

64. Indemnification of Directors [and], Officers [.] , *Employees and Agents.*

[(a) Any corporation of this State may (i) indemnify any person who is serving or has served as a director or officer of the corporation or, at its request, as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil, criminal or administrative, in which he is made a party by reason of being or having been a director or officer of the corporation, or of such other corporation, except in relation to matters as to which such person is adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the corporation, and (ii) make other indemnification of such a person, but only if authorized by the charter, by a by-law provision adopted prior to the issuance or subscription for any stock of the corporation, or by resolution, by-law provision or agreement which has been approved by the stockholders after notice.]

[(b) A grant of indemnification, if made pursuant to clause (i) of subsection (a), or a claim of right under a grant of indemnification if so made, or a claim of right to or grant of indemnification pursuant to any charter provision, resolution, by-law or agreement authorized under clause (ii) of subsection (a) may, but need not, be asserted or submitted for adjudication by the corporation or by the person claiming indemnification, by filing a petition in the proceeding against such person (if such proceeding is a civil proceeding in a court of record in which the corporation is or may be made a party), or in a subsequent proceeding instituted for that purpose in a court of equity of the county in which is located the principal office of the corporation. After notice and, if requested, a hearing, the court shall pass a decree either dismissing the proceeding or fixing the amount to which the person is entitled.]

*(a) Any corporation of this State may 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 (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise. The indemnification may be against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.*