



1 "Benefit officer" means the individual designated as the  
2 benefit officer of a sustainable business corporation under  
3 section -9.

4 "General public benefit" means a material positive impact  
5 on society and the environment, taken as a whole and as measured  
6 by a third-party standard under section -12, from the  
7 business and operations of a sustainable business corporation.

8 "Independent" means having no material relationship with a  
9 sustainable business corporation or any of its subsidiaries.

10 "Material owner" means a shareholder who holds either  
11 beneficially or of record five per cent or more of the  
12 outstanding shares of a sustainable business corporation.

13 "Material relationship" means a relationship between a  
14 person and a sustainable business corporation where:

15 (1) The person is, or has been within the last three  
16 years, an employee other than a benefit officer of the  
17 sustainable business corporation or any of its  
18 subsidiaries;

19 (2) The person is related by blood, marriage, or adoption  
20 to; is a party to a civil union with; is a reciprocal  
21 beneficiary or household member of; or resides with an  
22 officer other than a benefit officer or director of



1 the sustainable business corporation or any of its  
2 subsidiaries; or

3 (3) The person or an association of which the person is a  
4 director, officer, or manager or in which the person  
5 owns beneficially or of record five per cent or more  
6 of the outstanding equity interests or the outstanding  
7 shares of the sustainable business corporation;  
8 provided that percentage ownership in an association  
9 shall be calculated as if all outstanding rights to  
10 acquire equity interests in the association had been  
11 exercised.

12 "Minimum status vote" means that in addition to any other  
13 approval or vote required by this chapter or the bylaws adopted  
14 by the shareholders:

15 (1) The holders of shares of every class or series shall  
16 be entitled to vote on the corporate action regardless  
17 of any limitation stated in the articles of  
18 incorporation or bylaws on the voting rights of any  
19 class or series; and

20 (2) The corporate action shall be approved by vote of the  
21 shareholders of each class or series entitled to cast



1 at least two-thirds of the votes that all shareholders  
2 of the class or series are entitled to cast thereon.

3 "Subsidiary" of a person means an association in which the  
4 person owns beneficially or of record fifty per cent or more of  
5 the outstanding equity interests; provided that a percentage of  
6 ownership in an association shall be calculated as if all  
7 outstanding rights to acquire equity interests in the  
8 association had been exercised.

9 "Sustainable business corporation" means a domestic  
10 corporation, incorporated under chapter 414, that has elected to  
11 also become subject to this chapter and whose status as a  
12 sustainable business corporation has not been terminated as  
13 provided in this chapter.

14 "Third-party standard" means a standard for defining,  
15 reporting, and assessing overall corporate social and  
16 environmental performance that conforms to the requirements of  
17 this chapter.

18 **§ -3 Election of a domestic corporation to become a**  
19 **sustainable business corporation.** (a) A domestic corporation  
20 incorporated under chapter 414 may elect to become a sustainable  
21 business corporation under this chapter by including in its  
22 articles or amending its articles to include a statement that



1 the corporation is a sustainable business corporation. An  
2 amendment pursuant to this subsection shall not be effective  
3 unless it is adopted by at least the minimum status vote.

4 (b) If a corporation that is not a sustainable business  
5 corporation is a party to a merger, consolidation, or division,  
6 or is the exchanging corporation in a share exchange, and the  
7 surviving, new, or any resulting corporation in the merger,  
8 consolidation, division, or share exchange is to be a  
9 sustainable business corporation, then the plan of merger,  
10 consolidation, division, or share exchange shall not be  
11 effective unless it is adopted by the corporation by at least  
12 the minimum status vote.

13 **§ -4 Termination of sustainable business corporation**  
14 **status.** (a) A sustainable business corporation may terminate  
15 its status as such and cease to be subject to this chapter by  
16 amending its articles to delete the statement that the  
17 corporation is a sustainable business corporation. An amendment  
18 pursuant to this subsection shall not be effective unless it is  
19 adopted by at least the minimum status vote.

20 (b) If a plan of merger, consolidation, division, or share  
21 exchange would have the effect of terminating the status of a  
22 business corporation as a sustainable business corporation, the



1 plan shall not be effective unless it is adopted by at least the  
2 minimum status vote.

