

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **April 28, 2021**

GLACIER BANCORP, INC.

(Exact name of registrant as specified in its charter)

Montana
(State or other jurisdiction
of incorporation)

000-18911
(Commission
File Number)

81-0519541
(IRS Employer
Identification No.)

49 Commons Loop Kalispell, Montana
(Address of principal executive offices)

59901
(Zip Code)

(406) 756-4200
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value	GBCI	NASDAQ Global Select Market

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On April 28, 2021, the shareholders of Glacier Bancorp, Inc. (the “Company”), approved an amendment (the “Articles Amendment”) to the Company’s Amended and Restated Articles of Incorporation (the “Articles”) to provide for indemnification of directors and officers of the Company to the fullest extent authorized or permitted under the Montana Business Corporation Act (the “MBCA”). At a meeting held on April 28, 2021, the Board of Directors of the Company (the “Board”) also approved an amendment (the “Bylaws Amendment”) to the Company’s Bylaws (the “Bylaws”) intended to coordinate the indemnification provisions of the Articles, as amended, with similar provisions of the Bylaws.

The Articles Amendment provides for indemnification of directors and officers in the Articles, which was previously addressed in the Bylaws. The MBCA was amended effective June 1, 2020, to permit broader indemnification of a corporation’s directors than had been authorized under the statutory provisions previously in effect, provided that the corporation’s articles of incorporation include such authority. The Articles Amendment adds the indemnification provision to the Articles, and as a result, directors will be entitled to indemnification to the fullest extent now permitted by Montana law. The Bylaws Amendment coordinates the indemnification provisions of Article VI of the Bylaws with those in the Articles, as amended.

In addition to coordination of the indemnification provisions in the Articles and the Bylaws, the Bylaws Amendment also provides that the Company may, but is not obligated to, indemnify any employee or agent of the Company, and advance the reasonable expenses of such persons, if authorized by the Board.

The Articles Amendment was filed with the Montana Secretary of State on April 30, 2021.

A copy of the Amendment to the Amended and Restated Articles of Incorporation is included as Exhibit 3.1 to this current report on Form 8-K, and a copy of the Amended and Restated Bylaws is included as Exhibit 3.2 to this current report on Form 8-K, and each is incorporated by reference.

Item 5.07. Submission of Matters to a Vote of Security Holders.

The 2021 Annual Meeting of Shareholders (“Annual Meeting”) of the Company was held virtually on April 28, 2021. The following matters were voted upon at the Annual Meeting:

1. The election of 10 directors to serve on the board of directors until the 2022 annual meeting;
2. Amendment to the Amended and Restated Articles of Incorporation to provide for indemnification of directors and officers;
3. Consideration of an advisory (non-binding) resolution to approve the compensation of the Company’s named executive officers; and
4. Ratification of the appointment of BKD, LLP as the Company’s independent registered public accounting firm for the fiscal year ending December 31, 2021.

The following is a summary of the voting results for the matters voted upon by the shareholders:

1. Election of Directors

Director's Name	Votes For	Votes Withheld	Broker Non-Votes
David C. Boyles	73,298,346	1,615,639	7,525,132
Robert A. Cashell, Jr.	74,748,859	165,126	7,525,132
Randall M. Chesler	74,468,317	445,668	7,525,132
Sherry L. Cladouhos	73,188,992	1,724,993	7,525,132
James M. English	61,292,859	13,621,126	7,525,132
Annie M. Goodwin	73,306,245	1,607,740	7,525,132
Kristen L. Heck	74,776,145	137,840	7,525,132
Craig A. Langel	72,932,842	1,981,143	7,525,132
Douglas J. McBride	73,032,952	1,881,033	7,525,132
George R. Sutton	73,294,043	1,619,942	7,525,132

Receiving a plurality of the votes cast, those nominated are the newly elected directors of the Company. They will hold office until their successors are elected and qualified or until they resign or are removed from office.

2. Amendment to the Amended and Restated Articles of Incorporation to Provide for Indemnification of Directors and Officers

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
73,940,616	213,321	760,048	7,525,132

The amendment to the Amended and Restated Articles of Incorporation to provide for indemnification of directors and officers is approved.

