Maryland Corporate Statutes

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§ 1-101. Definitions.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) "Address" means the post office address, and includes street and number, if any, county or municipal area, and state and, if outside the United States, country.

(c) "Articles of transfer" means articles of sale, articles of lease, articles of asset exchange, or articles of transfer.

(d) "Assets" means any tangible, intangible, real, or personal property or other assets, including goodwill and franchises.

(e) "Business trust" means an unincorporated trust or association, including a common–law trust, a Massachusetts trust, a real estate investment trust as defined in § 8–101 of this article, a statutory trust as defined in § 12–101 of this article, and a foreign statutory trust as defined in § 12–101 of this article, that is engaged in business and in which property is acquired, held, managed, administered, controlled, invested, or disposed of by trustees or the trust for the benefit and profit of any person who may become a holder of a transferable unit of beneficial interest in the trust.

(f) (1) "Charter" includes:

(i) A charter granted by special act of the General Assembly;

(ii) Articles or certificate of incorporation;

(iii) Amended articles or certificate of incorporation;

(iv) Articles of restatement, if approved as described in § 2–609 of this article;

(v) Articles of amendment and restatement; and

(vi) Articles or agreements of consolidation.

(2) "Charter" includes the documents referred to in paragraph (1) of this subsection, either as:

(i) Originally passed or accepted for record; or

(ii) Amended, corrected, or supplemented by special act of the General Assembly, articles of amendment, articles of amendment and reduction, articles of extension, articles supplementary, articles or agreements of merger, articles of revival, a certificate of correction, or articles of validation.

(g) "Charter document" means any:

(1) Document enumerated in subsection (f) of this section; and

(2) Articles of reduction, articles of transfer, articles of merger, articles of share exchange, articles of conversion, articles of dissolution, and stock issuance statements.

(h) "Clerk of the court" means clerk of the circuit court for any county.

(i) "Convertible securities" includes:

(1) Shares of stock which by their terms are convertible into shares of stock of one or more classes; and

(2) Obligations which by their terms are convertible into shares of stock of one or more classes.

(j) "County" includes Baltimore City.

(k) "Department" means the State Department of Assessments and Taxation.

(l) "Director" means a member of the governing body of a corporation, whether designated as a director, trustee, or manager or by any other title.

(m) (1) "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(i) May be retained, retrieved, and reviewed by a recipient of the communication; and

(ii) May be reproduced directly in paper form by a recipient through an automated process.

(2) "Electronic transmission" includes:

(i) Electronic mail;

(ii) Facsimile transmission; and

(iii) Internet transmission.

(iv) The use of or participation in one or more electronic networks or databases, including one or more distributed electronic networks or databases.

(n) "Entire board of directors" means the number of individuals who are directors of the corporation.

(o) "Foreign corporation" means a corporation, association, or joint–stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country.

(p) "Governing document" means:

(1) The articles or certificate of incorporation and the bylaws of a Maryland corporation or a foreign corporation;

(2) The articles of organization or certificate of formation and the operating agreement or limited liability company agreement of a domestic limited liability company or a foreign limited liability company;

(3) The partnership agreement of another entity that is a partnership or limited partnership, any statement of partnership authority of a partnership, the certificate of limited partnership of a limited partnership, and the certificate of limited liability partnership of a limited liability partnership;

(4) The declaration of trust or governing instrument of a business trust; or

(5) A similar governing document or instrument of any other type of entity.

(q) "Internal corporate claim" means a claim, including a claim brought by or in the right of a corporation:

(1) Based on an alleged breach by a director, an officer, or a stockholder of a duty owed to the corporation or the stockholders of the corporation or a standard of conduct applicable to directors;

(2) Arising under this article; or

(3) Arising under the charter or bylaws of the corporation.

(r) "Mail" means to deposit in the United States mails postage prepaid.

(s) "Maryland corporation" means a corporation organized and existing under the laws of this State.

(t) "Municipal area" means any incorporated or unincorporated city, town, or village.

(u) "Person" includes an individual and a domestic or foreign corporation, business trust, statutory trust, estate, trust, partnership, limited partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(v) "Preclearance" means review of the sufficiency of a document or a draft of a document listed in § 1-203(b)(1) or (4) of this title by an authorized agent of the Department before the document is filed with the Department.

(w) "Principal office" means:

(1) The place in this State filed or recorded with the Department as the principal office of a corporation or domestic limited partnership; or

(2) If there is no principal office designated, the main office of the corporation or domestic limited partnership in this State for the transaction of business.

(x) "Resident agent" means an individual residing in this State or a Maryland corporation or limited liability company whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

(y) "Share exchange" means a transaction:

(1) In which a corporation acquires all the issued or all the outstanding shares of stock of one or more classes of another corporation by a stockholder vote under this article; and

(2) Which does not affect the corporate existence of either corporation.

(z) (1) "Sign" means:

(i) To execute or otherwise adopt a name, symbol, word, mark, or process; and

(ii) With the present intent to authenticate or adopt a record or identify oneself.

(2) "Sign" includes:

(i) A manual signature;

(ii) A facsimile signature;

(iii) A conformed signature; and

(iv) An electronic signature.

(aa) "Stated capital" means the amount of stated capital determined in accordance with Title 2, Subtitle 3 of this article.

(bb) "Stockholder" means a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

(cc) "Stockholder rights plan" means an agreement or other instrument under which a corporation issues rights to its stockholders that:

(1) May be exercised under specified circumstances to purchase stock or other securities of a corporation or any other person; and

(2) May become void if owned by a designated person or classes of persons under specified circumstances.

(dd) "Successor" means:

(1) A new corporation formed by consolidation;

(2) A corporation or other entity surviving a merger;

(3) A corporation acquiring stock in a share exchange; or

(4) A vendee, lessee, or other transferee in a transfer of assets.

(ee) "Transfer assets", "transfer its assets", and "transfer of assets" mean to sell, lease, exchange, or otherwise transfer all or substantially all of the assets of a corporation.

§ 1-102. Applicability and construction of article.

(a) *Article applies to all Maryland corporations.* -- Except as otherwise expressly provided by statute, the provisions of this article apply to every Maryland corporation and to all their corporate acts.

(b) *Inconsistency with special acts.* --

(1) To the extent that rights conferred by a special act of the General Assembly are inconsistent with provisions of this article, the rights conferred by the special act govern.

(2) Unless the special act provides otherwise, the provisions of this article which are of general applicability may be used as an alternative to any of these inconsistent provisions.

(c) *Article is in addition to other requirements.* -- The requirements of this article are in addition to and not in substitution of any other requirements of law relating to any particular corporation or class of corporation.

(d) *Inconsistency between article and provisions relating to particular classes of corporations; exception.* --

(1) To the extent that any provision of the Code which relates to a specific class of corporations conflicts with a general provision of this article, the specific provision governs.

(2) Any Maryland corporation that conducts its operations entirely outside the State may be formed and managed under the general provisions of this article without regard to the provisions relating to particular classes of corporations.

(e) *Charters subject to repeal or modification.* -- The charter of every corporation formed before June 1, 1951, which is subject to repeal or modification, and the charter of every corporation formed under this article is subject to repeal or modification by public general law of the General Assembly.

§ 1-208. Resident agent.

(a) *Written consent of designated resident agent.* -- Notwithstanding any other provision of this title, an entity that is required to have a resident agent may not designate a person as a resident agent without first obtaining the person's written consent.

(b) (1) *Filing and acceptance of consent.* –

(i) Unless waived by the Department, an entity shall file a resident agent's written consent with the Department.

(ii) The consent shall be effective on acceptance by the Department.

(2) (i) If the filing of a resident agent's written consent is waived by the Department, an entity shall:

1. Certify to the Department that the written consent of the resident agent has been obtained;

2. Maintain a copy of the written consent in its records; and

3. Provide a copy of the written consent to the Department on request.

(ii) The consent shall be effective on certification to the Department that the consent has been obtained.

