

No. 31

AN ACT

SB 375

Amending the act of May 5, 1933 (P. L. 289), entitled, as amended, "An act relating to corporations; defining and providing for the organization, merger, consolidation, and dissolution of certain corporations not for profit; conferring certain rights, powers, duties, and immunities upon them and their officers and members; prescribing the conditions on which such corporations may exercise their powers; providing for the inclusion of certain existing corporations within the provisions of this act; prescribing the terms and conditions upon which certain foreign corporations may be admitted or may continue to do business within the Commonwealth; conferring powers and imposing duties on the courts of common pleas, prothonotaries of such courts, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services required to be rendered by this act; imposing penalties; and repealing certain acts and parts of acts relating to corporations and other entities," eliminating the requirement for court proceedings in connection with the incorporation, merger, consolidation, and amendment of articles of certain domestic nonprofit corporations, authorizing the filing of certain documents in the Department of State and changing provisions relating to cumulative voting for the election of directors.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of May 5, 1933 (P. L. 289), known as the "Nonprofit Corporation Law," is amended by adding after section 13, a new section to read:

Section 14. Optional Procedure Relating to Incorporation, Amendment of Articles, Merger and Consolidation.—A. (1) Except as provided in subsection B of this section, the incorporators of any proposed nonprofit corporation, any nonprofit corporation proposing to amend its articles or any two or more nonprofit corporations proposing to merge or consolidate may elect to proceed under this section in lieu of the procedures specified elsewhere in this act.

(2) Any person intending to incorporate a corporation under this section or any corporation intending to change its name under this section may reserve the exclusive right to the use of a corporate name in the manner provided by section 202 of this act.

(3) The incorporators or the corporation or corporations shall advertise the proposed corporate action in the manner provided by this act except that such advertisement (i) shall state the date on or after which articles of incorporation, amendment, merger or consolidation, as the case may be, will be filed in the Department of State, which date shall be at least three days subsequent to the latest date of publication, and (ii) shall omit any reference to filing in the office of the prothonotary or application to the court.

(4) Articles of incorporation, amendment, merger or consolidation

filed in the Department of State as provided in this section shall comply as to authorization, content, execution and other matters with the requirements specified elsewhere in this act, except in so far as necessary to reflect the elimination of filing in the office of the prothonotary and submission to and approval by the court and except that any such articles need not (i) contain a statement that the name of a proposed corporation has been registered with the Department of State, or (ii) be verified, or (iii) be recorded in any office for the recording of deeds.

(5) The incorporators or the corporation or corporations shall deliver to the Department of State articles of incorporation, amendment, merger or consolidation together with proof of publication and all fees and taxes or certificates relating thereto, which shall file such articles as provided in section 12 of this act, except that where any section of this act requires the presentation of a certificate of or evidence of approval or consent by any department, board, commission or officer of this Commonwealth, other than a certificate of registration of corporate name by the Department of State, as a prerequisite to the approval of articles of incorporation, amendment, merger or consolidation by a court, the Department of State shall not file any such articles unless such certificate or evidence of approval or consent is presented to the department. No certificate of incorporation, amendment, merger or consolidation shall be issued by the Department of State upon the filing of any articles of incorporation, amendment, merger or consolidation under this section.

(6) The filing of articles of incorporation, amendment, merger or consolidation in the Department of State as provided in this section shall be in all respects equivalent to the recording of approved articles of incorporation, amendment, merger or consolidation in the proper office for the recording of deeds as elsewhere provided in this act. A corporation which has filed articles of incorporation, amendment, merger or consolidation in the Department of State under this section may state such fact and the date of such filing in lieu of any statement required by this act or by any other provision of law relating to the fact and date of approval by a court or to the fact, date and place of recording of any corporate action relating to the incorporation, amendment of articles, merger or consolidation of a nonprofit corporation.

B. No nonprofit corporation shall be incorporated pursuant to this section which shall have as its stated purpose or among its stated purposes the sale of intoxicating beverages nor shall any such purpose be added to the articles of any nonprofit corporation by any articles of amendment, merger or consolidation filed under this section. If any nonprofit corporation incorporated pursuant to this section or which has effected any amendment of articles or merger or consolidation pursuant to this section shall desire to add the sale of intoxicating

beverages to its stated purposes such corporation shall proceed under Article VII of this act.

Section 2. Section 606 of the act, amended August 24, 1963 (P. L. 1163), is amended to read:

Section 606. Members' Voting Rights.—A. Unless otherwise provided in the articles or by-laws, every member of a nonprofit corporation shall be entitled to one vote. Voting by members shall be only in person, unless the by-laws specifically provide for voting by proxy. Every proxy shall be executed in writing by the member or by his duly authorized attorney in fact and filed with the secretary of the corporation. A proxy shall be revocable at will notwithstanding any other agreement or any provision in the proxy to the contrary, but the revocation of a proxy shall not be effective until notice thereof has been given to the secretary of the corporation. No unrevoked proxy shall be valid after eleven months from the date of its execution unless a longer time is expressly provided therein, but in no event shall a proxy be voted on after three years from the date of its execution. A proxy shall not be revoked by the death or incapacity of the maker, unless before the vote is counted or the authority is exercised, written notice of such death or incapacity is given to the secretary of the corporation. The manner of voting may be by ballot, mail, or any reasonable means provided in the articles or by-laws.

[In all] B. *If the articles or by-laws so provide, in* elections for directors, each member having a right to vote shall have the right to multiply the number of votes to which he may be entitled by the total number of directors of all classes to be elected by either the members of the class or classes of which he is a part or by the members of any other class or classes, and he may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer. The candidates receiving the highest number of votes from each class or group of classes entitled to elect directors separately up to the number of directors to be elected by such class or group of classes shall be elected. No member shall sell his vote or issue a proxy for money or anything of value. Upon request of a member, the books or records of membership shall be produced at any general or special meeting of the corporation. If at any meeting the right of a person to vote is challenged, the presiding officer shall require such books or records to be produced as evidence of the right of the person challenged to vote, and all persons who appear by such books or records to be members may vote.

Section 3. This act shall take effect in ninety days.

APPROVED—The 19th day of June, A. D. 1969.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly
No. 31.



Joseph P. Kelly
Secretary of the Commonwealth.