

No. 2013-67

AN ACT

SB 304

Amending Titles 15 (Corporations and Unincorporated Associations) and 54 (Names) of the Pennsylvania Consolidated Statutes, in Title 15, making extensive revisions, additions and deletions to preliminary material on general provisions; to corporation material on general provisions, on incorporation, on corporate powers, duties and safeguards, on officers, directors and shareholders, on fundamental changes, on registered corporations, on insurance corporations, on benefit corporations, on foreign business corporations, on incorporation and on foreign nonprofit corporations; to material on limited liability companies; to material on unincorporated associations; and to material on business trusts; in Title 54, further providing for general provisions and for corporate and other association names; and making related repeals.

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

Section 1. This act shall be known and may be cited as the GAA Amendments Act of 2013.

Section 2. The definitions of "banking institution," "representative" and "savings association" in section 102 of Title 15 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 102. Definitions.

Subject to additional or inconsistent definitions contained in subsequent provisions of this title that are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Banking institution." [A banking institution as defined in section 1103 (relating to definitions).] *An institution as defined in section 102(r) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.*

"Bureau." *The Bureau of Corporations and Charitable Organizations of the Department of State.*

* * *

"Domestic banking institution." *A domestic association which is an institution as defined in section 102(r) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.*

* * *

"Domestic insurance corporation." *An insurance corporation as defined in section 3102 (relating to definitions).*

"Domestic savings association." *A domestic corporation for profit which is an association as defined in section 102(3) of the former act of*

¹"the act of" in enrolled bill.

December 14, 1967 (P.L. 746, No.345), known as the Savings Association Code of 1967.

* * *

"Execute." When used with respect to authenticating or adopting a filing, document or other record, means "sign."

* * *

"Obligation." Includes a note or other form of indebtedness, whether secured or unsecured.

"Officially publish." Publish in two newspapers of general circulation in the English language in the county in which the registered office of the association is located or, in the case of a proposed association, will be located, one of which must be the legal newspaper, if any, designated by the rules of court for the publication of legal notices. If there is only one newspaper of general circulation in the county, advertisement in that newspaper is sufficient. If no other frequency is specified, the notice must be published one time. See section 109(a)(2) (relating to name of commercial registered office provider in lieu of registered address).

* * *

"Record form." Inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

"Representative." [A representative as defined in section 1103 (relating to definitions).] When used with respect to an association, joint venture, trust or other enterprise, a person occupying the position or discharging the functions of a director, officer, partner, manager, trustee, fiduciary, employee or agent, regardless of the name or title by which the person may be designated. The term does not imply that a director, as such, is an agent of a corporation.

"Savings association." [A savings association as defined in section 1103.] An association as defined in section 102(3) of the former act of December 14, 1967 (P.L. 746, No.345), known as the Savings Association Code of 1967.

"Sign." With present intent to authenticate or adopt information in record form:

- (1) to sign manually or adopt a tangible symbol; or*
- (2) to attach to, or logically associate with, information in record form, an electronic sound, symbol or process.*

* * *

Section 3. Section 107 of Title 15 is amended to read:

§ 107. Form of records.

[Any records] (a) General rule.—Information maintained by a corporation or other association in the regular course of its business, including shareholder or membership records, books of account and minute books, may be kept **[on, or be in the form of, punch cards, magnetic storage media, photographs, microphotographs or any other information storage device if the records so kept can be converted into reasonably legible written form within a reasonable time] in record**

¹the act of" in enrolled bill.

form. [Any corporation or other association shall so convert any records so kept upon the request of any person entitled to inspect the records. Where records are kept in this manner, a reasonably legible written form produced from the information storage device that accurately portrays the record shall be admissible in evidence, and shall be accepted for all other purposes, to the same extent as an original written record of the same information would have been accepted.]

(b) Meaning of "written".—References in this title to a document in writing or to a written provision of an agreement or other document shall be deemed to include and be satisfied by a document or provision of an agreement or document in record form.

Section 4. Title 15 is amended by adding a section to read:

§ 111. Relation of title to Electronic Signatures in Global and National Commerce Act.

(a) General rule.—Except as set forth in subsection (b), this title modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7001 et seq.).

(b) Exception.—This title does not do any of the following:

(1) Modify, limit or supersede section 101(c) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001(c)).

(2) Authorize electronic delivery of a notice described in section 103(b) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7003(b)).

