

	2.	Management	5
	3.	Liability and Financial Risk	5
	4.	Continuity of Existence	6
	5.	Transferability	6
	6.	Profits and Losses	6
	7.	Taxation	6
C.	Ho	w Business Is Conducted in This Country	8
D.	Ag	ency in Business Organizations	9
	1.	Formation of Agency Relationship	10
	2.	Authority of Agents	11
	3.	Duties of Agents and Principals	12
	4.	Liability for Agent's Torts	14
	5.	Contractual Liability of Agents	15
	6.	Termination of Agency	16
	7.	Agency in Business Relationships	16
Cas	e III	ustration: Commuting as Outside the Scope of Employment	17
We	b Re	esources	18
Dise	cuss	sion Questions	18
Net	Wo	orth	19

	Sole Proprietorships		
Chapter Overview			
А.	Characteristics of Sole Proprietorships	21	
В.	Governing Law	22	
C.	Advantages of Sole Proprietorships	22	
D.	Disadvantages of Sole Proprietorships	23	
	1. Unlimited Personal Liability	23	
	2. Lack of Continuity	24	

	3.	Difficulties in Raising Capital	24
	4.	Management Difficulties	24
E.	For	mation of Sole Proprietorships	25
	1.	Licensing Considerations	25
	2.	Name Considerations	26
	3.	Business and Sales Tax Permits	28
F.	Tax	ation of Sole Proprietorships	29
G.	Rol	e of Paralegal	32
		ustration: Use of a Fictitious Business Name Does eate a Separate Entity	32
Web	o Re	esources	33
Disc	cuss	ion Questions	33
Net Worth			34

3

General Partnerships Chapter Overview 35 Characteristics of General Partnerships А. 35 36 В. Governing Law 38 C. Partnership Defined D. Partnership Property 38 1. Property or Services Contributed by Partners or Acquired by Partnership 38 2. Property Rights of Partners 40 E. Advantages of General Partnerships 41 F. Disadvantages of General Partnerships 42 1. Unlimited Personal Liability 42 2. Lack of Continuity 43 3. Difficulty in Transferring Partnership Interest 43 Formation of General Partnerships 44 G.

xiii

Н.	Operation of General Partnerships	45
	1. Duties and Rights of Partners	45
	2. Management of the Partnership	46
	3. Compensation, Profits, and Accounting	48
I.	The Partnership Agreement	49
	1. Name of the Partnership	50
	2. Names and Addresses of the Partners	50
	3. Recitals	50
	4. Purpose	51
	5. Address	51
	6. Term	51
	7. Financial Provisions	52
	8. Profits and Losses	52
	9. Management and Control	53
	10. Admission of New Partners and Withdrawal of Partners	54
	11. Dissolution	54
	12. Miscellaneous Provisions	55
	13. Signatures and Date	56
J.	Transferability of Partnership Interest	57
K.	Dissolution and Winding Up Under the UPA	57
	1. Dissolution by Acts of Partners	58
	2. Dissolution by Decree of Court	59
	3. Winding Up	59
L.	Dissociation and Dissolution Under the RUPA	59
М.	Conversions and Mergers	61
N.	Taxation of Partnerships	63
О.	Role of Paralegal	64
Cas	e Illustration: A Mere Collaboration Is Not a Partnership	67
We	b Resources	68
Dis	cussion Questions	68
Net	Worth	69

xiv

	Limited Partnerships		
Ch	napter Overview	71	
A.	Characteristics of Limited Partnerships	71	
B.	Governing Law	72	
	1. The Uniform Acts Governing Limited Partnerships	s 72	
	2. The Corporate Transparency Act	73	
C.	Limited Partnership Defined	73	
D.	Partners' Rights and Duties	74	
	1. General Partners	74	
	2. Limited Partners	75	
E.	Advantages of Limited Partnerships	77	
	1. Attracting Capital	77	
	2. Limited Liability	77	
	3. Easy Transferability of Partnership Interest	77	
	4. Continuity of Existence	78	
	5. Pass-Through Taxation	78	
F.	Disadvantages of Limited Partnerships	78	
	1. Lack of Control for Limited Partners	78	
	2. Unlimited Liability for General Partner	79	
	3. Formalities and Expenses of Organization	79	
G.	. Formation of Limited Partnerships		
	1. Contents of the Limited Partnership Certificate	79	
	2. Filing the Certificate of Limited Partnership	82	
	3. Amendment of the Limited Partnership Certificate	82	
	4. Foreign Limited Partnerships	84	
	5. Limited Partnership Agreement	84	
Η.	Transferability of Interest	90	
I.	Actions by Limited Partners	91	

