§ 6021. Preemptive rights. 1. As used in this section, the term:

(a) "Unlimited dividend rights" means the right without limitation as to amount either to all or to a share of the balance of current or liquidating dividends after the payment of dividends on any shares entitled to a preference.

(b) "Equity shares" means shares of any class, whether or not preferred as to dividends or assets, which have unlimited dividend rights.

(c) "Voting rights" means the right to vote for the election of one or more directors, excluding a right so to vote which is dependent on the happening of an event specified in the organization certificate which would change the voting rights of any class of shares.

(d) "Voting shares" means shares of any class which have voting rights.

(e) "Preemptive right" means the right to purchase shares or other securities to be issued, as such right is defined in this section.

(f) "New shares or securities" means new equity shares of any class or any shares or other securities convertible into equity shares of any class.

2. The preemptive rights provided for in subdivision three of this section shall not apply to new shares or securities of any corporation whose organization certificate is approved on or after the effective date of this subdivision, unless expressly provided for in the organization certificate of such corporation, which may incorporate by reference the preemptive rights set forth in this section, or further modify such preemptive rights.

3. Except as otherwise provided in the organization certificate, and except as provided in this section, in case of the proposed issuance by the corporation of new shares or securities:

(a) if the issuance of the new shares or securities would adversely affect the unlimited dividend rights of the holders of existing equity shares of any class, such holders shall have the right during a reasonable time and on reasonable conditions, both to be fixed by the board, to purchase such new shares or securities in such proportions as shall be determined as provided in this section; and

(b) if such new shares or securities are voting shares of any class and the issuance of the new shares or securities would adversely affect the voting rights of the holders of existing shares of any class, such holders shall have the right during a reasonable time and on reasonable conditions, both to be fixed by the board, to purchase such new shares or other securities in such proportions as shall be determined as provided in this section.

4. The preemptive right provided for in subdivision three of this section shall entitle stockholders having such rights to purchase the shares or other securities to be offered for sale as nearly as practicable in such proportions as would, if such preemptive right were exercised, preserve the relative unlimited dividend rights and voting rights of such holders and at a price or prices not less favorable than the price or prices at which such shares or other securities are proposed to be offered for sale to others, without deduction of such reasonable expenses of and compensation for the sale, underwriting or purchase of such shares or other securities by underwriters or dealers as may lawfully be paid by the corporation. In case each of the shares entitling the holders thereof to preemptive rights does not confer the same unlimited dividend right or voting right, the board shall apportion the shares or other securities to be offered for sale among the stockholders having preemptive rights to purchase them in such proportions as in the opinion of the board shall preserve as far as practicable the relative unlimited dividend rights and voting rights of the holders at the time of such offering. The apportionment made by the board shall, in the absence of fraud or bad faith, be binding upon all stockholders.

5. Unless otherwise provided in the organization certificate, shares or other securities offered for sale shall not be subject to preemptive rights under subdivisions two and three of this section if they:

(a) Are to be issued by the board to effect a merger or offered for consideration other than cash;

(b) Are to be issued or subjected to options under section one hundred forty-a of this chapter;

(c) Are to be issued to satisfy conversion rights theretofore granted

by the corporation;

(d) Are treasury shares; or

(e) Are part of the shares or other securities of the corporation authorized in its original organization certificate and are issued, sold or optioned within two years from the date of filing such certificate.

6. Stockholders of record entitled to preemptive rights on the record date fixed by the board under section six thousand four, or, if no record date is fixed, then on the record date determined under section six thousand four, and no others shall be entitled to the right defined in this section.

7. The board shall cause to be given to each stockholder entitled to purchase shares or other securities in accordance with this section, a notice directed to him in the manner provided in section six thousand five setting forth the time within which and the terms and conditions upon which the stockholder may purchase such shares or other securities and also the apportionment made of the right to purchase among the stockholders entitled to preemptive rights. Such notice shall be given personally or by mail at least fifteen days prior to the expiration of the period during which the stockholder shall have the right to purchase. All stockholders entitled to preemptive rights to whom notice shall have been given as aforesaid shall be deemed conclusively to have had a reasonable time in which to exercise their preemptive rights.

8. Shares or other securities which have been offered to stockholders having preemptive rights to purchase and which have not been purchased by them within the time fixed by the board may thereafter, for a period of not exceeding one year following the expiration of the time during which stockholders might have exercised such preemptive rights, be issued or sold to any other person or persons at a price, without deduction of such reasonable expenses of and compensation for the sale, underwriting or purchase of such shares by underwriters or dealers as may lawfully be paid by the corporation, not less than that at which they were offered to such stockholders. Any such shares or other securities not so issued or sold to others during such one year period shall thereafter again be subject to the preemptive rights of

stockholders.

9. Except as otherwise provided in the organization certificate and except as provided in this section, no holder of any shares of any class shall as such holder have any preemptive right to purchase any other shares or securities of any class which at any time may be sold or offered for sale by the corporation.