(c) *Applicability.* -- Subsections (a) and (b) of this section do not apply to resident agents designated before October 1, 1998.

(d) *Resignation.* -- A person designated a resident agent may resign without paying the fee under § 1-203(b)(2) of this subtitle.

§ 1-401. Service of process and notice.

(a) *Service of process on resident agent.* -- Service of process on the resident agent of a corporation, partnership, limited partnership, limited liability partnership, limited liability company, or real estate investment trust, or any other person constitutes effective service of process under the Maryland Rules on the corporation, partnership, limited partnership, limited liability partnership, limited liability company, or real estate investment trust, or other person in any action, suit, or proceeding which is pending, filed, or instituted against it under the provisions of this article.

(b) *Service of notice under Maryland Rules.* --

(1) Any notice required by law to be served by personal service on a resident agent or other agent or officer of any Maryland or foreign corporation, partnership, limited partnership, limited liability partnership, limited liability company, or real estate investment trust required by statute to have a resident agent in this State may be served on the corporation, partnership, limited partnership, limited liability partnership, limited liability company, or real estate investment trust in the manner provided by the Maryland Rules relating to the service of process on corporations.

(2) Service under the Maryland Rules is equivalent to personal service on a resident agent or other agent or officer of a corporation, partnership, limited partnership, limited liability partnership, limited liability company, or real estate investment trust mentioned in paragraph (1) of this subsection.

§ 2-102. Formation generally.

(a) *Signing, acknowledging and filing articles of incorporation.* -- Except as provided elsewhere in this section, in order to form a corporation, one or more adult individuals acting as incorporators shall:

(1) Sign and acknowledge articles of incorporation; and

(2) File them for record with the Department.

(b) *Effect of acceptance of articles of incorporation for record; fire or rescue organization in Frederick County.* --

(1) A proposed corporation becomes a body corporate under the name and subject to the purposes, conditions, and provisions stated in the articles of incorporation, effective as of the later of:

(i) The time the Department accepts the articles for record; or

(ii) The time established under the articles, not later than 30 days after the Department accepts the articles for record.

(2) Except in a proceeding by the State for forfeiture of a corporation's charter, acceptance of the articles for record by the Department is conclusive evidence of the formation of the corporation.

(3) (i) The Department may not accept articles of incorporation from a fire or rescue organization to be located in Frederick County for the purpose of providing fire or rescue service in Frederick County unless the articles are accompanied by a written resolution of the governing body of Frederick County indicating approval of the proposed incorporation.

(ii) Incorporated municipalities in Frederick County with primary responsibility for governmental funding for fire service shall within their jurisdiction hold those powers assigned to the governing body of Frederick County in this paragraph.

§ 2-103. Powers of corporation.

Unless otherwise provided by law or its charter, a Maryland corporation has the general powers, whether or not they are set forth in its charter, to:

(1) Have perpetual existence, although existence may be limited to a specified period if the limitation is stated in a charter provision adopted after May 31, 1908;

(2) Sue, be sued, complain, and defend in all courts;

(3) Have, use, alter, or abandon a corporate seal;

(4) Transact its business, carry on its operations, and exercise the powers granted by this article in any state, territory, district, and possession of the United States and in any foreign country;

(5) Make contracts and guarantees, incur liabilities, and borrow money;

(6) Sell, lease, exchange, transfer, convey, mortgage, pledge, and otherwise dispose of any or all of its assets;

(7) Issue bonds, notes, and other obligations and secure them by mortgage or deed of trust of any or all of its assets;

(8) Acquire by purchase or in any other manner, and take, receive, own, hold, use, employ, improve, and otherwise deal with any interest in real or personal property, wherever located;

(9) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and otherwise use and deal in and with stock and other interests in and obligations of other Maryland and foreign corporations, associations, partnerships, and individuals;

(10) Subject to the limitations provided in this article, acquire any of its own stock, bonds, notes, and other obligations and securities;

(11) Invest its surplus funds, lend money from time to time in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes specified in its charter, and take and hold real and personal property as security for the payment of funds so invested or loaned;

(12) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise;

(13) Make gifts or contributions in cash, other property, or stock or other securities of the corporation to or for the use of:

(i) The United States, this State, another state of the United States, a territory, possession, or district of the United States, or any institution, agency, or political subdivision of any of them; and

(ii) Any governmental or other organization, whether inside or outside the United States, for religious, charitable, scientific, civic, public welfare, literary, or educational purposes;

(14) Elect its officers and appoint its agents, define their duties, determine their compensation, and adopt and carry into effect employee and officer benefit plans;

(15) Renounce, in its charter or by resolution of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, business opportunities or classes or categories of business opportunities that are:

(i) Presented to the corporation; or

(ii) Developed by or presented to one or more of its directors or officers;

(16) Adopt, alter, and repeal bylaws not inconsistent with law or its charter for the regulation and management of its affairs;

(17) Exercise generally the powers set forth in its charter and those granted by law; and

(18) Do every other act not inconsistent with law which is appropriate to promote and attain the purposes set forth in its charter.

§ 2-104. Provisions of articles of incorporation.

(a) *Required provisions.* -- The articles of incorporation shall include:

(1) The name and address of each incorporator and a statement that each incorporator is:

(i) 18 years old or older; and

(ii) Forming a corporation under the general laws of the State of Maryland;

(2) The name of the corporation;

(3) The purposes for which the corporation is formed or a statement that the corporation may engage in any lawful business or other activity;

(4) The address of the principal office of the corporation;

(5) The name and address of the resident agent of the corporation;

(6) (i) The total number of shares of stock of all classes which the corporation has authority to issue;

(ii) The number of shares of stock of each class;

(iii) The par value of the shares of stock of each class or a statement that the shares are without par value; and

(iv) If there are any shares of stock with par value, the aggregate par value of all the shares of all classes;

(7) If the stock is divided into classes as permitted by § 2-105 of this subtitle, a description of each class including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption; and

(8) The number of directors and the names of those individuals who will serve as directors until their successors are elected and qualify.

(b) *Permissible provisions.* -- The articles of incorporation may include:

(1) Any provision not inconsistent with law that defines, limits, or regulates the powers of the corporation, its directors and stockholders, any class of its stockholders, or the holders of any bonds, notes, or other securities that it may issue;

(2) Any restriction not inconsistent with law on the transferability of stock of any class;

(3) Any provision authorized by this article to be included in the bylaws;

(4) Any provision that requires for any purpose the concurrence of a greater proportion of the votes of all classes or series or of any class or series of stock than the proportion required by this article for that purpose;

(5) A provision that requires for any purpose a lesser proportion of the votes of all classes or series or of any class or series of stock than the proportion required by this article for that purpose, but this proportion may not be less than a majority of all the votes entitled to be cast on the matter;

(6) A provision that divides its directors into classes or series and specifies the term of office of each class or series;

(7) A provision for minority representation through cumulative voting in the election of directors and the terms on which cumulative voting rights may be exercised;

(8) A provision that varies in accordance with § 2-405.2 of this title the standards for liability of the directors and officers of a corporation for money damages;

(9) A provision that allows the board of directors, in considering a potential acquisition of control of the corporation, to consider the effect of the potential acquisition of control on:

(i) Stockholders, employees, suppliers, customers, and creditors of the corporation; and

(ii) Communities in which offices or other establishments of the corporation are located.

` (10) A provision that contains a future effective date for the articles of incorporation that is not later than 30 days after the articles are accepted by the department for record.

(c) *Inference not created by subsection (b)(9).* -- The inclusion or omission of a provision in the charter that allows the board of directors to consider the effect of a potential acquisition of control on persons specified in subsection (b)(9) of this section does not create an inference concerning factors that may be considered by the board of directors regarding a potential acquisition of control.

§ 2-106. Corporate name

(a) *Corporation shall record name.* -- A corporation shall record its name with the Department as provided in Title 1, Subtitle 5 of this article.