3. Advisory (Non-Binding) Resolution to Approve Named Executive Compensation

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
72,650,413	2,038,122	225,450	7,525,132

The advisory resolution to approve the compensation of the Company's named executive officers is approved.

4. Ratification of Appointment of Independent Registered Public Accounting Firm

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>
82,060,955	298,633	79,529

BKD, LLP is ratified as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2021.

Item 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits:

See Exhibit Index below.

EXHIBIT INDEX

<u>Exhibit</u>	<u>Description</u>
3.1	<u>Amendment to Amended and Restated Articles of Incorporation of Glacier Bancorp, Inc.</u>
3.2	<u>Amended and Restated Bylaws of Glacier Bancorp, Inc.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: May 4, 2021

GLACIER BANCORP, INC.

/s/ Randall M. Chesler

By: Randall M. Chesler

President and Chief Executive Officer

**AMENDMENT
TO
AMENDED AND RESTATED ARTICLES OF INCORPORATION
GLACIER BANCORP, INC.**

Article 8 of the Amended and Restated Articles of Incorporation of Glacier Bancorp, Inc. (the “**Corporation**”), dated June 2, 2008, is amended and replaced in its entirety with the following:

Article 8. Limitation of Liability of Directors and Officers; Indemnification.

8.1 Limitation of Liability.

The personal liability of the directors and officers of the Corporation for monetary damages shall be eliminated to the fullest extent permitted by the MBCA as it exists on the effective date of these Articles of Incorporation or as such law may be thereafter in effect. No amendment or repeal of this Article 8.1 shall adversely affect the rights provided hereby with respect to any claim, issue, or matter in any proceeding that is based in any respect on any alleged action or failure to act prior to such amendment or repeal.

8.2 Indemnification.

The Corporation shall indemnify any person made or threatened to be made a party to any proceeding by reason of the fact that such person is or was a director or officer of the Corporation or any predecessor of the Corporation, or who, while a director or officer of the Corporation, is or was serving at the Corporation’s request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against expenses (including attorneys’ fees), judgments, fines, excise taxes, and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding to the fullest extent authorized or permitted by the MBCA, as now or hereafter in effect. Notwithstanding the foregoing, the Corporation shall not be liable for any amounts which may be due in connection with a settlement of any proceeding effected without its prior written consent. In addition, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer in connection with a proceeding initiated by such person unless such proceeding was authorized or consented to by the Board of Directors. No amendment or repeal of this Article 8.2 shall alter, to the detriment of such person, the right of such person to indemnification related to a claim or proceeding based on an act or failure to act which took place prior to such amendment or repeal.

**AMENDED AND RESTATED BYLAWS
OF
GLACIER BANCORP, INC.**

ARTICLE I. OFFICES

1.1 Registered Office and Registered Agent. The registered office of Glacier Bancorp, Inc. (the "Corporation") shall be located in the State of Montana at such place as may be fixed from time to time by the Board of Directors upon filing of such notices as may be required by law, and the registered agent shall have a business office identical with such registered office.

1.2 Other Offices. The Corporation may have other offices within or without the State of Montana at such place or places as the Board of Directors may from time to time determine.

ARTICLE II. STOCKHOLDERS' MEETINGS

2.1 Meeting Place. All meetings of the shareholders shall be held at the principal place of business of the Corporation, or at such other place within or without the State of Montana as shall be determined from time to time by the Board of Directors, and the place at which any such meeting shall be held shall be stated in the notice of the meeting.

2.2 Annual Meeting Time. The annual meeting of the shareholders for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held each year on the last Wednesday of April at the hour of 9:00 a.m., if not a legal holiday, and if a legal holiday, then on the day following, at the same hour, or at such other date and time as may be determined by the Board of Directors and stated in the notice of such meeting.

2.3 Organization. Each meeting of the shareholders shall be presided over by the Chairman of the Board, the President, or in the absence of both the Chairman and the President, a chairman of the meeting as designated by the Board of Directors. The Secretary, or in his absence a temporary Secretary, shall act as secretary of each meeting of the shareholders. In the absence of the Secretary and any temporary Secretary, the chairman of the meeting may appoint any person present to act as secretary of the meeting. The chairman of any meeting of the shareholders, unless prescribed by law or regulation or unless the Board of Directors has otherwise determined, shall determine the order of the business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussions as seem to him in order.

