

# Legal issues and family matters



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## **SEC registration of local Baptist churches; differences between a corporation sole and a religious aggregate or society; samples of Constitution and By-Laws for churches**

If a church is not registered with the Securities and Exchange Commission, is it an illegal church? A veteran pastor I talked to several years ago had problems with some members who eventually left and formed their own group. When these members found out that their original church was not registered with the SEC, they claimed that the church was an illegal church.

Registration with the SEC gives the church a legal personality, but a church can exist and function even without such registration. One good reason for registering a church with the SEC, however, is so that the church property can be titled in the name of the church itself, not in the name of the pastor or of some church members.

By registering with the SEC, churches in a way are giving up some of their autonomy by agreeing to be bound by the laws of our country. Romans chapter 13 however is very instructive:

- 1. Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.*
- 2. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.*
- 3. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the*

*power? do that which is good, and thou shalt have praise of the same:*

*4. For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil.*

*5. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake.*

**In case of disputes or disagreements that eventually reach our judicial system, the courts will refer to the Constitution and By-Laws of the church for the resolution of the case.** Splits or disputes are intra-corporate disputes and are under the jurisdiction of the Regional Trial Courts designated as commercial courts. The SEC no longer has jurisdiction over intra-corporate disputes in view of the Securities Regulation Code. **In cases of disputes involving doctrine however, there is a Supreme Court ruling which states that these are beyond the jurisdiction of secular courts.**

The essential provisions of the Corporation Code relevant to churches are Section 2 (definition of corporation), Section 36 (corporate powers and capacity), Section 91 (termination of membership), and Sections 109 up to 116 (religious corporations).

## **Basically, the steps in registering a church with the SEC are the following:**

1. Name verification and reservation - you have to find out either through the SEC's website or through its Public Research Unit/Name Verification office at EDSA whether the proposed name for your church is still available, that is, it is not already being used by another registered church. For example, there are already a lot of

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churches carrying the name “Faith Baptist Church.” What you can do if you still want to use that name is to add something else to the name, for example, “Faith Baptist Church of Bgy. Diliman, Quezon City.”

If the church name you applied for is available, you can have the name reserved from 30 to 90 days; the longer the reservation period, the higher the fee. During that period, when you are working on the documents required for the registration, no one else can apply for registration with that reserved name.

2. The SEC has ready made forms for a Constitution and By-Laws (the last time I asked, these forms cost about four hundred pesos). After submitting all the requirements and paying all the fees, the certificate of registration will subsequently be issued by the Corporate and Legal Department of the SEC.

3. The SEC also asks certain reportorial requirements to be submitted to it on a periodic basis. Failure to submit these requirements can lead to the revocation of the SEC registration.

## Samples of Constitution and By-Laws

As you can see from the provisions of the Corporation Code cited above, you can register your church either as a corporation sole or as a religious society/religious aggregate. The ready made Constitution and By-Laws provided by the SEC are not really suitable for local Baptist churches. If you use the Constitution and By-Laws provided by the SEC, one good practice is to attach to the said documents a copy of your church’s Articles of Faith.

**Instead of relying on these ready made forms from the SEC, churches here in the Philippines can use as a pattern the Constitution and Bylaws of Baptist churches in the USA or Canada, incorporating the changes necessary or desirable under Philippine conditions, denominational affiliation, Baptist organization or fellowship.** You can search Google or Yahoo using the search expression “*Baptist church*” + “*Constitution and Bylaws*”. In terms of writing and clarity of procedures, the Constitution and Bylaws of the First Baptist Church of Harvester in Missouri, USA is the best I have seen. You can also find sample Constitutions from the Canadian Convention of Southern Baptists website. The Church Planting Group of the

North American Mission Board (SBC) also offers a readily adaptable sample Constitution for local churches.