J.	Dissolution and Winding Up of Limited Partnerships	91
К.	Cancellation of Limited Partnership Certificate	92
L.	Taxation of Limited Partnerships	92
М.	Family Limited Partnerships	94
N.	Master Limited Partnerships	95
О.	Limited Liability Limited Partnerships	96
Р.	Uniform Limited Partnership Act (2001) (Last Amended 2013)	96
	1. Introduction	96
	2. Comparison of Limited Partnerships Under RULPA and 2001 Act	99
Q.	Role of Paralegal	101
	e Illustration: Liability of Limited Partners in ited Partnership	102
We	b Resources	103
Dis	cussion Questions	104
Net	Worth	104

	Limited Liability Partnerships	
Cha	apter Overview	105
А.	Characteristics of Limited Liability Partnerships (LLPs)	105
B.	Governing Law	107
C.	Advantages of LLPs	107
	1. Partial Shield States	108
	2. Full Shield States	108
D.	Disadvantages of LLPs	111
E.	Formation of LLPs and Doing Business in Other States	112
F.	Operation of LLPs	116
G.	Transferability of Interest and Admission of New Members	117
H.	Dissolution and Liquidation of LLPs	117
I.	Taxation of LLPs	118

Contents			
J. Growth and Trends in LLPs	118		
K. Role of Paralegal	120		
Case Illustration: Full Liability Shield for LLP Partners	121		
Web Resources			
Discussion Questions	122		
Net Worth	122		

• • •

	Limited Liability Companies	
Ch		100
	apter Overview	123
А.	Characteristics of Limited Liability Companies (LLCs)	124
	1. Introduction to LLCs	124
	2. Distinguishing LLCs from LLPs	124
B.	Governing Law	125
C.	Advantages of LLCs	127
	1. Pass-Through Tax Status	127
	2. Limited Liability and Full Management	127
	3. One-Person LLCs	128
	4. International Recognition	128
D.	Disadvantages of LLCs	128
E.	Formation of LLCs	129
	1. Articles of Organization	129
	2. Operating Agreement	131
F.	Transferability of Interest	136
G.	Doing Business in Other States	138
Н.	Actions by LLC Members	138
I.	Dissociation and Dissolution of LLCs	138
	1. Events Causing Dissociation	140
	2. Events Causing Dissolution and Winding Up	140

xvii

	٠
XV	

J.	Conversions, Mergers, and Domestications	141
К.	Taxation of LLCs	141
L.	LLC Variations	144
М.	Growth and Trends in LLCs	145
	1. Growth	145
	2. The Commission's Harmonized Business Code	146
	3. LLCs Versus Other Business Structures	147
	4. Outstanding Issues	148
N.	Role of Paralegal	149
Cas	e Illustration: Piercing the Veil of an LLC	150
We	b Resources	150
Discussion Questions		151
Net	151	

• • •

	Other Unincorporated Organizations	
Ch	enter Overnieuv	150
Cn	apter Overview	153
А.	Joint Ventures	153
В.	Mining Partnerships	155
C.	Joint Stock Companies	155
	1. Comparison to Corporations and Partnerships	156
	2. Modern Application	156
D.	Business Trusts	156
	1. Comparison to Corporations and Partnerships	157
	2. Modern Application	159
E.	Real Estate Investment Trusts	159
	1. Types of REITs	160
	2. Advantages of REITs	160
	3. Conclusion	161

