonprofit corporations, members are often content to let the institution run "by itself" or by the efforts of a few "workers." The identity of some or all of the members at any one time may often be unknown. Records may not be kept. There may be no listing of members as one would find of shareholders in the stock book or a stock transfer book of a business corporation. These differences and other incidents of nonprofit corporations were considered and are dealt with in the Act.

The Act is designed to provide a broad and flexible statutory framework. Many of its provisions are, consequently, guidelines which may be varied by the certificate of incorporation or the by-laws.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Sources and References

The sources of the various sections of the Act are shown at the end of each section. The main sources, of course, are existing Title 15 of the Revised Statutes, the New Jersey Business Corporation Act, and the case law interpreting those statutes. However, the Committee reviewed and borrowed from the Model Nonprofit Corporation Act (Revised 1964), prepared by the Committee on Corporate Laws (Section of Corporation, Banking and Business Law) of the American Bar Association, the New York Nonprofit Corporation Law, and the Pennsylvania Nonprofit Corporation Act. In addition, statutes of other states and writings on nonprofit corporations were consulted.

Principal Changes Provided by the New Jersey Nonprofit Corporation Act.

Chapter 1 - General Provisions.

The new Act will be known as the New Jersey Nonprofit Corporation Act. An underlying purpose of the Act as set forth in Section 15A:1-1 is to provide general corporate form for the conduct of nonprofit activities and to make the law governing nonprofit corporations as nearly compatible with the New Jersey Business Corporation Act as may be practicable.

Definitions of various terms applicable to the entire statute are set forth in Section 15A:1-2. The reference throughout the statute to a "corporation" means a New Jersey nonprofit corporation. Where it has been necessary to refer to business corporations, the terms "corporate business entity" is

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

utilized. The terms "member" and "trustee" are defined in the Act.

The new Act will be applicable to all corporations which organize under the Act after its effective date, to corporations which reincorporate under the Act, to foreign corporations to the extent provided under the Act, and to every other nonprofit corporation which was previously organized and which could be organized under the new Act. In addition, the provisions concerning dissolution and insolvency will be applicable to corporations organized under Title 16 (religious corporations) except as may otherwise be provided by law.

Religious corporations organized under Title 16 will be permitted to adopt certain provisions of the Act which are referred to as the "administrative provisions" of the Act. Each Title 16 religious corporation is thereby provided an opportunity to adopt a modern legal framework in which to operate without departing from the organic law under which it was incorporated.

Chapter 2 - Formation.

The procedure for forming nonprofit corporations will be changed by the Act. A certificate of incorporation must be filed in the Office of the Secretary of State. Advance filing with the Division of Institutions and Agencies (now the Department of Human Services) and the various county clerks have been

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

eliminated. The filing with the Office of the Secretary of State will require each corporation to submit an original and a copy of the certificate of incorporation. The copy of the certificate of incorporation will be submitted to the Charities Registration Bureau in the Department of Law and Public Safety. Accordingly, the statute requires that a copy of each filing in the Office of the Secretary of State is to be furnished by the Secretary of State to the Attorney General. Pursuant to the informal procedure now followed, the Department of Human Services forwards a copy of each filing to the Bureau of Charities Registration.

Names of nonprofit corporations will be permitted only where they are not the same as or confusingly similar to business corporations. Presently, nonprofit corporations and business corporations may have identical or similar names. Names of nonprofit corporations (except religious corporations) will be required to include a word or phrase indicating that the entity is a corporation.

Nonprofit corporations which use an abbreviation of their name or an acronym to identify themselves or otherwise use a name which is not their precise corporate name, will be required to register their alternate name with the Secretary of State.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Chapter 3 - Powers.

The powers provided for nonprofit corporations generally include the powers previously available to nonprofit corporations. The Act specifies some powers which were always thought to apply to nonprofit corporations but were not specified previously in Title 15.

The power to provide reasonable indemnification to officers and trustees has been specified in the new Act. Provisions similar to the ones included were inadvertently eliminated in 1969 upon adoption of the New Jersey Business Corporation Act. The inclusion of the indemnification provisions here closes the gap which has existed since January 1, 1969.

The rights of members to bring an action against the corporation is clarified.

Chapter 4 - Registered Office and Registered Agent.

The provisions concerning registered offices and registered agents substantially follow the requirements for business corporations. The failure to file an annual report will, after notice from the Secretary of State, permit the Secretary of State to revoke the charter of a nonprofit corporation, thus relieving the file load of the Secretary of State from accumulation of old defunct nonprofit entities.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

The addresses of trustees as set forth in the annual report will be home addresses or another address where the person regularly receives mail. This provision was included at the request of the Secretary of State who believes that use of "business addresses" makes it extremely difficult to communicate with nonprofit corporations.

Chapter 5 - Meetings of Members, Election of Trustees, and

Rights and Liabilities of Members in Certain Cases.

Because Title 15 is almost entirely devoid of provisions with respect to rights and liabilities of members, Chapter 5 of the Act provides extensive details in this area.

Section 15A:5-2 (annual or bi-annual meetings of members) requires that nonprofit corporations which have members who elect trustees, must conduct a meeting of members at least once every two years.