Section 5. Sections 131, 133(a) and (d), 134(a)(3), 135(a) introductory paragraph, (2) and (7) and (d), 136(b) and 152 of Title 15 are amended to read:

§ 131. Application of subchapter.

As used in this subchapter, the term "this title" includes Titles 17 (relating to credit unions) and 54 (relating to names) and any other provision of law that:

(1) makes reference to the powers and procedures of this subchapter[.]; or

(2) to the extent not inconsistent with this subchapter:

(i) requires a filing in the bureau; and

(ii) does not specify some or all of the necessary procedures for the filing provided in this subchapter.

§ 133. Powers of Department of State.

(a) General rule.—The [Department of State shall have] department has the power and authority reasonably necessary to enable it to administer this subchapter efficiently and to perform the functions specified in section 132 (relating to functions of Department of State), in 13 Pa.C.S. (relating to commercial code) and in 17 Pa.C.S. (relating to credit unions). The following shall not be agency regulations for the purposes of section 612 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, or any similar provision of law, but shall be subject to the opportunity of public comment requirement under

section 201 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law:

(1) Sample filing forms promulgated by the department **[under subsection (d)]**.

(2) Instructions accompanying sample filing forms and other explanatory material published in the Pennsylvania Code that is intended to substantially track applicable statutory provisions relating to the particular filing or to any of the functions of the department covered by this subsection, if a regulation of the department expressly states that **[such] those** instructions or explanatory materials shall not have the force of law.

(3) Regulations, which the department is hereby authorized to promulgate, that:

(i) Authorize payment of fees and other remittances through or by a credit *or debit* card issuer or other financial intermediary.

(ii) Authorize contracts with credit *or debit* card issuers and other financial intermediaries relating to the collection, transmission and payment of fees and other remittances.

[(iii) Adjust the level of fees and other remittances as otherwise fixed by law so as to facilitate their transmission through or by a credit card issuer or other financial intermediary pursuant to such regulations without net cost to the department.]

(iv) Adjust, not more than once per year, the fees set forth in section 153(a) (relating to fee schedule) and 13 Pa.C.S. § 9525 (relating to fees) for filings transmitted to the department electronically.

(v) Relate to the format or means of delivering documents to the department for filing.

* * *

(d) [Physical characteristics and copies of documents.—All articles and other documents authorized or required to be filed in the department under this title shall be in such format as to size, shape and other physical characteristics as shall be prescribed by regulations promulgated by the department. The regulations may require the submission of not to exceed three conformed copies of any document in addition to the original and any copies thereof otherwise required by law. All formats promulgated by the department for use under this title shall include a statement of the number of copies required to be filed and shall be published in the Pennsylvania Code.] (Reserved).¹

* * *

§ 134. Docketing statement.

(a) General rule.—The **[Department of State] department** may, but shall not be required to, prescribe by regulation one or more official docketing statement forms designed to elicit from a person effecting a filing under this title information that the department has found to be necessary or desirable in connection with the processing of a filing. A form of docketing statement prescribed under this subsection:

¹"(Reserved)." omitted in enrolled bill.

* * *

(3) May be required by the department in connection with a filing only if notice of the requirement appears on the official format for the filing prescribed **[under section 133(d) (relating to physical characteristics and copies of documents)]** *by the department.*

* * *

§ 135. Requirements to be met by filed documents.

(a) General rule.—A document shall be accepted for filing by the **[Department of State] department** if it satisfies the following requirements:

* * *

(2) The document complies with any regulations promulgated by the department **[pursuant to section 133(d) (relating to physical characteristics and copies of documents)]** and is accompanied by any applicable statement prescribed under section 134.

* * *

(7) It is *in record form and* executed. The department shall not examine a document to determine whether the document has been **[executed] signed** by an authorized person or by sufficient authorized persons or otherwise is duly **[executed. A document shall be deemed executed if it contains a facsimile signature, so long as the operative portions of the document meet any applicable requirements prescribed under section 133(d) (relating to physical characteristics and copies of documents)] signed.**

* * *

(d) **[Method of filing.—The department may prescribe by regulation procedures for filing documents by electronic mail, facsimile transmission, telex or other similar means of communication] (Reserved).**

* * *

§ 136. Processing of documents by Department of State.

* * *

(b) **[Immediate certified] Duplicate** copy.—

(1) If a duplicate copy, which may be either a signed or conformed copy, of any articles or other document authorized or required by this title to be filed in the department is delivered to the department with the original signed document, the department shall **[compare the duplicate copy with the original signed document and, if it finds that they are identical, shall certify the duplicate copy by making upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the duplicate copy is a true copy of the original signed document,] stamp the duplicate copy with the date received by the department** and return the duplicate copy to the person who delivered it to the department.