Contents			
F. Cooperative Associations	161		
G. Role of Paralegal	163		
Case Illustration: Features of Joint Ventures			
Web Resources			
Discussion Questions			
Net Worth	166		

• • •

	Introduction to Corporations				
Ch	Chapter Overview 167				
		167			
А.	Characteristics of Corporations	168			
В.	3. History and Governing Law				
	1. History	168			
	2. Governing Law	169			
C.	The Corporation as a Person	171			
D.	Corporate Powers and Purposes	172			
	1. Corporate Powers	172			
	2. The Ultra Vires Doctrine	173			
	3. Inroads on the Shareholder Primacy Doctrine	173			
E.	Types of Corporations	174			
	1. Domestic Corporations	174			
	2. Foreign Corporations	174			
	3. Federal or State Corporations	175			
	4. Public Corporations	175			
	5. Privately Held Corporations	175			
	6. Nonprofit Corporations	175			
	7. Benefit Corporations	176			
	8. Close Corporations	176			
	9. Professional Corporations	176			

xix

	10. S Corporations	176
	11. Parent and Subsidiary Corporations	177
F.	Advantages and Disadvantages of Incorporation	177
	1. Advantages	177
	2. Disadvantages	178
G.	Role of Paralegal	184
Cas	e Illustration: Broad Powers of a Corporation	184
Wel	b Resources	185
Dise	cussion Questions	185
Net	Worth	186



Formation of Corporations

Cha	apte	er Overview	187
А.	Preincorporation Activities by Promoters		
	1.	Duties of Promoters	187
	2.	Preincorporation Transactions	188
	3.	Preincorporation Share Subscriptions	190
В.	Sel	lection of Jurisdiction in Which to Incorporate	191
	1.	Delaware Incorporation	191
	2.	Factors in Selecting a Jurisdiction	192
C.	Th	e Corporate Name	193
	1.	Selection	193
	2.	Availability	194
	3.	Reservation	195
	4.	Registration	195
	5.	Assumed Names	197
D.	Articles of Incorporation		197
	1.	Elements of Articles of Incorporation	198

Con	Contents			
	2.	Optional Provisions in Articles of Incorporation	201	
	3.	Preemptive Rights	204	
	4.	Filing of Articles of Incorporation	205	
E.	Ро	stincorporation Activities	208	
	1.	Bylaws	208	
	2.	Corporate Supplies	210	
	3.	Organizational Meeting	211	
	4.	Annual Report	217	
F.	De	fects in Incorporation Process	217	
G.	Ro	le of Paralegal	219	
Case Illustration: Preemptive Rights to Purchase Stock			220	
Web Resources			221	
Discussion Questions			222	
Net Worth 22			222	

	Corporate Finances				
Cha	apter Overview	225			
A.	Introduction to Securities	225			
B.	Equity Securities	227			
	1. Introduction	227			
	2. Par Value and No Par Value Stock	229			
	3. Consideration for Shares	231			
	4. Stock Certificates and Stock Issuance	231			
	5. Classes of Stock	234			
C.	Debt Securities	245			
	1. Introduction	245			
	2. Unsecured Debt	246			
	3. Secured Debt	247			

xxii

	4.	Trust Indentures	250
	5.	Common Features of Debt Securities	250
	6.	Green Bonds and Social Bonds	252
	7.	Junk Bonds	254
D.	Тах	ation of Corporations	254
	1.	Introduction	254
	2.	Double Taxation	255
	3.	A Cure for Corporate Inversions?	258
	4.	Accumulated Earnings Tax	260
	5.	Repeal of the Corporate Alternative Minimum Tax	260
	6.	State and Other Taxes	260
E.	Ro	le of Paralegal	263
		ustration: Corporate Latitude in Creating Classes	
of Stock			264
Web Resources			265
Discussion Questions			265
Net Worth			266

11

Ch	apte	r Overview	269	
А.	Sha	areholders' Rights and Responsibilities	270	
	1.	Introduction	270	
	2.	Rights to Information	270	
	3.	Voting Rights	271	
	4.	Shareholder Meetings	274	
	5.	Shareholder Action Without a Meeting	287	
	6.	Modern Trends	287	
	7.	Preemptive Rights	291	
	8.	Dividends	291	
	9.	Right to Transfer Shares and Shareholder Agreements	291	