2.4 Special Meetings. Special meetings of the shareholders, for any purpose or purposes, may be called at any time by the Chairman of the Board, the President or a majority of the Board of Directors and shall be called by the Chairman of the Board, the President or the Secretary upon the written request of the holders of not less than 10% of the issued and outstanding capital stock of the Corporation entitled to vote on the matter for which the meeting is called, voting together as a single class.

2.5 Notice.

(a) Notice of the time and place of the annual meeting of shareholders shall be given by delivering personally or by mailing a written or printed notice of the same, at least ten days and not more than sixty days prior to the meeting, to each shareholder of record entitled to vote at such meeting. When any shareholders' meeting, either annual or special, is adjourned for 120 days or more, or if a new record date is fixed for an adjourned meeting of shareholders, notice of the adjourned meeting shall be given as in the case of an original meeting. It shall not be necessary to give any notice of the time and place of any meeting adjourned for less than 120 days or of the business to be transacted thereat (unless a new record date is fixed therefor), other than an announcement at the meeting at which such adjournment is taken.

(b) At least ten days and not more than sixty days prior to the meeting, a written or printed notice of each special meeting of shareholders, stating the place, day and hour of such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be either delivered personally or mailed to each shareholder of record entitled to vote at such meeting.

2.6 Shareholders' List for Meeting. No later than two (2) business days after notice is given of any meeting of shareholders, a complete record of the shareholders entitled to vote at such meeting, or any adjournment thereof, shall be made available to shareholders, arranged in alphabetical order, with the address of and number of shares held by each. The record shall be kept open at the time and place of such meeting for the inspection of any shareholder.

2.7 Quorum: Actions of Shareholder. Except as otherwise required by law:

(a) A quorum at any annual or special meeting of shareholders shall consist of shareholders representing, either in person or by proxy, a majority of the outstanding capital stock of the Corporation entitled to vote at such meeting.

(b) The votes of a majority in interest of those present at any properly called meeting or adjourned meeting of shareholders at which a quorum, as defined above, is present, shall be sufficient to transact business.

2.8 Voting of Shares.

(a) Except as otherwise provided in these Bylaws or to the extent that voting rights of the shares of any class or classes are limited or denied by the Articles of Incorporation, each shareholder,

on each matter submitted to a vote at a meeting of shareholders, shall have one vote for each share of stock registered in his name on the books of the Corporation.

(b) Directors are to be elected by a plurality of votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. Shareholders shall not be permitted to cumulate their votes for the election of directors. If, at any meeting of the shareholders, due to a vacancy or vacancies or otherwise, directors of more than one class of the

Board of Directors are to be elected, each class of directors to be elected at the meeting shall be elected in a separate election by a plurality vote.

2.9 Fixing of the Record Date. The Board of Directors may fix in advance a record date for determining shareholders entitled to notice of or to vote at any meeting of shareholders, or any adjournment thereof, or entitled to receive payment of any dividend. Such date shall be not more than seventy days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action requiring such determination of shareholders is to be taken.

2.10 Proxies. A shareholder may vote either in person or by proxy executed in writing by the shareholder, or his duly authorized attorney-in-fact. Without limiting the manner in which a shareholder may authorize another person or persons to act for him as proxy, a shareholder may grant such authority in the manner specified in Section 35-1-525 (or any successor thereto) of the Montana Business Corporation Act (“MBCA”). No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

2.11 Waiver of Notice. A waiver of any notice required to be given any shareholder, signed by the person or persons entitled to such notice, whether before or after the time stated therein for the meeting, shall be equivalent to the giving of such notice.

2.12 Voting of Shares in the Name of Two or More Persons. When ownership stands in the name of two or more persons, in the absence of written directions to the Corporation to the contrary, at any meeting of the shareholders of the Corporation any one or more of such shareholders may cast, in person or by proxy, all votes to which such ownership is entitled. In the event an attempt is made to cast conflicting votes, in person or by proxy, by the several persons in whose names shares of stock stand, the vote or votes to which those persons are entitled shall be cast as directed by a majority of those holding such stock and present in person or by proxy at such meeting, but no votes shall be cast for such stock if a majority cannot agree.