3       **§ -5 Corporate purposes.** (a) Every sustainable  
4 business corporation shall have among its purposes the creation  
5 of a general public benefit.

6       (b) In addition to the purposes described in subsection  
7 (a), the articles of a sustainable business corporation may  
8 identify one or more specific public benefits for which the  
9 sustainable business corporation was created. The  
10 identification of a specific public benefit under this  
11 subsection does not limit the obligation of a sustainable  
12 business corporation to create a general public benefit.  
13 Allowable specific benefits for sustainable business  
14 corporations subject to this chapter include:

- 15       (1) Providing low-income or underserved individuals or  
16           communities with beneficial products or services;  
17       (2) Promoting economic opportunity for individuals or  
18           communities beyond the creation of jobs in the normal  
19           course of business;  
20       (3) Preserving the environment;  
21       (4) Improving human health;



- 1 (5) Promoting the arts, sciences, or advancement of  
2 knowledge;
- 3 (6) Increasing the flow of capital to entities with a  
4 public benefit purpose;
- 5 (7) The accomplishment of any other particular benefit for  
6 society or the environment; and
- 7 (8) Using the right to exclude, conferred by any and all  
8 patents in which the sustainable business corporation  
9 has an interest in this right through assignment,  
10 license, lien, security agreement, or obligation for  
11 the following purposes:
  - 12 (A) Creating and retaining good jobs within the State  
13 as well as throughout the United States;
  - 14 (B) Upholding fair labor standards nationally and  
15 internationally; provided that for purposes of  
16 this section, "fair labor standards" prohibit  
17 child labor, forced or compulsory labor,  
18 discrimination in employment, restrictions on  
19 freedom of association, and denial of the right  
20 to collective bargaining; and
  - 21 (C) Enhancing environmental protection nationally and  
22 internationally; provided that if this public



1 benefit is specified, section -4 shall not  
2 apply to the corporation and the sustainable  
3 business corporation status shall be irrevocable,  
4 and if the annual statement of the benefit  
5 director reflects that the sustainable business  
6 corporation has failed to meet this specific  
7 public benefit, then the corporation shall have  
8 its status as a sustainable business corporation  
9 terminated.

10 (c) The creation of general and specific public benefits  
11 as provided in subsections (a) and (b) shall be in the best  
12 interests of the sustainable business corporation.

13 (d) A sustainable business corporation may amend its  
14 articles to add, amend, or delete the identification of a  
15 specific public benefit for which the sustainable business  
16 corporation was created. An amendment pursuant to this  
17 subsection shall not be effective unless it is adopted by at  
18 least the minimum status vote.

19 **§ -6 Standard of conduct for directors.** (a) In  
20 discharging the duties of their respective positions, the board  
21 of directors, committees of the board, and individual directors





1 of a sustainable business corporation, in considering the best  
2 interests of the sustainable business corporation:

3 (1) Shall consider the effects of any action of the  
4 sustainable business corporation upon:

5 (A) The shareholders of the sustainable business  
6 corporation; and

7 (B) The accomplishment of general and specific public  
8 benefits set forth in the sustainable business  
9 corporation's purposes; and

10 (2) May consider:

11 (A) The employees and workforce of the sustainable  
12 business corporation and its subsidiaries and  
13 suppliers;

14 (B) The interests of customers as beneficiaries of  
15 the general or specific public benefit purposes  
16 of the sustainable business corporation;

17 (C) Community and societal considerations, including  
18 those of any community in which offices or  
19 facilities of the sustainable business  
20 corporation or its subsidiaries or suppliers are  
21 located;

22 (D) The local and global environment;



1 (E) The short-term and long-term interests of the  
2 sustainable business corporation, including  
3 benefits that may accrue to the sustainable  
4 business corporation from its long-term plans and  
5 the possibility that these interests may be best  
6 served by the continued independence of the  
7 sustainable business corporation;

8 (F) The ability of the sustainable business  
9 corporation to accomplish its general public  
10 benefit purpose and any specific public benefit  
11 purpose;

12 (G) The resources, intent, and conduct of any person  
13 seeking to acquire control of the corporation;  
14 and

15 (H) Any other pertinent factors or the interests of  
16 any other group that they deem appropriate.

17 (b) A director shall not be personally liable for monetary  
18 damages for any action taken as a director if the director  
19 performed the duties of the director's office in compliance with  
20 the general standards of conduct pursuant to section 414-221.