Section 15A:5-3 (special meeting of members), provides that special meetings may be called not only by the president or the board or other officers, trustees or members as provided in the by-laws, but also upon application to the Superior Court by not less than 10% of all members entitled to vote at a meeting.

Section 15A:5-6 (action by members without a meeting), adopts the approach of Section 14A:5-6 of the New Jersey Business Corporate Act permitting action by written

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consent of the members, but makes clear that nonprofit corporations can eliminate this flexible approach if they so desire by provisions in the certificate of incorporation or by-laws. Section 15A:5-9 (quorum of members), while establishing as the statutory norm for a quorum a majority of the members, permits in the certificate of incorporation or by-laws provision for a smaller percentage or a finite number of members as sufficient for general meetings or special meetings.

Section 15A:5-11 (votes required), contains a general statutory norm that a majority of the votes cast at a meeting of members is required, except for the election of trustees (where a plurality is required), and except as required specifically in other sections of the act. Some other sections of the act require a two-thirds vote of members.

Section 15A:5-12 (greater or lesser voting requirements), permits a higher than majority vote requirement to be set forth in the certificate of incorporation or by-laws. Furthermore, it permits the use of a voting requirement less than two-thirds but more than a majority. Where there are only trustees and no members, the two-thirds voting requirement for certain transactions may not be lessened.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Section 15A:5-18 (proxy voting), permits use of proxies by nonprofit corporations without specific authorization for proxies being set forth in the by-laws.

Section 15A:5-20 (election of trustees; cumulative voting), provides that where trustees are to be elected by members, the by-laws may provide that such elections may be conducted by mail.

Section 15A:5-25 (liabilities of members), has no precedent in the New Jersey Business Corporation Act, and is intended to make clear that members shall not be personally liable for the debts, liabilities and obligations of the corporation, except to the extent of any unpaid portion of membership dues or assessments or other indebtedness of the member to the corporation, and then only after the creditor has first pursued the corporation's assets.

Chapter 6 - Trustees and Officers.

Because Title 15 is almost devoid of provisions with respect to the authority and obligations of trustees and officers, Chapter 6 of the Act provides extensive details in this area.

Section 15A:6-2 (number of trustees), consistent with the current law, requires that there be at least three trustees.

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Section 15A:6-4 (classification of trustees; restriction of right to choose trustees), provides that no trustee's term of office shall be for less than one year nor more than six years, and where there are classes of trustees, that the term of office of at least one class shall expire every two years.

Section 15A:6-8 (effect of common trusteeships and trustees' personal interest), requires in all conflict situations that the transaction be fair to the corporation, regardless of board or membership approval.

Section 15A:6-11 (loans to officers or employees), permits loans to officers or employees (but not to trustees) but the transaction may be authorized only with a two-thirds vote of the entire board.

Section 15A:6-15 (officers), provides that a nonprofit corporation may provide alternative titles to those of president, secretary, treasurer, chairman of the board, executive director, or vice president, providing that the certificate of incorporation or by-laws specify which of the alternative titles corresponds to the president, secretary and treasurer, and the alternative titles are not used in filling out the annual report.

Chapter 7 - Memberships.

Section 15:7-1 (certificates or other written evidence of membership), makes permissive the use of

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certificates or other written evidence of membership, but if any are used, then certain minimum requirements for the contents are set forth.

Section 15A:7-2 (restrictions on transfer of membership), provides that unless otherwise provided for in the certificate of incorporation or by-laws, memberships are not transferable.

Chapter 8 - Beneficial Provisions for Employees.

This chapter specifies the methods by which employee benefit plans can be adopted. Although it has generally been held that nonprofit corporations may provide employee benefits in addition to a basic salary, there was no existing statutory framework in which to provide guidance as to the limits of the benefit plans which can be provided to employees or the method of adoption of such plans.

Chapter 9 - Amendments, Changes or Alterations.

The powers provided to nonprofit corporations to amend their certificates of incorporation are broad to allow members or trustees to amend the certificate, within limits, to meet the needs of changing times or changing views. Nevertheless, unless the certificate otherwise expressly provides for a lesser (or greater) number, a major act such as the amendment of the certificate may be accomplished only by a two-thirds vote of the trustees (in a corporation without members), or by

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

a two-thirds vote of the trustees and of the members (in a corporation with members).

The provision for class voting on amendments carries through the concept of class memberships in nonprofit corporations.

The modern concept of providing for a restated certificate of incorporation for those corporations which have had several amendments is carried over from the New Jersey Business Corporation Act.

Chapter 10 - Merger, Consolidation, and Sale of Assets.

Chapter 10 closely follows Chapter 10 of the New Jersey Business Corporation Act both as to effecting a merger or consolidation and its consequences. There are different provisions for corporations with members and those without members.

The Committee dealt with the policy question of which corporate bodies should be permitted to merge by authorizing mergers between domestic nonprofit corporations and domestic and foreign nonprofit corporations. The merger of nonprofit corporations, either domestic or foreign, with business corporations, domestic or foreign, is not authorized. As noted in the Committee's comments there are other ways to accomplish such a union in which the drawbacks and conceptual difficulties of a merger of such entities are not present.