(2) **[If the duplicate copy is delivered by hand to the office of the department at the seat of government at least four hours before the close of business on any day not a holiday and relates to a matter other than a label or other mark requiring examination under Title 54 (relating to names) or the reservation or registration of a name**

under this title and, in the case of a document that creates a new association, effects or reflects a change in name or qualifies a foreign association to do business in this Commonwealth, if the duplicate copy is accompanied by evidence that the proposed name has been reserved or registered by or on behalf of the applicant, the department before the close of business on that day shall either:

(i) Certify the duplicate copy as required by this subsection and make such certified copy available at the office of the department to or upon the order of the person who delivered it to the department.

(ii) Make available at the office of the department to or upon the order of the person who delivered it to the department a brief statement in writing of the reasons of the department for refusing to certify such duplicate copy.

See section 153(a)(10) (relating to certification fees.) *(Reserved)*.

(3) In lieu of [comparing] *date stamping* the duplicate copy [with] of the original signed document as provided in [paragraphs (1) and (2)] *paragraph (1)*, the department may make a copy of the original signed document at the cost of the person who delivered it to the department.

* * *

§ 152. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Ancillary transaction." Includes:

- (1) preclearance of document[,];
- (2) amendment of articles, charter, certificate or other organic document, restatement of articles, charter, certificate or other organic document[, **change in registered or principal office, change in share structure,**];
- (3) dissolution, cancellation or termination[, **reorganization,**] *of an association;*
- (4) withdrawal by foreign association[,];
- (5) withdrawal by a partner[, or];
- (6) any [similar transaction,] *transaction similar to any item listed in paragraphs (1) through (5); or*
- (7) [or the deposit in the Department of State] *delivery to the department* for filing in, by or with the [Department of State] *department* or the Secretary of the Commonwealth of any articles, statements, proceedings, agreements or any [like] *similar* papers affecting associations under the statutes of this Commonwealth[.] *for which a specific fee is not set forth in section 153 (relating to fee schedule) or other applicable statute.*

["Bureau." The Corporation Bureau of the Department of State or any successor agency within the department.]

Section 5.1. Section 153 of Title 15 is amended by adding a subsection to read:

§ 153. Fee schedule.

(a) *General rule.*—¹The nonrefundable fees of the bureau, including fees for the public acts and transactions of the Secretary of the Commonwealth administered through the bureau, shall be as follows:

(1) Domestic corporations:

| | |
|--|-------|
| (i) Articles of incorporation, letters patent or similar instruments incorporating a corporation or association..... | \$125 |
| (ii) Articles or agreement or similar instrument of merger, consolidation or division..... | 70 |
| (iii) Additional fee for each association which is a party to a merger or consolidation | 40 |
| (iv) Additional fee for each new association resulting from a division..... | 125 |
| (v) Articles of conversion or a similar instrument.. | 70 |
| (vi) Each ancillary transaction..... | 70 |

(2) Foreign corporations:

| | |
|---|-----|
| (i) Certificates of authority or similar qualifications to do business | 250 |
| (ii) Amended certificate of authority or similar change in qualification to do business..... | 250 |
| (iii) Domestication | 125 |
| (iv) Statement of merger or consolidation or similar instrument reporting occurrence of merger or consolidation not effected by a filing in the department. | 70 |
| (v) Additional fee for each qualified foreign corporation which is named in a statement of merger or consolidation or similar instrument..... | 40 |
| (vi) Each ancillary transaction..... | 70 |

(3) Partnerships and limited liability companies:

| | |
|---|-----|
| (i) Certificate of limited partnership or certificate of organization of a limited liability company or similar instrument forming a limited partnership or organizing a limited liability company..... | 125 |
| (ii) Certificate of merger, consolidation or division | 70 |
| (iii) Additional fee for each association which is a party to a merger or consolidation | 40 |
| (iv) Additional fee for each new association resulting from a division..... | 125 |
| (v) Application for registration of foreign limited partnership or limited liability company..... | 250 |
| (vi) Certificate of amendment of registration of foreign limited partnership or limited liability company..... | 250 |
| (vii) Statement of registration of registered limited liability partnership or statement of election as an electing partnership | 125 |
| (viii) Domestication of foreign limited liability | |