21 **§ -7 Benefit director.** (a) The board of directors of a  
22 sustainable business corporation shall include one director who



1 shall be designated the "benefit director" and who shall have,  
2 in addition to all of the powers, duties, rights, and immunities  
3 of the other directors of the sustainable business corporation,  
4 the powers, duties, rights, and immunities provided in this  
5 section.

6 (b) The benefit director shall be elected pursuant to  
7 sections 414-193 and 414-194 and may be removed in the manner  
8 provided by sections 414-198 and 414-199. The benefit director  
9 may serve concurrently as the benefit officer. The articles or  
10 bylaws of a sustainable business corporation may prescribe  
11 additional qualifications of the benefit director; provided that  
12 the qualifications are consistent with this subsection.

13 (c) The benefit director shall prepare, and the  
14 sustainable business corporation shall include in the annual  
15 benefit report to shareholders required by section -11, a  
16 statement whether, in the opinion of the benefit director, the  
17 sustainable business corporation acted in accordance with its  
18 general, and any specific, public benefit purpose in all  
19 material respects during the period covered by the report and  
20 whether the directors and officers complied with sections  
21 -6(a) and -8(a), respectively. If in the opinion of the  
22 benefit director the sustainable business corporation or its



1 directors or officers failed to act according to the  
 2 requirements of this chapter, then the statement of the benefit  
 3 director shall include a description of the ways in which the  
 4 sustainable business corporation or its directors or officers  
 5 failed to act according to the requirements of this chapter.  
 6 The benefit director's statement included in the final draft of  
 7 the benefit report shall include formal responses to all  
 8 questions, concerns, comments, and suggestions raised through  
 9 the public comment period required by section -11.

10 (d) A benefit director shall be independent of and shall  
 11 have no material relationship with the sustainable business  
 12 corporation.

13 **§ -8 Standard of conduct for officers.** (a) Each  
 14 officer of a sustainable business corporation shall consider the  
 15 interests and factors described in section -6(a) in the  
 16 manner provided in that section when:

17 (1) The officer has discretion to act with respect to a  
 18 matter; and

19 (2) It reasonably appears to the officer that the matter  
 20 may have a material effect on:



1 (A) The creation of a general or specific public  
2 benefit by the sustainable business corporation;  
3 or

4 (B) Any of the interests or factors referred to in  
5 section -6(a).

6 (b) An officer shall not be personally liable for monetary  
7 damages for any action taken as an officer if the officer  
8 performed the duties of the position in compliance with the  
9 general standards of conduct pursuant to section 414-233.

10 **§ -9 Benefit officer.** (a) A sustainable business  
11 corporation may have an officer designated as the benefit  
12 officer who shall have the authority and shall perform the  
13 duties in the management of the sustainable business corporation  
14 relating to the purpose of the corporation to create general or  
15 specific public benefit as may be provided by or pursuant to the  
16 bylaws or, in the absence of controlling provisions in the  
17 bylaws, as may be determined by or pursuant to resolutions or  
18 orders of the board of directors. If a sustainable business  
19 corporation has a benefit officer, the duties of the benefit  
20 officer shall include preparing the benefit report required by  
21 section -11.



1 (b) A benefit officer shall be independent of and shall  
2 have no material relationship with the sustainable business  
3 corporation.

4 § -10 **Right of action.** The shareholders and directors  
5 of a sustainable business corporation shall have the right to  
6 bring direct or derivative claims to enforce corporate purposes  
7 and the standards for directors as set forth in section  
8 414-221(a) and shall have the right to bring direct or  
9 derivative claims to enforce the general or specific public  
10 benefit purposes of the sustainable business corporation and the  
11 standard of conduct for directors pursuant to section  
12 -6(a)(1).