2.13 Voting of Shares by Certain Holders. Shares standing in the name of another corporation may be voted by an officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the Board of Directors of such corporation may determine. Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name. Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority to do so is contained in an appropriate order of the court or other public authority by which such receiver was appointed. A shareholder whose shares are pledged shall be entitled to vote such shares until the

shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

2.14 Proposals. At an annual meeting of the shareholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before the meeting by a shareholder. For business to be properly brought before an annual meeting by a shareholder, the shareholder must have given timely notice thereof in writing to the Secretary of the Corporation and such other business must otherwise be a proper matter for shareholder action. To be timely a shareholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not later than 120 days prior to the anniversary date of the mailing of proxy materials by the Corporation in connection with the immediately preceding annual meeting. In no event will the public announcement of an adjournment of a shareholders meeting commence a new time period for the giving of a shareholder's notice as described above. A shareholder's notice to the Secretary shall set forth as to each matter the shareholder proposes to bring before the annual meeting (a) a brief description of the business desires to be brought before the annual meeting; (b) the name and address, as they appear on the Corporation's books, of the shareholder proposing such business; (c) the class and number of shares of the Corporation which are beneficially owned by the shareholder; (d) any material interest of the shareholder in such business; and (e) any other information that is required to be provided by the shareholder pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "1934 Act") (or any successor thereto) in such shareholder's capacity as a proponent of a shareholder proposal. The chairman of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Article II, Section 2.14, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. This provision is not a limitation on any other applicable laws and regulations.

2.15 Inspectors. For each meeting of shareholders, the Board of Directors shall appoint one or more inspectors of election. If for any meeting the inspector(s) appointed by the Board of Directors shall be unable to act or the Board of Directors shall fail to appoint any inspector, one or more inspectors shall be appointed at the meeting by the chairman thereof. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. An inspector or inspectors shall (i) ascertain the number of shares outstanding and the voting power of each, (ii) determine the shares represented at a meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors and (v) certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. An inspector or inspectors shall not accept a ballot, proxy or vote, nor any revocations thereof or changes thereto, after the closing of the polls (unless a court of competent jurisdiction, upon application by a shareholder, shall determine

otherwise) and may appoint or retain other persons or entities to assist them in the performance of their duties. Inspectors need not be shareholders and may not be nominees for election as directors.

2.16 Informal Action by Shareholders. Any action required to be taken at a meeting of the shareholders, or any other action which may be taken at a meeting of the shareholders, may be taken without a meeting if consent in writing, setting forth the action so taken, shall be given by all of the shareholders entitled to vote with respect to the subject matter thereof.

ARTICLE III. CAPITAL STOCK

3.1 Certificates. Shares may but need not be represented by Certificates. Certificates, if utilized, shall be signed by the Chairman of the Board or the President, and the Secretary or the Treasurer, or any other two officers as may be designated by the Board of Directors, and may be sealed with the seal of the Corporation or a facsimile thereof. The signatures of such officers may be facsimiles. If an officer who has signed or whose facsimile signature has been placed upon such certificate ceases to be an officer before the certificate is issued, it may be issued by the Corporation with the same effect as if the person were an officer on the date of issue. Each newly-issued certificate of stock shall state:

- (a) the name of the Corporation and that it is organized under the laws of the State of Montana;
- (b) the name of the person to whom issued; and
- (c) the number and class of shares and the designation of the series, if any, which such certificate represents.

3.2 Transfers.

(a) Transfers of stock shall be made only upon the stock transfer books of the Corporation, kept at the registered office of the Corporation or at its principal place of business, or at the office of its transfer agent or registrar, and before a new certificate is issued the old certificate shall be surrendered for cancellation. The Board of Directors may, by resolution, open a share register in any state of the United States, and may employ an agent or agents to keep such register, and to record transfers of shares therein.

(b) Shares of stock shall be transferred by delivery of the certificates therefor, accompanied either by an assignment in writing on the back of the certificate or an assignment separate from the certificate, or by a written power of attorney to sell, assign and transfer the same, signed by the holder of said certificate. No shares of stock shall be transferred on the books of the Corporation until the outstanding certificates therefor have been surrendered to the Corporation.