(b) *Foreign corporations.* -- The Department may permit a foreign corporation that has a name prohibited by Title 1, Subtitle 5 of this article to register or qualify to do business in this State, if the foreign corporation agrees:

(1) To transact business in this State only under a disclosed assumed name that meets the requirements of Title 1, Subtitle 5 of this article; and

(2) To use the assumed name in all of its dealings with the Department and the conduct of its affairs in this State.

§ 2-108. Resident agent, designation, address.

(a) *Required.* -- Each Maryland corporation shall have:

(1) A principal office in this State; and

(2) A resident agent.

(b) *Notice by corporation of designation or change of resident agent or address.* --

(1) A corporation may designate or change its resident agent or principal office by filing for record with the Department a certified copy of a resolution of its board of directors which authorizes the designation or change.

(2) A corporation may change the address of its resident agent by filing for record with the Department a statement of the change signed by its president or one of its vice-presidents.

(3) A designation or change of a corporation's principal office or its resident agent or his address under this subsection is effective when the Department accepts the resolution or statement for record.

(c) *Notice by resident agent of change of address.* --

(1) A resident agent who changes his address in the State may notify the Department of the change by filing for record with the Department a statement of the change signed by him or on his behalf.

(2) The statement shall include:

(i) The names of the corporations for which the change is effective;

(ii) His old and new addresses; and

(iii) The date on which the change is effective.

(3) If the old and new addresses of the resident agent are the same as the old and new addresses of the principal office of the corporation, the statement may include a change of address for the principal office if:

(i) The resident agent notifies the corporation in writing that the statement will be filed; and

(ii) The statement recites that he has done so.

(4) The change of address of the resident agent or principal office is effective when the Department accepts the statement for record.

(d) *Resignation of resident agent.* --

(1) A resident agent may resign by filing with the Department a counterpart or photocopy of his signed resignation.

(2) Unless a later time is specified in the resignation, it is effective:

(i) At the time it is filed with the Department, if the corporation has appointed a successor resident agent; or

(ii) Ten days after it is filed with the Department, if the corporation has not appointed a successor resident agent.

§ 2-110. Contents and keeping of bylaws.

(a) *In general.* -- The bylaws may contain any provisions not inconsistent with law or the charter of the corporation for the regulation and management of the affairs of the corporation.

(b) *Classification of directors.* -- The bylaws may divide the directors of the corporation into classes and specify the term of office of each class.

(c) (1) In this subsection, "facts ascertainable outside the bylaws" include:

(i) An action or determination by any person, including the corporation, its board of directors, an officer or agent of the corporation, and any other person affiliated with the corporation;

(ii) Any agreement or other document; or

(iii) Any other event.

(2) Any provision of the bylaws permitted under subsection (a) of this section may be made dependent upon facts ascertainable outside the bylaws.

§ 2-111. Books and records.

(a) *Records of accounts and minutes to be correct and complete.* -- Each corporation shall maintain, or cause to be maintained on its behalf, correct and complete:

(1) Books and records of its accounts and transactions; and

(2) Minutes of the proceedings of its stockholders and board of directors and of any executive or other committee when exercising any of the powers of the board of directors.

(b) *Form of records and minutes.* --

(1) The books and records of a corporation may be in written form or in any other form that complies with § 2-114 of this subtitle.

(2) Minutes shall be recorded in written form but may be maintained in the form of a reproduction or in any other form that complies with § 2-114 of this subtitle.

§ 2-401. Function of directors.

(a) *Management*. -- All business and affairs of a corporation, whether or not in the ordinary course, shall be managed by or under the direction of a board of directors.

(b) *Power of board*. -- All powers of the corporation may be exercised by or under authority of the board of directors except as conferred on or reserved to the stockholders by law or by the charter or bylaws of the corporation.

§ 2-402. Minimum number of directors.

(a) *Minimum number.* -- Each corporation shall have at least one director.

(b) *Charter provision.* -- Subject to the provisions of subsection (a) of this section and except for a corporation that has elected to be subject to § 3-804(b) of this article, a Maryland corporation shall have the number of directors provided in its charter until changed by the bylaws.

(c) *Bylaws provision.* -- Subject to the provisions of subsection (a) of this section and except for a corporation that has elected to be subject to § 3-804(b) of this article, the bylaws may:

(1) Alter the number of directors set by the charter; and

(2) Authorize a majority of the entire board of directors to alter within specified limits the number of directors set by the charter or the bylaws, but the action may not affect the tenure of office of any director.

§ 2-403. Requisite qualifications of directors.

(a) *In general.* -- Each director and each nominee for director of a corporation shall have the qualifications required by the charter or bylaws of the corporation.

(b) *Director need not own stock.* -- Unless required by its charter or bylaws, a director need not be a stockholder in the corporation.

§ 2-404. Election and tenure of directors.

(a) *Initial directors.* -- Until successors are elected and qualify, the board of directors consists of the individuals named as directors in the charter.

(b) *Election by stockholders; term of office.* --

(1) Except as provided in paragraph (2) of this subsection, at each annual meeting of stockholders, the stockholders shall elect directors to hold office until the earlier of:

(i) The next annual meeting of stockholders and until their successors are elected and qualify;

(ii) The time provided in the terms of any class or series of stock pursuant to which such directors are elected; or

(iii) The time a director ceases to have the qualifications that were required by the charter or bylaws of the corporation at the time the director was elected, if the charter or bylaws at the time the director was elected required the director's term to end on a failure to have those qualifications.

(2) Except for a corporation that has elected to be subject to § 3-803 of this article, if the directors are divided into classes, the term of office may be provided in the bylaws, except that:

(i) The term of office of a director may not be longer than five years or, except in the case of an initial or substitute director, shorter than the period between annual meetings; and

(ii) The term of office of at least one class shall expire each year.

(c) *Manner of voting.* -- Each share of stock may be voted for as many individuals as there are directors to be elected and for whose election the share is entitled to be voted.

(d) *Plurality vote.* -- Unless the charter or bylaws of a corporation provide otherwise, a plurality of all the votes cast at a meeting at which a quorum is present is sufficient to elect a director.

§ 2-405. Holdover directors.

(a) (1) *In general.* – Except as provided in paragraph (2) of this subsection, in case of failure to elect directors at the designated time, the directors holding over shall continue to serve as directors of the corporation until their successors are elected and qualify.

(2) If the number of directors to be elected at the designated time, together with the number of directors who otherwise would hold over, exceeds the number of directors who were to be elected, then the directors who will hold over and continue to serve as directors of the corporation until their successors are elected and qualify shall be determined:

(i) By a majority vote of the directors elected at the designated time and, if the board is classified, any directors whose terms did not expire at the designated time, whether or not sufficient to constitute a quorum; or

(ii) As otherwise provided in the charter or bylaws of the corporation.

(b) *When director deemed holding over.* -- A director not elected annually in accordance with § 2-501 (b) of this title shall be deemed to be continuing in office and shall not be deemed to be holding over under subsection (a) of this section until after the time at which an annual meeting is required to be held under § 2-501 (b) of this title or the charter or bylaws of the corporation.

§ 2-405.1. Liability of directors, standard of care.

(a) In this section, "act" includes, as the context requires:

(1) An act, an omission, a failure to act, or a determination made not to act; or

(2) To act, omit to act, fail to act, or make a determination not to act.

(b) This section applies to acts of an individual who:

(1) Is or was a director of a corporation; and

(2) Is acting or was acting in the individual's official capacity as a director of a corporation.

(c) A director of a corporation shall act:

(1) In good faith;

(2) In a manner the director reasonably believes to be in the best interests of the corporation; and

(3) With the care that an ordinarily prudent person in a like position would use under similar circumstances.

(d) (1) A director is entitled to rely on any information, opinion, report, or statement, including any financial statement or other financial data, prepared or presented by:

(i) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(ii) A lawyer, certified public accountant, or other person, as to a matter which the director reasonably believes to be within the person's professional or expert competence; or

(iii) A committee of the board on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

(2) A director is not acting in good faith if the Director has any knowledge concerning the matter in question which would cause the reliance to be unwarranted.

