

BUSINESS CORPORATION ACT (EXCERPT)
Act 284 of 1972

450.1564b Payment or reimbursement of party in advance of final disposition of proceeding; undertaking as unlimited general obligation; evaluation of reasonableness; advancement of expenses.

Sec. 564b.

(1) A corporation may pay or reimburse the reasonable expenses incurred by a director, officer, employee, or agent of the corporation, or by a person that is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other profit or nonprofit enterprise, that is a party or threatened to be made a party to an action, suit, or proceeding in advance of final disposition of the proceeding if the person furnishes the corporation a written undertaking, executed personally or on the person's behalf, to repay the advance if it is ultimately determined that the person did not meet the applicable standard of conduct, if any, required by this act for the indemnification of a person under the circumstances.

(2) An undertaking required under subsection (1) must be an unlimited general obligation of the person but may be unsecured and may be accepted without reference to the financial ability of the person to make repayment.

(3) A corporation shall make an evaluation of reasonableness under this section in the manner specified in section 564a(1) for an evaluation of reasonableness of expenses, and shall make an authorization in the manner specified in section 564a(4) unless an advance is mandatory. A corporation may make an authorization of advances with respect to a proceeding and a determination of reasonableness of advances or selection of a method for determining reasonableness in a single action or resolution covering an entire proceeding. However, unless the action or resolution provides otherwise, the authorizing or determining authority may subsequently terminate or amend the authorization or determination with respect to advances not yet made.

(4) A provision in the articles of incorporation or bylaws, a resolution of the board or shareholders, or an agreement making indemnification mandatory shall also make the advancement of expenses mandatory unless the provision, resolution, or agreement specifically provides otherwise.

History: Add. 1989, Act 121, Eff. Oct. 1, 1989 ;-- Am. 1993, Act 91, Eff. Oct. 1, 1993 ;-- Am. 1997, Act 118, Imd. Eff. Oct. 24, 1997 ;-- Am. 2001, Act 57, Imd. Eff. July 23, 2001 ;-- Am. 2008, Act 402, Imd. Eff. Jan. 6, 2009 ;-- Am. 2012, Act 569, Imd. Eff. Jan. 2, 2013