3.3 Registered Owner. Registered shareholders shall be treated by the Corporation as the holders in fact of the stock standing in their respective names and the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share on the part of any other person, whether or not it shall have express or other notice thereof, except as expressly provided by the laws of the State of Montana.

3.4 Mutilated, Lost or Destroyed Certificates. In case of any mutilation, loss or destruction of any certificate of stock, another may be issued in its place upon receipt of proof of such mutilation, loss or destruction. The Board of Directors may impose conditions on such issuance and may require the giving of a satisfactory bond or indemnity to the Corporation in such sum as it may determine or establish such other procedures as it may deem necessary.

3.5 Fractional Shares or Scrip. The Corporation may (a) issue fractions of a share which shall entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the Corporation in the event of liquidation; (b) arrange for the disposition of fractional interests by those entitled thereto; (c) pay in cash the fair value of fractions of a share as of the time when those entitled to receive such shares are determined; or (d) issue scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share.

3.6 Shares of Another Corporation. Shares owned by the Corporation in another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the Board of Directors may determine or, in the absence of such determination, by the President of the Corporation.

ARTICLE IV. BOARD OF DIRECTORS

4.1 Powers. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, which may exercise all such authority and powers of the Corporation and do all such lawful acts and things as are not by law, the Articles of Incorporation, or these Bylaws directed or required to be exercised or done by the shareholders.

4.2 Term. The Board of Directors shall be elected in the manner provided in the Corporation's Articles of Incorporation.

4.3 Number of Directors. The number of directors shall be determined in the manner provided in the Corporation's Articles of Incorporation.

4.4 Vacancies. All vacancies in the Board of Directors shall be filled in the manner provided in the Corporation's Articles of Incorporation.

4.5 Removal of Directors. Directors may be removed in the manner provided in the Corporation's Articles of Incorporation.

4.6 Regular Meetings. Regular meetings of the Board of Directors or any committee thereof may be held without notice at the principal place of business of the Corporation or at such other place or places, either within or without the State of Montana, as the Board of Directors or such committee, as the case may be, may from time to time designate. The annual meeting of the Board of Directors may be held without notice immediately after the adjournment of the annual meeting of shareholders.

4.7 Special Meetings.

(a) Special meetings of the Board of Directors may be called at any time by the Chairman of the Board, the President or by a majority of the authorized number of directors, to be held at the principal place of business of the Corporation or at such other place or places as the Board of Directors or the person or persons calling such meeting may from time to time designate. Notice of all special meetings of the Board of Directors shall be given to each director by two days' service of the same by telephone, facsimile, e-mail, mail or in person. Such notice need not specify the business to be transacted at, or the purpose of, the meeting.

(b) Special meetings of any committee of the Board of Directors may be called at any time by such person or persons and with such notice as shall be specified for such committee by the Board of Directors, or in the absence of such specification, in the manner and with the notice required for special meetings of the Board of Directors.

4.8 Waiver of Notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. A waiver of notice signed by the director or directors, whether before or after the time stated for the meeting, shall be equivalent to the giving of notice.

4.9 Quorum; Actions of the Board of Directors. Except as may be otherwise specifically provided by law, the Articles of Incorporation or these Bylaws, at all meetings of the Board of Directors, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

4.10 Action by Directors Without a Meeting. Any action required or which may be taken at a meeting of the directors, or of a committee thereof, may be taken without a meeting if a consent in writing, setting forth the action so taken or to be taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

4.11 Action by Directors by Communications Equipment. Any action required or which may be taken at a meeting of directors, or of a committee thereof, may be taken by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time.

4.12 Registering Dissent. A director who is present at a meeting of the Board of Directors at which action on a corporate matter is taken shall be presumed to have assented to such action unless his dissent shall be entered in the minutes of the meeting, or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting, before the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

4.13 Executive and Other Committees. Standing or special committees may be appointed from its own number by the Board of Directors from time to time and the Board of Director may from time to time invest such committees with such powers as it may see fit, subject to such conditions as may be prescribed by the Board. An Executive Committee may be appointed by resolution passed by a majority of the full Board of Directors. It shall have and exercise all of the authority of the Board of Directors, except with respect to those matters identified in Section 35-1-439(4) (or any successor thereto) of the MBCA. The designation of any such committee, and the delegation of authority thereto, shall not relieve the Board of Directors, or any member thereof, of any responsibility imposed by law.