(e) A director who acts in accordance with the standard of conduct provided in this section shall have the immunity from liability described under § 5-417 of the Courts and Judicial Proceedings Article.

(f) The standard of conduct provided in this section does not require a director of a corporation to:

(1) Act to accept, recommend, or respond on behalf of the corporation to a proposal by an acquiring person as defined in § 3-801 of this article;

(2) Act to authorize the corporation to redeem any rights under, modify, or render inapplicable, a stockholder rights plan;

(3) Act to elect on behalf of the corporation to be subject to or refrain from electing on behalf of the corporation to be subject to any or all of the provisions of Title 3, Subtitle 8 of this article;

(4) Act to make a determination under the provisions of Title 3, Subtitle 6 or Subtitle 7 of this article; or

(5) Act solely because of:

(i) The effect the act may have on an acquisition or potential acquisition of control of the corporation; or

(ii) The amount or type of consideration that may be offered or paid to stockholders of the corporation in an acquisition or a potential acquisition of control of the corporation.

(g) An act of a director of a corporation is presumed to be in accordance with subsection (c) of this section.

(h) An act of a director of a corporation relating to or affecting an acquisition or a potential acquisition of control of the corporation or any other transaction or potential

transaction involving the corporation may not be subject to a higher duty or greater scrutiny than is applied to any other act of a director.

(i) This section:

(1) Is the sole source of duties of a director to the corporation or the stockholders of the corporation, whether or not a decision has been made to enter into an acquisition or a potential acquisition of control of the corporation or enter into any other transaction involving the corporation; and

(2) Applies to any act of a director, including an act as a member of a committee of the board of directors.

§ 2-405.2. Limitation or expansion of director liability.

The charter of the corporation may include any provision expanding or limiting the liability of its directors and officers to the corporation or its stockholders as described under § 5-418 of the Courts and Judicial Proceedings Article.

§ 2-406. Stockholders removal of director.

(a) *By majority vote of stockholders.* -- The stockholders of a corporation may remove any director, with or without cause, by the affirmative vote of a majority of all the votes entitled to be cast generally for the election of directors, except:

(1) As provided in subsection (b) of this section;

(2) As otherwise provided in the charter of the corporation; or

(3) For a corporation that has elected to be subject to § 3-804 (a) of this article.

(b) *Limitations on removal without cause.* -- Unless the charter of the corporation provides otherwise:

(1) If the stockholders of any class or series are entitled separately to elect one or more directors, a director elected by stockholders of that class or series may not be removed without cause except by the affirmative vote of a majority of all the votes of that class or series;

(2) If a corporation has cumulative voting for the election of directors and fewer than all directors are to be removed, a director may not be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there is more than one class of directors, at an election of the class of directors of which he is a member; and

(3) If the directors have been divided into classes, a director may not be removed without cause.

(c) *Resignation of director*. -- A resignation of a director given in writing or by electronic transmission may provide that:

(1) The resignation will be effective at a later time or on the occurrence of an event;

(2) The resignation is irrevocable on the occurrence of the event; and

(3) If the resignation will be effective on the failure of the director to receive a specified vote for reelection, the resignation is irrevocable.

§ 2-407. Filling of board vacancies.

(a) *Stockholders' power to fill vacancies.* --

(1) Except as provided in paragraph (2) of this subsection and except for a corporation that has elected to become subject to § 3-804(c) of this article, the stockholders may elect a successor to fill a vacancy on the board of directors which results from the removal of a director.

(2) If the stockholders of any class or series are entitled separately to elect one or more directors, the stockholders of that class or series may elect a successor to fill a vacancy on the board of directors which results from the removal of a director elected by that class or series.

(b) *Board's power to fill vacancies.* --

(1) Except as provided in paragraph (2) of this subsection or unless the charter or the bylaws of the corporation provide otherwise:

(i) A majority of the remaining directors, whether or not sufficient to constitute a quorum, may fill a vacancy on the board of directors which results from any cause except an increase in the number of directors; and

(ii) A majority of the entire board of directors may fill a vacancy which results from an increase in the number of directors.

(2) If the stockholders of any class or series are entitled separately to elect one or more directors, a majority of the remaining directors elected by that class or series or the sole remaining director elected by that class or series may fill any vacancy among the number of directors elected by that class or series.

(c) *Tenure of substitute director.* --

(1) Unless the corporation has elected to be subject to §3-804(c)(3) of this article, a director elected by the board of directors to fill a vacancy serves until the next annual meeting of stockholders and until his successor is elected and qualifies.

(2) A director elected by the stockholders to fill a vacancy which results from the removal of a director serves for the balance of the term of the removed director.

§ 2-408. Board of directors' action; form.

(a) *Majority rule.* -- Unless the charter or bylaws of the corporation require a greater proportion or this article requires a different proportion, the action of a majority of the directors present at a meeting at which a quorum is present is the action of the board of directors.

(b) *Quorum.* --

(1) Unless the bylaws of the corporation provide otherwise, a majority of the entire board of directors constitutes a quorum for the transaction of business.

(2) The bylaws may provide that less than a majority, but not less than one-third of the entire board of directors, may constitute a quorum unless:

(i) There are only two or three directors, in which case not less than two may constitute a quorum; or

(ii) There is only one director, in which case that one will constitute a quorum.

(c) *Informal action by directors.* -- Any action required or permitted to be taken at a meeting of the board of directors or of a committee of the board may be taken without a meeting if a unanimous consent which sets forth the action is:

(1) Given in writing or by electronic transmission by each member of the board or committee entitled to vote on the matter; and

(2) Filed in paper or electronic form with the minutes of proceedings of the board or committee.

(d) *Future consent.* –

(1) An individual, whether or not then a director, may assent to an action by a consent that will be effective at a future time that is no later than 60 days after the consent is delivered to the corporation or its agent.

(2) The effective time of a consent under this subsection may include a time determined on the happening of an event that occurs no later than 60 days after the consent is delivered to the corporation or its agent.

(3) A consent under this subsection shall be deemed to have been given at the effective time if the individual:

(i) Is a director at the effective time; and

(ii) Did not revoke the consent before the effective time.

(4) Unless otherwise provided in the consent, a consent under this subsection is revocable before the effective time.

(e) *More or less than one vote per director.* --

(1) The charter may provide that one or more directors or a class of directors shall have more or less than one vote per director on any matter.

(2) If the charter provides that one or more directors shall have more or less than one vote per director on any matter, every reference in this article to a majority or other proportion of directors shall refer to a majority or other proportion of votes entitled to be cast by the directors.

§ 2-409. Place and notice of meetings.

(a) *Place of meeting; remote communication.* -- Unless the bylaws of the corporation provide otherwise, a regular or special meeting of the board of directors may be held at any place in or out of the State or by means of remote communication.

(b) (1) *Notice of meeting.* -- Notice of each meeting of the board of directors shall be given as provided in the bylaws.

(2) Unless the bylaws provide otherwise, the notice:

(i) Shall be in writing or delivered by electronic transmission; and

(ii) Need not state the business to be transacted at or the purpose of any regular or special meeting of the board of directors.

(c) *Waiver of notice.* -- Whenever this article or the charter or bylaws of a corporation require notice of the time, place, or purpose of a meeting of the board of directors or a committee of the board, a person who is entitled to the notice waives notice if the person:

(1) Before or after the meeting delivers a written waiver or a waiver by electronic transmission which is filed with the records of the meeting; or

(2) Is present at the meeting.

(d) (1) *Telephone meetings.* -- Unless restricted by the charter or bylaws of the corporation, members of the board of directors or a committee of the board may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time.

(2) Participation in a meeting by these means constitutes presence in person at the meeting.

§ 2-410. Presumption of assent by director.

