

Article - Corporations and Associations

[\[Previous\]](#)[\[Next\]](#)

§2-405.1.

- (a) In this section, “act” includes, as the context requires:
 - (1) An act, an omission, a failure to act, or a determination made not to act; or
 - (2) To act, omit to act, fail to act, or make a determination not to act.
- (b) This section applies to acts of an individual who:
 - (1) Is or was a director of a corporation; and
 - (2) Is acting or was acting in the individual’s official capacity as a director of a corporation.
- (c) A director of a corporation shall act:
 - (1) In good faith;
 - (2) In a manner the director reasonably believes to be in the best interests of the corporation; and
 - (3) With the care that an ordinarily prudent person in a like position would use under similar circumstances.
- (d) (1) A director is entitled to rely on any information, opinion, report, or statement, including any financial statement or other financial data, prepared or presented by:
 - (i) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
 - (ii) A lawyer, certified public accountant, or other person, as to a matter which the director reasonably believes to be within the person’s professional or expert competence; or
 - (iii) A committee of the board on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

(2) A director is not acting in good faith if the director has any knowledge concerning the matter in question which would cause the reliance to be unwarranted.

(e) A director who acts in accordance with the standard of conduct provided in this section shall have the immunity from liability described under § 5–417 of the Courts Article.

(f) The standard of conduct provided in this section does not require a director of a corporation to:

(1) Act to accept, recommend, or respond on behalf of the corporation to a proposal by an acquiring person as defined in § 3–801 of this article;

(2) Act to authorize the corporation to redeem any rights under, modify, or render inapplicable, a stockholder rights plan;

(3) Act to elect on behalf of the corporation to be subject to or refrain from electing on behalf of the corporation to be subject to any or all of the provisions of Title 3, Subtitle 8 of this article;

(4) Act to make a determination under the provisions of Title 3, Subtitle 6 or Subtitle 7 of this article; or

(5) Act solely because of:

(i) The effect the act may have on an acquisition or potential acquisition of control of the corporation; or

(ii) The amount or type of consideration that may be offered or paid to stockholders of the corporation in an acquisition or a potential acquisition of control of the corporation.

(g) An act of a director of a corporation is presumed to be in accordance with subsection (c) of this section.

(h) An act of a director of a corporation relating to or affecting an acquisition or a potential acquisition of control of the corporation or any other transaction or potential transaction involving the corporation may not be subject to a higher duty or greater scrutiny than is applied to any other act of a director.

(i) This section:

(1) Is the sole source of duties of a director to the corporation or the stockholders of the corporation, whether or not a decision has been made to enter into an acquisition or a potential acquisition of control of the corporation or enter into any other transaction involving the corporation; and

(2) Applies to any act of a director, including an act as a member of a committee of the board of directors.

[\[Previous\]](#)[\[Next\]](#)