4.14 Remuneration. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors and/or a stated salary as director. Members of special or standing committees may be allowed like compensation for attending committee meetings. No such payments shall preclude

any director from serving the Corporation in any other capacity and receiving compensation therefor. The Board of Directors or a committee thereof may fix the compensation for directors.

4.15 Nominations of Directors. Subject to the rights of holders of any class or series of stock having a preference over the common stock as to dividends or upon liquidation, nominations for the elected of directors may be made by the Board of Directors or committee appointed by the Board of Directors or by any shareholder entitled to vote generally in an election of director. However, any shareholder entitled to vote generally in an election of directors may nominate one or more persons for election as directors at a meeting only if written notice of such shareholder's intent to make such nomination or nominations has been given, either by personal delivery or by United States mail, postage prepaid to the Secretary of the Corporation not later than 120 days prior to the anniversary date of the mailing of proxy materials by the Corporation in connection with the immediately preceding annual meeting. In no event will the public announcement of an adjournment of a shareholders meeting commence a new time period for the giving of a shareholder's notice as described above. Each such notice shall set forth: (a) the name and address of the shareholder who intends to make the nomination and of the person or persons to be nominated; (b) a representation that the shareholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (c) a description of all arrangements or understandings between the shareholder and each nominee and any arrangements or understandings between the shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the shareholder; (d) such other information regarding each nominee proposed by such shareholder as would be required to be included in a proxy statement for elections of directors, or is otherwise required, in each case pursuant to Regulation 14A (or any successor thereto) under the 1934 Act; and (e) the consent of each nominee to serve as a director of the Corporation if so elected. No person will be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Article IV, Section 4.15. Upon the receipt of a shareholder nomination made in accordance with the procedures prescribed by these Bylaws, such nomination shall be evaluated by the Corporation's Governance/Nominating Committee (or any successor thereto) in accordance with its evaluation

procedures, in order to determine whether such nominee should be included in the slate of persons recommended by the Board of Directors to the Corporation's shareholders for election at the next annual meeting. The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedures, and if the chairman so determines, the defective nomination will be disregarded.

ARTICLE V. OFFICERS

5.1 Designations. The officers of the Corporation shall be a Chairman of the Board, a President, a Secretary and a Treasurer, as well as such Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board may designate, who shall be elected for one year by the directors at their first meeting after the annual meeting of shareholders, and who shall hold office until their successors are elected and qualified. Any two or more offices may be held by the same person, except the offices of President and Secretary.

5.2 Powers and Duties. The officers of the Corporation shall have such authority and perform such duties as the Board of Directors may from time to time authorize or determine. In the absence of action by the Board of Directors, the officers shall have such powers and duties as generally pertain to their respective offices.

5.3 Delegation. In the case of absence or inability to act of any officer of the Corporation and of any person herein authorized to act in his place, the Board of Directors may from time to time delegate the powers or duties of such officer to any other officer or any director or other person whom it may select.

5.4 Vacancies. Vacancies in any office arising from any cause may be filled by the Board of Directors at any regular or special meeting of the Board.

5.5 Other Officers. Directors may appoint such other officers and agents as it may deem necessary or expedient, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

5.6 Term - Removal. The officers of the Corporation shall hold office until their successors are chosen and qualified. Any officer or agent elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

5.7 Bonds. The Board of Directors may, by resolution, require any and all of the officers to give bonds to the Corporation, with sufficient surety or sureties, conditions for the faithful performance of the duties of their respective offices, and to comply with such other conditions as may from time to time be required by the Board of Directors.