(a) *Presumption.* -- A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken is presumed to have assented to the action unless:

(1) He announces his dissent at the meeting; and

(2) (i) His dissent is entered in the minutes of the meeting;

(ii) He files his written dissent to the action with the secretary of the meeting before the meeting is adjourned; or

(iii) He forwards his written dissent within 24 hours after the meeting is adjourned, by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the secretary of the meeting or the secretary of the corporation.

(b) *When right to dissent does not apply.* -- The right to dissent does not apply to a director who:

(1) Voted in favor of the action; or

(2) Failed to make his dissent known at the meeting.

§ 2-411. Committees; delegation of power.

(a) *Appointment by board; delegation of power.* -- The board of directors of a corporation may:

(1) Appoint from among its members an executive committee and other committees composed of one or more directors; and

(2) Delegate to these committees any of the powers of the board of directors, except the power to:

(i) Issue stock other than as provided in subsection (b) of this section;

(ii) Recommend to the stockholders any action which requires stockholder approval, other than the election of directors;

(iii) Amend the bylaws; or

(iv) Approve any merger or share exchange which does not require stockholder approval.

(b) *Issuance of stock.* -- If the board of directors has given general authorization for the issuance of stock providing for or establishing a method or procedure for determining the maximum number or the maximum aggregate offering price of shares to be issued, a committee of the board, in accordance with that general authorization or any stock option or other plan or program adopted by the board, may authorize or fix the terms of stock subject to classification or reclassification and the terms on which any stock may be issued, including all terms and conditions required or permitted to be established or authorized by the board of directors under §§ 2-203 and 2-208 of this title.

(c) *Appointment of substitute member.* -- The bylaws may authorize the members of a committee present at any meeting, whether or not they constitute a quorum, to appoint a director to act in the place of an absent member.

(d) *Responsibility of directors.* -- The appointment of any committee, the delegation of authority to it, or action by it under that authority does not constitute, of itself, compliance by any director, not a member of the committee, with the standard provided in § 2-405.1 of this subtitle for the performance of duties of directors.

(e) *Creation and composition of committees.* -- Notwithstanding subsection (a) of this section or § 2-408(d) of this subtitle, the charter or bylaws of a corporation, or any agreement to which the corporation is a party and which has been approved by the board of directors, may provide for:

(1) The establishment of one or more standing committees or for the creation of one or more committees upon the occurrence of certain events; and

(2) The composition of the membership, and the qualifications and the voting and other rights of members of any such committee, subject to the continued service of members of the committee as directors.

§ 2-412. Permitted and required officers.

(a) *Required officers.* -- Each Maryland corporation shall have the following officers:

(1) A president;

(2) A secretary; and

(3) A treasurer.

(b) *Permitted officers.* -- In addition to the required officers, a Maryland corporation may have any other officer provided for in the bylaws.

§ 2-413. Election, term and removal of officers.

(a) *Election.* -- Unless the bylaws provide otherwise, the board of directors shall elect the officers.

(b) *Tenure.* -- Unless the bylaws provide otherwise, an officer serves for one year and until his successor is elected and qualifies.

(c) *Removal.* --

(1) The board of directors may remove any officer or agent of the corporation.

(2) The removal of an officer or agent does not prejudice any of his contract rights.

(d) *Board may fill vacancy.* -- Unless the bylaws provide otherwise, the board of directors may fill a vacancy which occurs in any office.

§ 2-414. Authority of agents and officers.

(a) *Internally.* -- As between himself and the corporation, an officer or agent of the corporation has the authority and shall perform the duties in the management of the assets and affairs of the corporation as:

(1) Provided in the bylaws; and

(2) Determined from time to time by resolution of the board of directors not inconsistent with the bylaws.

(b) *As to third parties.* -- The rights of any third party are not affected or impaired by any bylaw or resolution referred to in subsection (a) of this section unless the third party has knowledge of the bylaw or resolution.

§ 2-415. Holding multiple offices.

(a) *Permitted.* -- If permitted by the bylaws, a person may hold more than one office in a corporation but may not serve concurrently as both president and vice president of the same corporation.

(b) *Execution of documents.* -- A person who holds more than one office in a corporation may not act in more than one capacity to execute, acknowledge, or verify an instrument required by law to be executed, acknowledged, or verified by more than one officer.

§ 2-418. Corporate indemnification.

(a)(1) *Definitions.* -- In this section the following words have the meanings indicated.

(2) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger, consolidation, or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(3) "Director" means any person who is or was a director of a corporation and any person who, while a director of a corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, limited liability company, other enterprise, or employee benefit plan.

(4) "Expenses" include attorney's fees.

(5)(i) "Official capacity" means:

1. When used with respect to a director, the office of director in the corporation; and

2. When used with respect to a person other than a director as contemplated in subsection (j) of this section, the elective or appointive office in the corporation held by the officer, or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation.

(ii) "Official capacity" does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

(6) "Party" includes a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(7) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative.

(b) *Permitted indemnification of director.* --

(1) A corporation may indemnify any director made a party to any proceeding by reason of service in that capacity unless it is established that:

(i) The act or omission of the director was material to the matter giving rise to the proceeding; and

1. Was committed in bad faith; or

2. Was the result of active and deliberate dishonesty; or

(ii) The director actually received an improper personal benefit in money, property, or services; or

(iii) In the case of any criminal proceeding, the director had reasonable cause to believe that the act or omission was unlawful.

(2) (i) Indemnification may be against judgments, penalties, fines, settlements, and reasonable expenses actually incurred by the director in connection with the proceeding.

(ii) However, if the proceeding was one by or in the right of the corporation, indemnification may not be made in respect of any proceeding in which the director shall have been adjudged to be liable to the corporation.

(3) (i) The termination of any proceeding by judgment, order, or settlement does not create a presumption that the director did not meet the requisite standard of conduct set forth in this subsection.

(ii) The termination of any proceeding by conviction, or a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the director did not meet that standard of conduct.

(4) A corporation may not indemnify a director or advance expenses under this section for a proceeding brought by that director against the corporation, except:

(i) For a proceeding brought to enforce indemnification under this section; or

(ii) If the charter or bylaws of the corporation, a resolution of the board of directors of the corporation, or an agreement approved by the board of directors of the corporation to which the corporation is a party expressly provide otherwise.

(c) *No indemnification of director liable for improper personal benefit.* -- A director may not be indemnified under subsection (b) of this section in respect of any proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in which the director was adjudged to be liable on the basis that personal benefit was improperly received.

(d) *Required indemnification against expenses incurred in successful defense.* -- Unless limited by the charter:

(1) A director who has been successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection (b) of this section, or in the defense of any claim, issue, or matter in the proceeding, shall be indemnified against reasonable expenses incurred by the director in connection with the proceeding, claim, issue, or matter in which the director has been successful.

(2) A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require, may order indemnification in the following circumstances:

(i) If it determines a director is entitled to reimbursement under paragraph (1) of this subsection, the court shall order indemnification, in which case the director shall be entitled to recover the expenses of securing such reimbursement; or

(ii) If it determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director has met the standards of conduct set forth in subsection (b) of this section or has been adjudged liable under the circumstances described in subsection (c) of this section, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any proceeding by or in the right of the corporation or in which liability shall have been adjudged in the circumstances described in subsection (c) shall be limited to expenses.

(3) A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

(e) *Determination that indemnification is proper.* --

(1) Indemnification under subsection (b) of this section may not be made by the corporation unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in subsection (b) of this section.

(2) Such determination shall be made:

(i) By the board of directors by a majority vote of a quorum consisting of directors not, at the time, parties to the proceeding, or by a majority vote of a committee of the board consisting solely of one or more directors not, at the time, parties to such proceeding and who were duly designated to act in the matter by a majority vote of the directors who are not parties to the proceeding;

(ii) By special legal counsel selected by the board of directors or a committee of the board by vote as set forth in item (i) of this paragraph, or, if the requisite quorum of the full board cannot be obtained therefor and the committee cannot be established, by a majority vote of the full board in which directors who are parties may participate; or

(iii) By the stockholders.