## Differences between corporation sole and religious society or aggregate

The Corporation Code of the Philippines provides:

**Sec. 109. Classes of religious corporations.** - *Religious corporations may be incorporated by one or more persons. Such corporations may be classified into corporations sole and religious societies.*

*Religious corporations shall be governed by this Chapter and by the general provisions on non-stock corporations insofar as they may be applicable.*

**Sec. 110. Corporation sole.** - *For the purpose of administering and managing, as trustee, the affairs, property and temporalities of any religious denomination, sect or church, a corporation sole may be formed by the chief archbishop, bishop, priest, minister, rabbi or other presiding elder of such religious denomination, sect or church.*

**Sec. 111. Articles of incorporation.** - *In order to become a corporation sole, the chief archbishop, bishop, priest, minister, rabbi or presiding elder of any religious denomination, sect or church must file with the Securities and Exchange Commission articles of incorporation setting forth the following:*

1. *That he is the chief archbishop, bishop, priest, minister, rabbi or presiding elder of his religious denomination, sect or church and that he desires to become a corporation sole;*

2. *That the rules, regulations and discipline of his religious denomination, sect or church are not inconsistent with his becoming a corporation sole and do not forbid it;*

3. *That as such chief archbishop, bishop, priest, minister, rabbi or presiding elder, he is charged with the administration of the temporalities and the management of the affairs, estate and properties of his religious denomination, sect or church within his territorial jurisdiction, describing such territorial jurisdiction;*

4. *The manner in which any vacancy occurring in the office of chief archbishop, bishop, priest, minister, rabbi of presiding elder is required to be filled, according to the rules, regulations or discipline of the religious denomination, sect or church to which he belongs; and*

5. *The place where the principal office of the corporation sole is to be established and located, which place must be within the Philippines.*

*The articles of incorporation may include any other provision not contrary to law for the regulation of the affairs of the corporation. (n)*

**Sec. 112. Submission of the articles of incorporation.** - *The articles of incorporation must be verified, before filing, by affidavit or affirmation of the chief archbishop, bishop, priest, minister, rabbi or presiding elder, as the case may be, and accompanied by a copy of the commission, certificate of election or letter of appointment of such chief archbishop, bishop, priest, minister, rabbi or presiding elder, duly certified to be correct by any notary public.*

*From and after the filing with the Securities and Exchange Commission of the said articles of incorporation, verified by affidavit or affirmation, and accompanied by the documents mentioned in the preceding paragraph, such chief archbishop, bishop, priest, minister, rabbi or presiding elder shall become a corporation sole and all temporalities, estate and properties of the religious denomination, sect or church theretofore administered or managed by him as such chief archbishop, bishop, priest, minister, rabbi or presiding elder shall be held in trust by him as a corporation sole, for the use, purpose, behalf and sole benefit of his religious denomination, sect or church, including hospitals, schools, colleges, orphan asylums, parsonages and cemeteries thereof. (n)*

**Sec. 113. Acquisition and alienation of property.** - *Any corporation sole may purchase and hold real estate and personal property for its church, charitable, benevolent or educational purposes, and may receive bequests or gifts for such purposes. Such corporation may sell or mortgage real property held by it by obtaining an order for that purpose from the Court of First Instance of the province where the property is situated upon proof made to the satisfaction of the court that notice of the application for leave to sell or mortgage has been given by publication or otherwise in such*

*manner and for such time as said court may have directed, and that it is to the interest of the corporation that leave to sell or mortgage should be granted. The application for leave to sell or mortgage must be made by petition, duly verified, by the chief archbishop, bishop, priest, minister, rabbi or presiding elder acting as corporation sole, and may be opposed by any member of the religious denomination, sect or church represented by the corporation sole:*

*Provided, That in cases where the rules, regulations and discipline of the religious denomination, sect or church, religious society or order concerned represented by such corporation sole regulate the method of acquiring, holding, selling and mortgaging real estate and personal property, such rules, regulations and discipline shall control, and the intervention of the courts shall not be necessary. (159a)*

**Sec. 114. Filling of vacancies.** - *The successors in office of any chief archbishop, bishop, priest, minister, rabbi or presiding elder in a corporation sole shall become the corporation sole on their accession to office and shall be permitted to transact business as such on the filing with the Securities and Exchange Commission of a copy of their commission, certificate of election, or letters of appointment, duly certified by any notary public.*