	10	. Shareholder Actions	292
	11	. Miscellaneous Rights of Shareholders	296
	12	. Shareholders' Responsibilities	298
	13	. Piercing the Corporate Veil	298
В.	Di	rectors' Rights and Responsibilities	300
	1.	Introduction	300
	2.	Number and Qualifications of Directors	300
	3.	Functions of Directors	301
	4.	Election, Term, Vacancies, and Removal of Directors	302
	5.	Directors' Meetings	304
	6.	Directors' Action Without a Meeting	308
	7.	Compensation of Directors	308
	8.	Rights of Directors to Information	309
	9.	Directors' Standards of Conduct, Liability, and Indemnification	310
	10	. Delegation of Authority	314
C.	Go	overnance Guidelines and Trends	315
	1.	Governance Guidelines	315
	2.	Environmental, Social, and Governance ("ESG") Issues	316
	3.	Trends in Governance	318
	4.	Election of Directors: Types of Voting	320
D.		orporate Scandals, Reform, and the Sarbanes-Oxley and odd-Frank Acts	321
	1.	Introduction	321
	2.	The Fallout	321
	3.	Reform and the Sarbanes-Oxley Act	322
	4.	The Dodd-Frank Act	323
E.	Rig	ghts and Duties of Officers	324
	1.	Introduction	324
	2.	Qualifications, Appointment, and Tenure	325
	3.	Officers' Functions	325
	4.	Titles of Officers	326
	5.	Authority of Officers	327
	6.	Officers' Standard of Conduct, Liability, and Indemnification	327
F.	Ro	le of Paralegal	329

xxiii

	Contents
Case Illustration: Piercing the Corporate Veil	329
Web Resources	330
Discussion Questions	331
Net Worth	331

Corporate Dividends Chapter Overview 333 333 А. Introduction to Dividends 335 В. Restrictions Relating to Dividends 335 The MBCA Approach: Equity Insolvency and Balance Sheet Tests 1. 2. Other Tests for Distributions 336 3. Contractual Limitations 336 Preferences 4. 337 5. Classes of Shares 337 Effect of Illegal Dividends 337 С. D. Procedure for Declaring and Paying Dividends 337 E. Right to Dividends 339 F. Tax Considerations 341 Cash Dividends 341 1. 2. Property Dividends 341 3. Share Dividends 341 Encouraging Dividends 342 4. 342 5. Avoiding Double Taxation 6. Modern Trends in Dividend Payments 342 Stock Splits G. 343 Η. Purchase by a Corporation of Its Own Shares 345 I. Role of Paralegal 347

xxiv

Contents	•
Case Illustration: Board's Dividend Decisions Are Protected Under Business Judgment Rule	347
Web Resources	348
Discussion Questions	348
Net Worth	349

		Securities Regulation and the Stock Exchanges	
Cha	apte	r Overview	351
A.	Int	roduction to Investor Protection	351
В.	Go	ing Public	352
	1.	Overview of the IPO Process	352
	2.	Alternatives to Traditional IPOs: Direct Listings and SPACs	353
	3.	IPOs Using Up-C Structures	354
C.	Sec	curities Act of 1933	355
	1.	Introduction	355
	2.	Registration Requirements	356
	3.	Exemptions from Registration	357
	4.	Antifraud Provisions of 1933 Act	360
	5.	Penalties for Violations of 1933 Act	360
D.	Sec	curities Exchange Act of 1934	361
	1.	Introduction	361
	2.	Periodic Reporting Requirements	361
	3.	Insider Trading: Rule 10b-5	362
	4.	Remedies and Penalties for Violation of 1934 Act	365
	5.	Short-Swing Profits: Section 16(b)	366
	6.	Proxy Regulation	366
E.	EΓ	OGAR	367
F.	Th	e Jumpstart Our Business Startups Act	367