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Nonprofit corporations are expressly authorized to acquire assets including the assets of a business corporation, or to sell or dispose of all or substantially all of their assets both within and without the regular course of their activities.

Since merger and consolidation are major corporate transactions which may affect the rights of members and, in the case of certain nonprofit corporations, the public, Chapter 10 requires a two-thirds vote of the trustees or the trustees and the members (in a membership corporation) unless the certificate of incorporation or by-laws specify a higher or lower percentage.

Chapter 11 - Limitations on Rights of Dissenting Members.

Dissenters' rights are not provided to members of nonprofit corporations. The utility of such rights would be extremely limited. The Committee is not aware of another nonprofit statute which permits them. A member who is dissatisfied with a vote on a merger or similar corporate action may, if the transaction is fraudulent or fundamentally unfair, seek relief from the Superior Court to enjoin the transaction.

Chapter 12 - Dissolution.

The several inconsistent provisions in Title 15 for the dissolution of corporations have been replaced by one set

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

of methods of dissolution applicable to all nonprofit corporations. The methods of dissolution are generally the same as the methods of dissolving business corporations.

Specific provisions have been made for the disposition of assets which are impressed with charitable trusts to assure that upon dissolution, assets impressed with such trusts are properly devoted to the purposes for which they were intended.

The Attorney General is provided in Section 15A:12-11 specific circumstances in which to bring an action for the dissolution of a corporation which has been organized fraudulently, is violating law, is conducting its activities improperly, has misused its powers, or is insolvent. These provisions were inserted at the request of the Attorney General.

Chapter 13 - Foreign Corporations.

Nonprofit corporations which organize in other states have not been required to qualify to transact activities in New Jersey since January 1, 1969, when the provisions applicable to foreign corporations were made applicable solely to business corporations.

The new provisions will require nonprofit corporations organized in other states to qualify to transact activities in New Jersey. The filings with the Secretary of State will also be provided to the Attorney General so that the

REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

Bureau of Charities Registration will be aware that the foreign nonprofit corporation is conducting its activities in New Jersey. The qualification requirements will be applicable 90 days after the remainder of the Act is effective.

The Attorney General is given specific powers in Section 15A:13-12 to enjoin foreign corporations from conducting activities in New Jersey without qualifying or where it is conducting activities through fraudulent activities or activities in excess of its authority.

Chapter 14 - Insolvency, Receivers and Reorganization.

Title 15 contained no provisions with respect to these matters. Chapter 14 of this Act is based upon Chapter 14 of the New Jersey Business Corporation Act, except that Section 14A:14-21 (distribution of assets, priorities), and Section 14A:14-25 (reorganization under act of congress, rights of certain shareholders) have not been carried into the Act and additional grounds for a receivership action have been added.

The Attorney General is given standing to commence a receivership action to reflect the interest of the public in the proper administration on nonprofit corporations.

Chapter 15 - Fees of the Secretary of State.

Generally, the fees to be paid to the Secretary of State for filing a variety of different documents will be the

der act of congress, rights of certain shareholders) have not been carried into the Act and additional grounds for a receivership action have been added.

The Attorney General is given standing to commence a receivership action to reflect the interest of the public in the proper administration on nonprofit corporations.

Chapter 15—Fees of the Secretary of State.

Generally, the fees to be paid to the Secretary of State for filing a variety of different documents will be the same fees applicable to business corporations. However, certain filings will be unnecessary for nonprofit corporations thus reducing the actual impact of the increases. For example, the filing of the certificate of incorporation with the County Clerk has been eliminated. The current cost for filing a certificate of incorporation is \$15.00 including the filing in the Office of the Secretary of State and the County Clerk. The new filing fee will be \$35.00 for the single filing in the Office of the Secretary of State. Therefore, the increase is only \$20.00. The filing for a business corporation would be, at a minimum, \$60.00. The difference is the requirement for business corporations to pay a license fee for the issuance of shares which will not be applicable to nonprofit corporations.

Although the fees have been increased, the new fees are not substantial in all instances and are identical with respect to certificates relating to changes of registered officers and registered agents.

Chapter 16

The Committee's intention to provide a sound framework for all nonprofit corporations governed by Title 15A, without disturbing rights presently held by certain existing nonprofit corporations is reflected in Chapter 16. Acts of the Legislature providing for certain express rights in certain distinct types of nonprofit corporations were saved from repeal. On the other hand, prior acts of the Legislature which simply limit or make separate provision for the mechanics of operation of nonprofit corporations have been repealed.

Conclusion.

A revision of the nonprofit corporation laws of the State of New Jersey will be welcome relief to the mixture of overlapping, outdated, and incomplete statutory framework for nonprofit corporations presently existing. The orderly formation and operation of nonprofit corporations is essential. The compatibility of the Nonprofit Corporation Act with the New Jersey Business Corporation Act will

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REPORT OF THE NONPROFIT LAW REVISION COMMITTEE

create an easy to follow familiar environment for nonprofit corpora-
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Respectfully submitted
Nonprofit Law Revision
Committee

Joseph Lunin, Chairman
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