§856. Determination and authorization of indemnification

1. Prerequisites to indemnity. A corporation may not indemnify a director under section 852, subsection 1 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in section 852.
[PL 2003, c. 344, Pt. B, §68 (AMD).]

2. Determination of permissibility. A determination under subsection 1 that indemnification is permissible must be made:

A. If there are 2 or more qualified directors, by the corporation's board of directors by a majority vote of all the qualified directors, a majority of whom for this purpose constitutes a quorum, or by a majority of the members of a committee of 2 or more qualified directors appointed by a majority vote of all the qualified directors; [PL 2007, c. 289, §25 (AMD).]

B. By special legal counsel:

(1) Selected in the manner prescribed in paragraph A; or

(2) If there are fewer than 2 qualified directors, selected by the corporation's board of directors in which selection directors who are not qualified directors may participate; or [PL 2007, c. 289, §25 (AMD).]

C. By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director may not be voted on the determination. [PL 2007, c. 289, §25 (AMD).]
[PL 2007, c. 289, §25 (AMD).]

3. Authorization process. Authorization of indemnification must be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than 2 qualified directors or if the determination is made by special legal counsel, authorization of indemnification must be made by those entitled to select special legal counsel under subsection 2, paragraph B, subparagraph (2).
[PL 2007, c. 289, §26 (AMD).]

SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B68 (AMD). PL 2007, c. 289, §§25, 26 (AMD).

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