xxv

Co	nte	ents
CU	mu	1103

G.	Sta	te Securities Regulation	368
H.	The Securities Markets		370
	1.	Introduction	370
	2.	The New York Stock Exchange	371
	3.	Nasdaq	372
	4.	Governance Standards, Delisting, Margin Rules, Settlement, and Circuit Breakers	373
	5.	Alternative Trading Systems and High-Frequency Trading	374
	6.	The Over-the-Counter Market, Pink Sheets, and Penny Stocks	377
	7.	Understanding the Newspaper and Internet Reports of Stock Trading	378
I.	Tra	ding in Cyberspace	379
J.	Ho	t Topics in Securities	381
K.	Sto	ck Market Indexes	383
	1.	Dow Jones Averages	383
	2.	Other Indexes	384
L.	Glo	ossary of Financial Terms	385
М.	Rol	e of Paralegal	387
		ustration: Stock Tweets Expressing Opinion Are Not	
Def	ama	atory	388
Wel	o Re	esources	388
Dise	cuss	ion Questions	389
Net	Wc	orth	390

۲

Changes in the Corporate Structure and Corporate Combinations

Ch	apte	r Overview	391
А.	An	nending the Articles of Incorporation	392
	1.	Reasons for Amending Articles	392
	2.	Procedure for Amending Articles	392
	3.	Articles of Amendment	393

xxvi

Contents			
В.	Restating the Articles of Incorporation	394	
C.	Amending the Bylaws of the Corporation	396	
D.	Corporate Combinations	396	
	1. Mergers and Consolidations	397	
	2. Share Exchanges	407	
	3. Purchase of Assets	407	
	4. Limitation of Shareholder Remedies	409	
	5. De Facto Merger Doctrine and Freeze-Outs	409	
	6. Purchase of Stock	410	
	7. Hostile Takeovers	411	
	8. Leveraged Buy-Outs and Share Repurchases	420	
	9. Governmental Regulation	421	
	10. Shareholder Challenges to Corporate Combinations	421	
E.	Domestication and Entity Conversion	422	
	1. Domestication	422	
	2. Entity Conversion	423	
	3. Process of Domestication and Conversion	423	
F.	Role of Paralegal	424	
Case Illustration: Merger Agreement Can Be Terminated If a Material Adverse Effect Occurs 425			
Web Resources 4			
Discussion Questions 427			
Net Worth 427			

	Qualification of Foreign Corporations	
Ch	apter Overview	429
А.	Basis for Qualification	429
В.	Transacting Business	430

xxvii

	٠	٠	٠
XXV			

C.	Procedures in Registration or Qualification	431
D.	Effects of Qualifying	434
E.	Effects of Failure to Qualify	434
F.	Effect of Changes to Domestic Corporation	435
G.	Withdrawal of Foreign Qualification	435
Н.	Revocation of Qualification by State	437
I.	Role of Paralegal	438
	se Illustration: Maintaining an Action Does Not Constitute	
Do	ing Business	439
We	eb Resources	439
Dis	scussion Questions	440
Ne	t Worth	440

• Termination of Corporate Existence Chapter Overview 441 А. Dissolution 441 1. Introduction 441 2. Voluntary Dissolution 442 3. Administrative Dissolution 445 4. Involuntary Dissolution 446 Liquidation B. 449 1. Introduction 449 Nonjudicial Liquidation 2. 449 3. Judicial Liquidation 449 Claims Against the Corporation 4. 450 С. Distributions to Shareholders 450 D. Directors' Duties to Minority Shareholders 451

Contents			
E.	Corporate Bankruptcy	451	
F.	Role of Paralegal	453	
	e Illustration: Barring of Claims Against solved Corporations	453	
Web Resources		454	
Dis	cussion Questions	454	
Net	t Worth	455	