(3) Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible. However, if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in the manner specified in paragraph (2)(ii) of this subsection for selection of such counsel.

(4) Shares held by directors who are parties to the proceeding may not be voted on the subject matter under this subsection.

(f) *Payment of expenses in advance of final disposition of action.* --

(1) Reasonable expenses incurred by a director who is a party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of the proceeding upon receipt by the corporation of:

(i) A written affirmation by the director of the director's good faith belief that the standard of conduct necessary for indemnification by the corporation as authorized in this section has been met; and

(ii) A written undertaking by or on behalf of the director to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

(2) The undertaking required by paragraph (1)(ii) of this subsection shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make the repayment.

(3) Payments under this subsection shall be made as provided by the charter, bylaws, or contract or as specified in subsection (e)(2) of this section.

(g) *Validity of indemnification provision.* -- The indemnification and advancement of expenses provided or authorized by this section may not be deemed exclusive of any other rights, by indemnification or otherwise, to which a director may be entitled under the charter, the bylaws, a resolution of stockholders or directors, an agreement or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(h) *Reimbursement of director's expenses incurred while appearing as witness.* -- This section does not limit the corporation's power to pay or reimburse expenses incurred by a director in connection with an appearance as a witness in a proceeding at a time when the director has not been made a named defendant or respondent in the proceeding.

(i) *Director's service to employee benefit plan.* -- For purposes of this section:

(1) The corporation shall be deemed to have requested a director to serve an employee benefit plan where the performance of the director's duties to the corporation also imposes duties on, or otherwise involves services by, the director to the plan or participants or beneficiaries of the plan;

(2) Excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed fines; and

(3) Action taken or omitted by the director with respect to an employee benefit plan in the performance of the director's duties for a purpose reasonably believed by the director to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

(j) *Officer, employee or agent.* -- Unless limited by the charter:

(1) An officer of the corporation shall be indemnified as and to the extent provided in subsection (d) of this section for a director and shall be entitled, to the same extent as a director, to seek indemnification pursuant to the provisions of subsection (d) of this section;

(2) A corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation to the same extent that it may indemnify directors under this section; and

(3) A corporation, in addition, may indemnify and advance expenses to an officer, employee, or agent who is not a director to such further extent, consistent with law, as may be provided by its charter, bylaws, general or specific action of its board of directors, or contract.

(k) *Insurance or similar protection.* --

(1) A corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan against any liability asserted against and incurred by such person in any such capacity or arising out of such person's position, whether or not the corporation would have the power to indemnify against liability under the provisions of this section.

(2) A corporation may provide similar protection, including a trust fund, letter of credit, or surety bond, not inconsistent with this section.

(3) The insurance or similar protection may be provided by a subsidiary or an affiliate of the corporation.

(l) *Report of indemnification to stockholders.* -- Any indemnification of, or advance of expenses to, a director in accordance with this section, if arising out of a proceeding by or in the right of the corporation, shall be reported in writing to the stockholders with the notice of the next stockholders' meeting or prior to the meeting.

§ 2-419. Interested director; disclosure and vote.

(a) *General rule.* -- If subsection (b) of this section is complied with, a contract or other transaction between a corporation and any of its directors or between a corporation and any other corporation, firm, or other entity in which any of its directors is a director or has a material financial interest is not void or voidable solely because of any one or more of the following:

(1) The common directorship or interest;

(2) The presence of the director at the meeting of the board or a committee of the board which authorizes, approves, or ratifies the contract or transaction; or

(3) The counting of the vote of the director for the authorization, approval, or ratification of the contract or transaction.

(b) *Disclosure and ratification.* -- Subsection (a) of this section applies if:

(1) The fact of the common directorship or interest is disclosed or known to:

(i) The board of directors or the committee, and the board or committee authorizes, approves, or ratifies the contract or transaction by the affirmative vote of a

majority of disinterested directors, even if the disinterested directors constitute less than a quorum; or

(ii) The stockholders entitled to vote, and the contract or transaction is authorized, approved, or ratified by a majority of the votes cast by the stockholders entitled to vote other than the votes of shares owned of record or beneficially by the interested director or corporation, firm, or other entity; or

(2) The contract or transaction is fair and reasonable to the corporation.

(c) *Counting common or interested directors in determining quorum.* -- Common or interested directors or the stock owned by them or by an interested corporation, firm, or other entity may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee of the board or at a meeting of the stockholders, as the case may be, at which the contract or transaction is authorized, approved, or ratified.

(d) *Burden of proof; fixing of compensation.* --

(1) If a contract or transaction is not authorized, approved, or ratified in one of the ways provided for in subsection (b) (1) of this section, the person asserting the validity of the contract or transaction bears the burden of proving that the contract or transaction was fair and reasonable to the corporation at the time it was authorized, approved, or ratified.

(2) This subsection does not apply to the fixing by the board of directors of reasonable compensation for a director, whether as a director or in any other capacity.

(e) *Procedures and provisions in compliance with § 2-418 deemed satisfactory.* -- Any procedures authorized by § 2-418 of this subtitle shall be deemed to satisfy subsection (b) (1) of this section. Any charter, bylaw, contract, or transaction requiring or permitting indemnification, including advances of expenses, in accordance with § 2-418 of this subtitle is fair and reasonable to the corporation.

§2-503. Place of meetings.

(a) Unless the charter provides otherwise, meetings of stockholders shall be held as is:

(1) Provided in the charter or bylaws; or

(2) Set by the board of directors under the provisions of the charger or bylaws.

(b) If the board of directors is authorized to determine the place of a meeting of the stockholders, the board of directors may determine that the meeting not be held at any

place, but instead may be held partially or solely by remote communication, as authorized by subsection (c) of this section.

(c) If authorized by the board of directors and subject to any guidelines and procedures that the board adopts, stockholder and proxy holders not physically present at the meeting of the stockholders, may, by remote communication:

(1) Participate in the meeting of the stockholders; and

(2) Be considered present in person and may vote at the meeting of the stockholders, whether the meeting is held at a designated place or partially or solely by remote communication, if:

(i) The corporation implements reasonable measures to verify that each person considered present and authorized to vote at the meeting by remote communication is a stockholder or proxy holder;

(ii) The corporation implements reasonable measures to provide the stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings; and

(iii) In the event any stockholder or proxy holder votes or takes other action at the meeting by remote communication, a record of the vote or other action is maintained by the corporation.

Subtitle 7. Ratification of Defective Corporate Acts.

§ 2-701. Definitions.

(A) In this subtitle the following words have the meanings indicated.

(B) "Corporate act" means any act taken by or on behalf of a corporation by the board of directors, a committee of the board of directors, or the stockholders of the corporation.

(C) "Date of the defective corporate act" means:

(1) The date and the time a defective corporate act was purportedly taken; or

(2) If the exact time is unknown, the date and approximate time a defective corporate act was purportedly taken.

(D) "Defective corporate act" means:

(1) Any corporate act purportedly taken that, at the date of the defective corporate act, would have been withing the power of the corporation but is void or voidable due to a failure of authorization; or

(2) An overissue.

(E) "Failure of authorization" means the failure of a corporation to authorize, approve, or otherwise effect a corporate act in compliance with eh Maryland General Corporation Law, its charters or bylaws, any action taken by its board of directors, a committee of its board of directors, or its stockholders, or any plan or agreement to which the corporation is a party, if and to the extent that the failure would render the corporate act void or voidable.

(F) "Overissue" means the purported issuance by a corporation of stock of:

(1) A class or series in excess of the number of shares of the class or series that the corporation has the power to issue under §2-201(A) of this title or the corporation's charter at the time of issuance; or

(2) Any class or series that is not authorized for issuance by the corporation's charter.

(G) "Putative stock" means stock, including stock reissued upon exercise of rights, options, warrants, or other securities convertible into or exercisable for stock:

(1) Purportedly created or issued as a result of a defective corporate act, that but for the failure of authorization would constitute valid stock; and

(2) That cannot be determined by the board of directors to be valid stock.