*During any vacancy in the office of chief archbishop, bishop, priest, minister, rabbi or presiding elder of any religious denomination, sect or church incorporated as a corporation sole, the person or persons authorized and empowered by the rules, regulations or discipline of the religious denomination, sect or church represented by the corporation sole to administer the temporalities and manage the affairs, estate and properties of the corporation sole during the vacancy shall exercise all the powers and authority of the corporation sole during such vacancy. (158a)*

**Sec. 115. Dissolution.** - *A corporation sole may be dissolved and its affairs settled voluntarily by submitting to the Securities and Exchange Commission a verified declaration of dissolution.*

*The declaration of dissolution shall set forth:*

- 1. The name of the corporation;*
- 2. The reason for dissolution and winding up;*

3. The authorization for the dissolution of the corporation by the particular religious denomination, sect or church;

4. The names and addresses of the persons who are to supervise the winding up of the affairs of the corporation.

Upon approval of such declaration of dissolution by the Securities and Exchange Commission, the corporation shall cease to carry on its operations except for the purpose of winding up its affairs.

**Sec. 116. Religious societies.** - Any religious society or religious order, or any diocese, synod, or district organization of any religious denomination, sect or church, unless forbidden by the constitution, rules, regulations, or discipline of the religious denomination, sect or church of which it is a part, or by competent authority, may, upon written consent and/or by an affirmative vote at a meeting called for the purpose of at least two-thirds (2/3) of its membership, incorporate for the administration of its temporalities or for the management of its affairs, properties and estate by filing with the Securities and Exchange Commission, articles of incorporation verified by the affidavit of the presiding elder, secretary, or clerk or other member of such religious society or religious order, or diocese, synod, or district organization of the religious denomination, sect or church, setting forth the following:

1. That the religious society or religious order, or diocese, synod, or district organization is a religious organization of a religious denomination, sect or church;

2. That at least two-thirds (2/3) of its membership have given their written consent or have voted to incorporate, at a duly convened meeting of the body;

3. That the incorporation of the religious society or religious order, or diocese, synod, or district organization desiring to incorporate is not forbidden by competent authority or by the constitution, rules, regulations or discipline of the religious denomination, sect, or church of which it forms a part;

4. That the religious society or religious order, or diocese, synod, or district organization desires to incorporate for the administration of its affairs, properties and estate;

5. The place where the principal office of the corporation is to be established and located, which place must be within the Philippines; and

6. The names, nationalities, and residences of the trustees elected by the religious society or religious order, or the diocese, synod, or district organization to serve for the first year or such other period as may be prescribed by the laws of the religious society or religious order, or of the diocese, synod, or district organization, the board of trustees to be not less than five (5) nor more than fifteen (15).

## Related issues: Updated list of church members; termination of membership

The church should submit to the SEC at least twice a year (or even on a monthly basis) an updated list of members. This is done through filling up a General Information Sheet (GIS). **Oftentimes, in a church dispute or split, the problems could have been avoided or resolved if the church had an official list of members on file with the SEC.** In a dispute, oftentimes, the parties in conflict would summon people to their side and who would then claim to be members of the church. If there is an official list of members on file with the SEC, a person who is not on the list can be prevented from taking part in the meetings.

**Section 91 of the Corporation Code governs the termination of membership. The manner and grounds for termination must comply with the church's Constitution and By-Laws**

### How to be saved and go to heaven

**Accept that you are a sinner and that your good works, ethical conduct or religion cannot save you.**

Romans 3:10, Romans 3:23

**Believe on the Lord Jesus Christ that He alone can save you.** Romans 6:23, Romans 10:13, Acts 16:31

**Confess and repent of your sins.** Luke 13:3, Isaiah 1:18

**Delay not in receiving Jesus Christ into your heart.** 2 Corinthians 6:2, Proverbs 27:1

**Pray and ask the Lord to save you now:** "Dear Lord, I believe that Christ died and shed His precious blood to save my soul. Be merciful to me a sinner, forgive my sins and save me in Jesus' name. Lord Jesus, I now accept you as my Savior. Amen."

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