• • •

	Corporate Variations				
			457		
Chapter Overview					
А.	Cle	ose Corporations	458		
	1.	Introduction to Close Corporations	458		
	2.	Characteristics of Close Corporations	458		
	3.	Formation of Close Corporations	459		
	4.	Restrictions on Transfer of Shares	460		
	5.	Operation of Close Corporations	462		
В.	Nonprofit Corporations		463		
	1.	Introduction	463		
	2.	Formation of Nonprofit Corporations	463		
	3.	Operation and Governance of Nonprofit Corporations	465		
	4.	Exemption from Taxation for Nonprofit Corporations	466		
C.	Benefit Corporations		467		
	1.	Introduction	467		
	2.	Formation and Characteristics of B Corporations	467		
D.	Parent and Subsidiary Corporations		469		
	1.	Introduction	469		
	2.	Formation and Characteristics of Subsidiary Corporations	469		
	3.	Liability of Parent for Subsidiary's Debts	470		

xxix

501

Professional Corporations		471	
1.	Introduction	471	
2.	Formation, Operation, and Liability of Professional Corporations	471	
S Corporations		472	
1.	Introduction	472	
2.	Formation, Operation, and Termination of S Corporations	474	
Role of Paralegal		476	
e III	ustration: Personal Liability of Professionals in		
Professional Corporations			
Web Resources			
Discussion Questions			
Net Worth			
	1. 2. S C 1. 2. Rol e III essi cessi o Re	 Introduction Formation, Operation, and Liability of Professional Corporations S Corporations Introduction Formation, Operation, and Termination of S Corporations Role of Paralegal Illustration: Personal Liability of Professionals in fessional Corporations Resources Cussion Questions 	

18

Employee Compensation and Employment Agreements Chapter Overview 481 А. Employee Compensation 481 1. Introduction 481 2. Insurance Benefits 482 3. Retirement Plans 484 4. Stock Option Plans 489 5. Other Benefits 490 6. Reimbursement of Expenses 490 **Employment Agreements** 491 В. 1. Introduction 491 2. Terms of Employment Agreements 492 С. Role of Paralegal 500 Case Illustration: Nonsolicitation Agreements Are Void in California 500

Web Resources

Contents	•
Discussion Questions	502
Net Worth	502

	Special Topics in Business Law			
Chapter Overview 5				
А.	Ethics	505		
	1. Introduction	505		
	2. Business Ethics	506		
	3. Ethical Approaches	506		
	4. Making Decisions	506		
	5. Legal Duties	507		
	6. Ethical Codes	508		
В.	The Purpose of a Corporation: Maximizing Shareholder Value or Improving Society?	510		
C.	Common Interdisciplinary Issues	511		
	1. Introduction	511		
	2. Commercial Transactions and the Sale of Goods	511		
	3. Franchising	512		
	4. Leases	514		
	5. Intellectual Property	516		
	6. Antitrust Law	520		
	7. Unfair Competition	522		
	8. Bankruptcy Law	522		
D.	Transactional and Business Law Practice	525		
	1. Introduction	525		
	2. Private Corporate Law Practice	525		
	3. In-House Corporate Practice	527		
E.	. Role of Paralegal			

xxxi

		Contents
Case Illustr	ation: Retaliatory Eviction	530
Web Resou	Irces	530
Discussion	Questions	531
Net Worth		532
Appendix A	Secretaries of State and State Corporations Statutes	533
Appendix B	Uniform Partnership Act (1914) (Selected Provisions)	539
Appendix C	(Revised) Uniform Partnership Act (1997) (Selected Provisions)*	545
Appendix D	General Partnership Agreement	559
Appendix E	Revised Uniform Limited Partnership Act (1976) with 1985 Amendments (Selected Provisions)*	563
Appendix F	Model Business Corporation Act (2016 Revision) (Selected Provisions)	573
Appendix G	Corporate Bylaws	611
Appendix H	Written Consent in Lieu of the Organizational Meeting	619
Appendix I	Research and Resource Guide	623
Glossary Index		627 655

xxxii

^{*}Some provisions of this Act were changed in 2013 as part of the Uniform Law Commission's Harmonization of Business Entity Acts Project. Thus, the wording and numbering of some provisions shown in this Appendix may vary from the provisions of the Act shown on the Commission's website at www.uniformlaws.org.