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Corporations Code § 317 – Compiled March, 2011

Our review of the annotated history reveals the following legislative history (every “c.” below represents a separate legislative bill):

§ 317: (11 bills)

Prior History:

- *Former Civil Code § 375*, added **1943, c. 934**
- *Former Corp § 830*, added **1947, c. 1038**; amended **1957, c. 2261**; **1968, c. 400**

Current:

Added: **1975, c. 682** – massive Corporations codification bill – could be substantive

Amended:

- **1976, c. 641**: substituted “means” for “includes” in the first two definitions in subd. (a); in the definition of “agent” in two places preceding “corporation” inserted “foreign or domestic”; and at the end of subd. (a) and in subd. (h) substituted “paragraph (3) of subdivision (e)” for “subdivision (e)(3);” and added subd. (j), which read, “Nothing contained in this section shall limit any right to indemnification to which such a trustee, investment manager or other fiduciary may be entitled by contract or otherwise, which shall be enforceable to the extent permitted by applicable law other than this section”.
- **1977, c. 235**: substituted, in subd. (c) (1), “proceeding is or was pending” for “action was brought”; and rewrote the last sentence in subd. (j).
- **1987, c. 1201**: substituted, at the end of the first paragraph of subd. (c), “best interests of the corporation and its shareholders” for “best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position, would use under similar circumstances”; inserted, in subd. (c)(1), “and its shareholders” following “duty to the corporation”; substituted, at the end of subd. (c)(1), “expenses and then only to the extent that the court shall determine” for “the expenses which such court shall determine”; substituted, in subd. (c)(2), “pending action without court approval” for “threatened or pending action, with or without court approval”; deleted, from subd. (c)(3), “threatened or” preceding “pending”; inserted subd. (e)(2) and renumbered subd. (e)(2) and (3) as (3) and (4); substituted, in subd. (f), “if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this section” for “unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section”; rewrote subd. (g), which read:

“No provision made by a corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of shareholders or directors, an agreement or otherwise, shall be valid unless consistent

with this section. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise”;

Added the second sentence of subd. (i); and made non-substantive changes.

- **1987, c. 1203:** Legislative intent of Stats.1987, c. 1201, §§ 5 to 8 regarding duty of loyalty of a director

- **1988, c. 919:** rewrote subd. (g), which read:

“The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors * * * or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent such additional rights to indemnification are authorized in the articles of the corporation. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.”

The 1988 amendment, also, in subd. (i), rewrote condition (1), which read: “(1) if authorized in the articles of the corporation, any policy issued is limited to the extent provided by subdivision (d) of Section 204;”; and made nonsubstantive changes throughout the section.

- **1995, c. 154:** in subd. (f), added the last sentence relating to application of section 315.

Your review of the above annotations will help you determine which bill or bills will be relevant to your research focus within the statute.

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- Changes to statutes can sometimes be determined by the annotations provided by Deering’s, Westlaw, and Lexis.
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