13 § -11 **Annual benefit report.** (a) A sustainable  
14 business corporation shall deliver to each shareholder an annual  
15 benefit report, including:

16 (1) A narrative description of:

17 (A) The ways in which the sustainable business  
18 corporation pursued general public benefits  
19 during the year and the extent to which general  
20 public benefit was created;

21 (B) The ways in which the sustainable business  
22 corporation pursued any specific public benefit



- 1           that the articles state as a purpose of the  
2           sustainable business corporation and the extent  
3           to which that specific public benefit was  
4           created; and
- 5           (C) Any circumstances that have hindered the creation  
6           by the sustainable business corporation of  
7           general or specific public benefits;
- 8           (2) An assessment of the overall social and environmental  
9           performance of the sustainable business corporation,  
10          prepared in accordance with a third-party standard  
11          under section     -12 applied consistently with any  
12          application of that standard in prior benefit reports  
13          or accompanied by an explanation of the reasons for  
14          any inconsistent application;
- 15          (3) The name of the benefit director and the benefit  
16          officer, if any, and the address to which  
17          correspondence to each of them may be directed;
- 18          (4) The compensation paid by the sustainable business  
19          corporation during the year to each director in the  
20          person's capacity as director;
- 21          (5) The name of each person who owns five per cent or more  
22          of the outstanding shares of the sustainable business



- 1 corporation either beneficially to the extent known to  
2 the sustainable business corporation or of record;
- 3 (6) The statement of the benefit director described in  
4 section -7(c);
- 5 (7) A statement of any connection to the third-party  
6 standard under section -12, or its directors,  
7 officers, or material owners from the sustainable  
8 business corporation, or its directors, officers, and  
9 material owners, including any financial or governance  
10 relationship that might materially affect the  
11 credibility of the objective assessment of the third-  
12 party standard; and
- 13 (8) A statement that, as a private corporation under the  
14 direction of its board and accountable to its  
15 shareholders and the articles and bylaws of the  
16 sustainable business corporation, including those  
17 governing the general or specific public benefit  
18 purpose and the activities of the sustainable business  
19 corporation, the sustainable business corporation and  
20 its activities are subject to the oversight of the  
21 board of the sustainable business corporation and are





1 not subject to the direct oversight, regulation, or  
2 endorsement of any governmental body.

3 (b) A sustainable business corporation shall post a draft  
4 of its benefit report on the public section of its website, or  
5 make it otherwise available to the public, for a sixty-day  
6 public comment period prior to final publication of the benefit  
7 report. The deadline for a commentary shall be published in a  
8 publicly accessible manner.

9 (c) The benefit report shall be sent annually to each  
10 shareholder within one hundred twenty days following the end of  
11 the fiscal year of the sustainable business corporation.

12 (d) A sustainable business corporation shall post its most  
13 recent benefit report on the public portion of its website, if  
14 any, except that the compensation paid to directors and any  
15 financial or proprietary information included in the benefit  
16 report may be omitted from the benefit report as posted. If a  
17 sustainable business corporation does not have a public website,  
18 it shall deliver a copy of its most recent benefit report upon  
19 request and without charge to any person who requests a copy.

20 § -12 **Third-party standard.** A third-party standard for  
21 purposes of defining, reporting, and assessing overall corporate



1 social and environmental performance of a sustainable business  
2 corporation subject to this chapter shall be:

3 (1) Comprehensive in its assessment of the effect of the  
4 business and its operations upon the interests listed  
5 in section -6(a);

6 (2) Developed by an organization that is independent of  
7 the sustainable business corporation; and

8 (3) Transparent because the following information is  
9 publicly available:

10 (A) The criteria considered when measuring the  
11 overall social and environmental performance of a  
12 business, as well as the relative weightings of  
13 those criteria;

14 (B) The identity of the directors, officers, any  
15 material owners, and the governing body of the  
16 organization that developed and controls  
17 revisions to the standard;

18 (C) The process by which revisions to the standard  
19 are made;

20 (D) The process by which changes to the membership of  
21 the governing body of the organization that



1 developed and controls revisions to the standard  
2 are made; and

3 (E) An accounting of the sources of financial support  
4 for the organization that developed and controls  
5 revisions to the standard, with sufficient detail  
6 to disclose any relationships that could  
7 reasonably be considered to present a potential  
8 conflict of interest.

9 § -13 Ministerial role of department director. Section  
10 414-16 shall apply to any filings made by a sustainable business  
11 corporation."

12 SECTION 2. This Act shall take effect on July 1, 2112.



**Report Title:**

Business Regulation; Sustainable Business Corporations

**Description:**

Establishes an organizational and regulatory framework for sustainable business corporations. Effective July 1, 2112.  
(SB298 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

