



SPONSOR: Sen. Bonini & Rep. Kowalko
Reps. Bennett, Briggs King, Ramone, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 53

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATNG TO THE GENERAL CORPORATION LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 226, Title 8 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 (d) A custodian appointed pursuant to paragraphs (a)(1) or (a)(2) of this section shall not have the authority to
4 dissolve or sell a solvent corporation unless necessary parties stipulate; or:

5 (1) The Court grants one or more alternative remedies to resolve the deadlock such as appointing a custodian,
6 provisional director (as defined in §353 of this title or otherwise), or tie-breaker vote on the board, amending the
7 bylaws or certificate of incorporation, or otherwise granting injunctive relief; and

8 (2) After such remedies have been functioning for at least three years, the Court determines upon an evidentiary
9 hearing that the deadlock remains, no alternative remedy is sufficient to resolve the deadlock, and such corporation
10 should be dissolved or sold.

SYNOPSIS

Delaware has consistently been regarded as the preeminent state nationwide with regards to its treatment of corporations due to the fact that the Delaware Corporate Code has continued to evolve in a way to ensure fairness in the treatment of corporations that choose to incorporate in Delaware. Recent cases have brought to light the fact that portions of the Delaware Corporate Code are deficient in providing fair and equitable remedies in specific regards to deadlock situations. In an attempt to maintain preeminence in the realm of corporate law and to ensure the continued fair and equitable treatment of corporations in Delaware, this bill provides that the Court of Chancery may only appoint a custodian to dissolve or sell a solvent corporation to resolve deadlock if (1) alternative remedies prove insufficient after three years or (2) unless the necessary parties stipulate to such a sale.

Author: Senator Bonini