

**CORPORATE LAWS COMMITTEE**  
**REPORT PREPARED FOR THE OCTOBER 7, 2023 COUNCIL MEETING**

**1. 2023-2024 Budget Request and Anticipated Use of Funds.**

For 2023-2024, we request \$5,000 to pay for legislative consultant assistance with our planned next round of Business Corporation Act amendments.

**2. Next Scheduled Meeting of the Committee.**

The Committee most recently met on September 20, 2023, to continue its evaluation of the proposed Business Corporation Act amendments it is developing. In the meeting we reviewed a detailed memorandum prepared by committee co-chair Michael Molitor with proposed amendment language and supporting information and had a robust discussion of various items. We agreed on certain of the proposed amendments and determined to clarify certain matters with respect to others. There are additional proposals we haven't yet fully evaluated, and we will schedule additional meetings to continue the evaluation.

**3. Council Approval.**

We do not request council approval of any matters at this meeting.

**4. Membership.**

The Committee remains open to participation by any interested parties. The Committee has approximately 75 members on its active roster, though many fewer who actively participate.

**5. Accomplishments Toward Committee Objectives.**

The activity of the Committee is directly related to the Strategic Plan mission of promoting improved legislation and regulation for business and the goal of reviewing Michigan laws affecting business formation, capital raising, corporate governance and related legal matters. The Committee attempts to keep Michigan corporate law current with national trends and competitive with the business law environments of other jurisdictions.

The Committee continues to monitor legislation that could affect Michigan corporation law. We are assembling material for the next round of amendments to the Michigan Business Corporation Act. We determined to bifurcate that effort and to first focus on preparing proposed draft benefit corporation legislation. A subcommittee was established for this purpose, and it prepared draft benefit corporation legislation for which we continue to seek legislative sponsorship while working with our lobbying consultant.

In the past the Committee has taken the lead in preparing amicus briefs on behalf of the Business Law Section, at the request of both the Michigan Court of Appeals and the request of the Michigan Supreme Court. Justin Klimko participated in the development of the Section's most recent amicus brief filed with the Michigan Supreme Court in the case of Soaring Pine Capital v. Park Street Group Realty Services. The Supreme Court issued its opinion in the case on June 23, 2023 (No. 163320, 2023 WL 4166576). It held that usury savings clauses are not effective to prevent application of the Michigan criminal usury statute to loans that are facially usurious, and that the lender bears the risk that a loan will be found to be usurious on its face (because, for example, certain fees or charges are recharacterized as interest).

**6. Meetings and Programs.**

No programs are currently scheduled, but committee members are involved with presentations at the Business Law Institute.

## **7. Publications.**

The Committee is responsible for the Fall 2023 edition of the Business Law Journal. A number of articles have been submitted for inclusion in the issue and as of this writing, we await publication.

## **8. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action.**

The Committee monitors bills that would affect corporation statutes that are introduced without its input and considers these together with the Corporations Division of the Bureau of Commercial Services of the Department of Licensing and Regulatory Affairs. The Committee interacts with the Division and the Bureau frequently on matters of legislative interpretation and administrative practice. The Committee also consults with the Division regarding efforts to further streamline corporate filings and information dissemination.

The Committee reviews judicial decisions affecting matters of Michigan corporate law. From time to time the Committee proposes statutory amendments that are intended to address the effects of specific case law. Additionally, as noted above, the Committee has prepared and filed amicus curiae briefs at the invitation of the Michigan Supreme Court.

The Committee monitors developments and changes in the corporate laws of other states such as Delaware and developments and changes in the Model Business Corporation Act.

## **9. Miscellaneous.**

The Committee will continue to accept ideas for technical and other amendments to the Business Corporation Act. Suggestions in this regard may be addressed to either committee co-chair.

Any questions regarding this report may be directed to Justin Klimko or Mike Molitor.

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