(H) "Valid stock" means stock that has been duly authorized and validly issued in accordance with the provisions of this title.

§ 2-702. Ratification of Defective Corporate Acts.

(A) The board of directors of a corporation may ratify a defective corporate act by adopting a resolution stating:

(1) (I) The defective corporate act to be ratified; and

(II) If the defective corporate act involved the issuance of putative stock, the number of shares and the class or series of putative stock issued;

(2) The date of the defective corporate act;

(3) The nature of the failure of authorization of the defective corporate act; and

(4) (I) If the board of directors could have authorized or approved the defective corporate act without stockholder approval at the date of the defective corporate act and stockholder action is not required as of the date of ratification, that the board of directors ratifies the defective corporate act; or

(II) If stockholder approval is required at the time of ratification or if the board of directors could not have authorized or approved the defective corporate act without stockholder approval at the date of the defective corporate act or stockholder action is required as of the date of ratification, that the board of directors directs that the ratification be submitted for consideration at a meeting of the stockholders.

(B) If ratification is submitted for consideration at a meeting of the stockholders under subsection (A)(4)(II) of this section, the stockholders may ratify the defective corporate act by adopting a resolution stating:

(1) (I) The defective corporate act to be ratified; and

(II) If the defective corporate act involved the issuance of putative stock, the number of shares and the class or series of putative stock issued;

(2) The date of the defective corporate act; and

(3) That the stockholders ratify the defective corporate act.

(C) (1) The quorum and voting requirements applicable to ratification under this section shall be the approval standard requiring the greater portion of votes under:

(I) The requirements that would be applicable to the defective corporate act proposed to be ratified at the time of ratification; or

(II) The requirements that would have been applicable to the defective corporate act on the date of the defective corporate act.

(2) (I) Unless otherwise required by the charter or bylaws of a corporation then in effect or in effect at he time of a defective corporate act, if the defective corporate act is the election of a director, ratification of the defective corporate act shall required a majority of the votes cast at a meeting at which a quorum is present.

(II) The present or approval of holders of stock of any class or series of which no stock is then outstanding or of any person that is no longer a stockholder may not be required.

(3) Holders of putative stock on the record date for determining which stockholders under this section shall not be entitled to vote or be counted for quorum purposes in any vote to consider ratification.

(D) Ratification of a defective corporate act under this section shall make the ratified defective corporate act binding on the corporation in accordance with §2-703 of this subtitle.

§ 2-703. Effective Date of Ratification of Defective Corporate Acts.

(A) (1) Except as provided in paragraph (2) of this subsection, ratification of a defective corporate act becomes effective on the date that the board of directors adopts a resolution under §2-702(A) of this subtitle or, if required by this subtitle, the date that stockholders adopt a resolution under §2-702(B) of this subtitle.

(2) If the defective corporate act would have required a filing with the Department, ratification of the defective corporate act becomes effective on the later of:

(I) The date that articles of validation filed in accordance with §2-705 of this subtitles are accepted for record by the Department; or

(II) The date established in the articles of validation, not to exceed 30 days after the articles are accepted for record.

(B) Beginning at the time ratification is effective and without regard to the 120-day period during which a claim may be brought under §2-707(B) of this subtitle:

(1) A defective corporate act ratified in accordance with this subtitle is not void or voidable as a result of the failure of authorization identified in a board action under §2-702(A) of this subtitle and shall be deemed a valid corporate act effective as of the date of the defective corporate act;

(2) The issuance of putative stock purportedly issued pursuant to a defective corporate act identified in a board action under §2-702(A) is not void or voidable and shall be deemed valid stock as of the time it was purportedly issued; and

(3) Any corporate act taken after a defective corporate act ratified in accordance with this subtitle in reliance on the defective corporate act having been validly effected, and any subsequent defective corporate act resulting from the original defective corporate act, shall be valid as of the time the act was taken.

§ 2-704. Ratification of Defective Corporate Act by Stockholder Approval.

(A) If ratification of a defective corporate act requires approval by stockholders, the secretary of the corporation shall give notice of the proposed ratification

to all stockholders entitled to notice of the meeting in accordance with §2-504 of this title, stockholders as of the date of the defective corporate act, and holders of putative stock.

(B) (1) Except as provided in paragraph (2) of this subsection, if ratification of a defective corporate act does not require approval by stockholders, notice of the ratification may be given to stockholders as of the ratification and as of the date of the defective corporate act and holders of putative stock when the board of directors adopts a resolution in accordance with §2-702(A)of this subtitle.

(2) In the case of a corporation with a class of equity securities registered under the Securities Exchange Act of 1934, notice of a ratification shall be deemed to be given when the ratification has been disclosed in a document publicly filed with the Securities and Exchange Commission.

(C) (1) Except as provided in paragraph (2) of this subsection, notice given to holders of putative stock in accordance with this section shall be provided to:

(I) Holders of putative stock as of the date of the defective corporate act;

(II) Where notice is required under subsection (A) of this section, holders of putative stock as of the record date of the meeting; and

(III) Where notice is given under subsection (B) of this section, holders of putative stock as of the date on which the board of directors adopted a resolution ratifying the defective corporate act.

(2) Notice is not required to be given to holders of putative stock whose identities or addresses cannot be reasonably determined from the records of the corporation.

§ 2-705. Ratification of Defective Corporate Act by Filing.

(A) (1) If a defective corporate act ratified under this subtitle would have required the filing of a charter document with the Department under any provision of this article, the corporation shall file articles of validation in accordance with this section.

(2) If a charter document that was required to be filed with respect to the defective corporate act was not filed, the articles of validation required by this section shall be filed in lieu of the charter document that was not filed.

(B) The articles of validation required by this section shall include:

(1) The title and date of filing of any charter document previously filed with respect to the defective corporate act and any charter document that amended, supplemented, or corrected that charter document;

(2) A statement describing the defective corporate act;

(3) The date of the defective corporate act;

(4) A statement that the defective corporate act was ratified in accordance with this subtitle and a description of the ratification

(5) The time that the ratification is to become effective;

(6) (I) A statement that a charter document was previously filed with respect to the defective corporate act, and no change to the charter document is required;

(II) 1. A statement that a charter document was previously filed with respect to the defective corporate act;

2. A statement describing the changes being made to the charter document; and

3. Any other information required by this article; or

(III) 1. A statement that a charter document was not previously filed with respect to the defective corporate act and that a charter document was required to be filed;

2. A citation to the provision of this article under which the charter document was required to be filed; and

3. Any other information required by this article.

§ 2-706. Validity and Modification of Ratification Procedures.

(A) Upon application by the corporation, any successor entity to the corporation, any director of the corporation, any record of beneficial holder of valid stock or putative stick, any record or beneficial holder of putative stock as of the date of the defective corporate act, any holder of a voting trust certificate, any holder of a voting trust certificate as of the date of the defective corporate act, or any other person claiming to be substantially and adversely affected by a ratification under this subtitle, a court may:

(1) Determine the validity of any ratification under this subtitle; or

(2) Modify or waive any of the procedures required by his subtitle to ratify a defective corporate act.

(B) An action under this section shall be brought within 120 days after:

(1) If the ratification was approved by stockholders, the date on which ratification occurred; or

(2) If notice was given or deemed given within 60 days after the ratification, the date on which notice was given or deemed given to stockholders and any holders of putative stock in accordance with this subtitle.

§ 2-707. Provisions Not Exclusive Means for Ratification.

(A) Nothing in this subtitle may be construed to require that ratification of a defective corporate act under this subtitle be the exclusive means of ratifying or validating a defective corporate act or to limit the ability of a corporation to file certificates or charter documents in accordance with any other provision of this article.

(B) The absence or failure of ratification in accordance with this subtitle shall not, of itself, affect the validity of effectiveness of any corporate act otherwise lawfully ratified, nor may it create a presumption that any corporate act is or was a defective corporate act.