**ARTICLE VI. INDEMNIFICATION, ETC. OF DIRECTORS,
OFFICERS AND EMPLOYEES**

6.1 Mandatory Indemnification The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or officer of the Corporation or any predecessor of the Corporation, or is or was serving at the request of the Corporation or any predecessor of the partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines, excise taxes and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding to the fullest extent authorized by the MBCA, as now or hereafter in effect. Notwithstanding the foregoing, the Corporation shall not be liable for any amounts which may be due to connection with a settlement of any proceeding effected without its prior written consent. In addition, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer in connection with a proceeding initiated by such person unless such proceeding was authorized or consented to by the Board of Directors.

6.2 Advancement of Expenses. Reasonable expenses (including attorneys' fees) incurred by a director or officer of the Corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding described in Article VI, Section 6.1 shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors, subject to the requirements of Section 35-1-454 (or any successor thereto) of the MBCA.

6.3 Permissive Indemnification. The Corporation may, but shall not be obligated to, indemnify any employee or agent of the Corporation, and advance the reasonable expenses of such persons, to the same extent provided in Article VI, Section 6.1 and Section 6.2, if authorized by the Board of Directors.

6.4 Other Rights and Remedies. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Corporation's Articles of Incorporation, any agreement, vote of shareholders or disinterested directors or otherwise, both as to actions in their official capacity and as to actions in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer or employee and shall inure to the benefit of the heirs, executors and administrators of such person; provided, however, that any such indemnification right is valid only to the extent that it is consistent with Sections 35-1-451 through 35-1-459 (or any successors thereto) of the MBCA.

6.5 Insurance. Upon resolution passed by the Board, the Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer or employee of the Corporation, or is or was serving at the request of the Corporation as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or incurred by him in any such capacity or arising out of his status

as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of its Articles of Incorporation or this Article VI.

6.6 Modification. The duties of the Corporation to indemnify and to advance expenses to a director or officer provided in this Article VI shall be in the nature of a contract between the Corporation and each such person, and no amendment or repeal of any provision of this Article VI shall alter, to the detriment of such person, the right of such person to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment or repeal.

ARTICLE VII. DIVIDENDS; FINANCE; AND FISCAL YEAR

7.1 Dividends. Subject to the applicable provisions of the MBCA, dividends upon the capital stock of the Corporation may be declared by the Board of Directors at any regular or special meeting, and may be paid in cash, in property or in shares of the capital stock of the Corporation. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, may deem proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for any other proper purpose, and the Board of Directors may modify or abolish any such reserve.

7.2 Disbursements. All checks or demand for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

7.3 Depositories. The monies of the Corporation shall be deposited in the name of the Corporation in such bank or banks or trust company or trust companies as the Board of Directors shall designate, and shall be drawn out only by check or other order for payment of money signed by such persons and in such manner as may be determined by resolution of the Board of Directors.

7.4 Fiscal Year. The fiscal year of the Corporation shall end on the 31st day of December of each year.

ARTICLE VIII. NOTICES

Except as may otherwise be required by law, any notice to any shareholder or director may be delivered personally or by mail. If mailed, the notice shall be deemed to have been delivered when deposited in the United State mail, addressed to the addressee at his last known address in the records of the Corporation, with postage thereon prepaid.

ARTICLE IX. SEAL

The corporate seal of the Corporation shall be in such form and bear such inscription as may be adopted by resolution of the Board of Directors, or by usage of the officers on behalf of the Corporation.

ARTICLE X. BOOKS AND RECORDS

The Corporation shall keep correct and complete books and records of account and shall keep minutes and proceedings of its shareholders and Board of Directors (including committees thereof); and it shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each. Any books, records and minutes may be in written form or any other form capable of being converted into written form within a reasonable time.

ARTICLE XI. AMENDMENTS

11.1 Amendments. These Bylaws may be altered, amended or repealed by the affirmative vote of a majority of the Board of Directors or by the affirmative vote of the holders of a majority of the votes cast by shareholders of the Corporation at an annual or special meeting of the shareholders.

11.2 Emergency Bylaws. The Board of Directors may adopt emergency Bylaws, subject to repeal or change or by action of the shareholders, which shall be operative during any emergency in the conduct of the business of the Corporation resulting from an attack on the United States or any nuclear or atomic disaster.

ARTICLE XII. USE OF PRONOUNS

Use of the masculine gender in these Bylaws shall be considered to represent either masculine or feminine gender whenever appropriate.