Maryland Nonstock Corporation Act

§ 5-201. Applicability.

The provisions of the Maryland General Corporation Law apply to nonstock corporations unless:

(1) The context of the provisions clearly requires otherwise; or

(2) Specific provisions of this subtitle or other subtitles governing specific classes of corporations provide otherwise.

§ 5-202. Charter or bylaw provisions.

(a) *Lack of authority to issue stock.* -- The charter of each nonstock corporation formed after June 1, 1951, shall provide that the corporation has no authority to issue capital stock.

(b) *Other charter or bylaw provisions.* -- Notwithstanding any other provision of this article, the charter or bylaws of a nonstock corporation may:

(1) Divide the directors or members of the corporation into classes;

(2) Prescribe the tenure and conditions of service of its directors, but no class of directors may be elected to serve for a period shorter than the interval between annual meetings unless:

(i) All or a class of directors must be members; and

(ii) Qualifications for membership have the effect of shortening their tenure of service;

(3) Prescribe the rights, privileges, and qualifications of its members;

(4) Prescribe the manner of giving notice of any meeting of its members;

(5) Provide for the number or proportion of voting members whose presence in person or by proxy constitutes a quorum at any meeting of its members;

(6) Provide that any action may be taken or authorized by any number or proportion of the votes of all its members or all its directors entitled to vote;

(7) Deny or limit the right of its members to vote by proxy;

(8) Provide for the right of members to vote by mail or by electronic transmission on a stated proposal or for the election of directors or any officers who are elected by members.

(9) Regulate the management of the business and affairs of the corporation; and

(10) Regulate the exercise or allocation of voting power between or among the directors and members.

§ 5-203. Method for calling organization meeting.

Notwithstanding the provisions of Title 2 of this article, the organization meeting of the board of directors named in the charter of a nonstock corporation may be called by either:

(1) A majority of the incorporators; or

(2) Not less than one third of the directors named in the charter.

§ 5-204. Directors' status as members.

(a) *In general.* -- For purposes of any law or rule relating to members of a nonstock corporation, the directors of a nonstock corporation, under either of the circumstances described in subsection (b) of this section:

(1) Also constitute the members of the corporation; and

(2) When meeting as directors, may exercise the rights and powers of members.

(b) *Application of section.* -- This section applies if:

(1) Neither the charter nor the bylaws of the corporation provide for members; or

(2) The nonstock corporation in fact has no members.

§ 5-205. Reduction of membership.

(a) *Reduction of membership below majority.* -- A nonstock corporation is not required to dissolve merely because the death or resignation of a member reduces the actual number of members to less than required by its charter or bylaws.

(b) *Power of remaining members.* -- As long as there is a remaining member, he may fill vacancies and continue the corporate existence.

§ 5-206. Additional meeting.

(a) *Calling of additional meeting.* -- If the number of members present at a properly called meeting of the members of a nonstock corporation is insufficient to approve a proposed action, another meeting of the members may be called for the same purpose if:

(1) The notice of the meeting stated that the procedure authorized by this section might be invoked; and

(2) By majority vote, the members present in person or by proxy call for the additional meeting.

(b) *Notice of additional meeting.* -- Fifteen days notice of the time, place, and purpose of the additional meeting shall be given by advertisement in a newspaper published in the county where the principal office of the corporation is located. The notice shall contain the quorum and voting provisions of subsection (c) of this section.

(c) *Quorum and voting requirements at additional meeting.* -- At the additional meeting, the members present in person or by proxy constitute a quorum. A majority of the members present in person or by proxy may approve or authorize the proposed action at the additional meeting and may take any other action which could have been taken at the original meeting if a sufficient number of members had been present.

§ 5-207. Consolidation, merger with nonstock corporation.

(a)*Consolidation or merger permitted only with nonstock corporation.*

(1) A nonstock corporation may consolidate or merge only with another nonstock corporation.

(2) A Maryland nonstock corporation may convert only into a foreign corporation that does not have the authority to issue stock.

(3) A foreign corporation that does not have the authority to issue stock:

(i) May convert into a Maryland nonstock corporation; and

(ii) May not convert into a Maryland corporation that has the authority to issue stock.

(b) *Consolidation, merger, and transfer of assets governed by Title 3.* -- A consolidation, merger, transfer of assets, or conversion of a nonstock corporation shall be effected as provided in Title 3 of this article.

(c) *Corporation organized to hold title for labor organization.* -- Notwithstanding § 3-105 (e) of this article, a proposed consolidation, merger, transfer of assets, or conversion of a nonstock corporation organized to hold title to property for a labor organization, and for related purposes, shall be approved by the same affirmative vote of the members of the

corporation that the constitution or bylaws of the labor organization requires for the same action.

§ 5-208. Dissolution or forfeiture; distribution of assets.

(a) *Application of Title 3 to nonstock corporations.* -- Except as otherwise provided in this section, the dissolution or forfeiture of the charter of a nonstock corporation shall be effected as provided in Title 3 of this article. In dissolution or on forfeiture of the charter of the corporation, the directors have the powers and duties of directors of a stock corporation under this article.

(b) *Distribution of assets on dissolution or forfeiture.* -- If a Maryland nonstock corporation dissolves or its charter is forfeited:

(1) Every liability and obligation of the corporation shall be paid and discharged or adequate provision for payment and discharge shall be made;

(2) Assets held by the corporation subject to legally valid requirements for their return, transfer, or conveyance on dissolution or forfeiture shall be disposed of in accordance with these requirements;

(3) Assets held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held subject to legally valid requirements for their return, transfer, or conveyance by reason of dissolution or forfeiture, shall be transferred or conveyed under a plan of distribution, adopted in the manner and by the vote required for authorization of dissolution of the corporation, to one or more Maryland or foreign corporations or associations having a similar or analogous character or purpose, or associated or connected with the corporation;

(4) Other assets shall be distributed as provided in the charter or the bylaws to the extent that the charter or bylaws determine the distributive rights of members or any class or classes of members, or provide for distribution to others; and

(5) Any remaining assets may be distributed to any person, society, organization, or Maryland or foreign corporation specified in a plan of distribution, adopted in the manner and by the vote required for authorization of dissolution of the corporation.

(c) *Application of §§ 3-412, 3-517, and 3-518 to dissolution or forfeiture of charter of nonstock corporation.* -- Unless the decree of a court of competent jurisdiction provides otherwise, the provisions of § 3-412 of this article relating to distributions in dissolution of stock corporations or §§ 3-517 and 3-518 of this article relating to distributions on forfeiture of the charters of stock corporations, as the case may be, apply to the distribution of assets to any member or other person entitled or otherwise designated to receive a distribution in liquidation of a nonstock corporation. For purposes of this section, the term

"stockholders" in §§ 3-412, 3-517, and 3-518 of this article includes every person so entitled or designated to receive a distribution in liquidation.

§ 5-209. Disposition of property of charitable or religious corporations by court.

(a) *In general*. -- If a charitable or religious corporation is or is about to be dissolved, or for any reason it is impracticable or inexpedient to continue the corporation's activities, a circuit court may order the disposition of corporate property that:

(1) Is not needed to pay the corporation's debts; and

(2) (i) Is not subject to valid requirements for its return to the donor or the donor's successor in interest by reason of the cessation of corporate activities; or

(ii) Is not claimed by the donor or the donor's successor in interest after receiving the notice provided for in subsection (b) of this section.

(b) *Notice.* -- Notice of the substance and purpose of the complaint or petition shall be given to the donor of the property or the donor's successor in interest by personal service or by publication in the manner the court directs.

(c) *Transfer of property to another corporation or association*. -- To the extent possible, the court shall direct or provide for the transfer of the corporation's property to another corporation or association having a similar or analogous character or purpose, or associated or connected with the corporation.

(d) *Intent of section*. -- The intent of this section is that the circuit court may exercise the judicial power of cy-pres to fulfill, despite a change in circumstances, the general intention of the donor of the property for the use of the gift.