¹(a) General rule.—" not underscored in enrolled bill.

| | |
|--|-----|
| <i>company</i> | 125 |
| (i) <i>Each ancillary transaction</i> | 70 |
| (4) Unincorporated nonprofit associations: | |
| (i) <i>Statement appointing an agent to receive service of process</i> | 70 |
| (ii) <i>Resignation of appointed agent</i> | 40 |
| (iii) <i>Amendment or cancellation of statement appointing an agent</i> | 70 |
| (5) Business trusts: | |
| (i) <i>Deed of trust or other initial instrument for a business trust</i> | 125 |
| (ii) <i>Each ancillary transaction</i> | 70 |
| (6) Fictitious names: | |
| (i) <i>Registration</i> | 70 |
| (ii) <i>Each ancillary transaction</i> | 70 |
| (7) Service of process: | |
| (i) <i>Each defendant named or served</i> | 70 |
| (ii) <i>(Reserved)</i> | |
| (8) Trademarks, emblems, union labels, description of bottles and similar matters: | |
| (i) <i>Trademark registration</i> | 50 |
| (ii) <i>Each ancillary trademark transaction</i> | 50 |
| (iii) <i>Any other registration under this paragraph</i> ... | 70 |
| (iv) <i>Any other ancillary transaction under this paragraph</i> | 70 |
| (9) Uniform Commercial Code: As provided in 13 Pa.C.S. § 9525 (relating to fees). | |
| (10) Copy fees, including copies furnished under the Uniform Commercial Code: | |
| (i) <i>Each page of photocopy furnished</i> | 3 |
| (ii) <i>(Reserved)</i> | |
| (11) Certification fees: | |
| (i) <i>For certifying copies of any document or paper on file, the fee specified in paragraph (10), if the department furnished the copy, plus</i> | 40 |
| (ii) <i>(Reserved)</i> | |
| (iii) <i>For issuing any other certificate of the Secretary of the Commonwealth or the department (other than an engrossed certificate)</i> | 40 |
| (12) Report of record search other than a search under paragraph (9): | |
| (i) <i>For preparing and providing a report of a record search, the fee specified in paragraph (10), if any, plus</i> | 15 |
| (ii) <i>(Reserved)</i> | |
| (13) Reservation and registration of names: | |
| (i) <i>Reservation of association name</i> | 70 |

| | |
|---|-------|
| (ii) <i>Registration of foreign or other corporation name</i> | 70 |
| (14) <i>Change of registered office or address:</i> | |
| (i) <i>Each statement of change of registered office by agent</i> | 5 |
| (ii) <i>Each statement or certificate of change of registered office</i> | 5 |
| (iii) <i>Each statement of change of address</i> | 5 |
| (15) <i>Contingent domestication:</i> | |
| (i) <i>Statement of contingent domestication</i> | 125 |
| (ii) <i>Each year, or portion of a year, during which a contingent domestication or temporary domiciliary status is in effect</i> | 1,500 |
| (16) <i>Expedited service:</i> | |
| (i) <i>For the processing of any filing under this title or 13 Pa.C.S. (relating to commercial code) which is received by the bureau before 4 p.m. and is requested to be completed within one hour, an additional fee of</i> | 1,000 |
| (ii) <i>For the processing of any filing under this title or 13 Pa.C.S. which is received by the bureau before 2 p.m. and is requested to be completed within three hours, an additional fee of</i> | 300 |
| (iii) <i>For processing of any filing under this title or 13 Pa.C.S. which is received by the bureau before 10 a.m. and is requested to be completed the same day, an additional fee of</i> | 100 |

* * *

Section 5.2. Section 155(b) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 155. Disposition of funds.

(a)¹ **Corporation Bureau Restricted Account.**—*The Corporation Bureau Restricted Account, established under former section 814 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is continued. This account shall receive 30% of the amount received by the department under this subchapter except for the fees collected under 13 Pa.C.S. § 9525(a)(1)(ii) (relating to fees). This account shall receive 5% of the amount received by the department under 13 Pa.C.S. § 9525(a)(1)(ii). The balance of the amount received by the department under this subchapter shall be deposited in the General Fund. Money in the account shall be used solely for the operation of the bureau and for its modernization as may be required for improved operations of the bureau unless a surplus arises after two consecutive years, at which time the Secretary of the Commonwealth shall transfer any amount in excess of the bureau's budget into the General Fund.*

(b) **Expenditures.**—The [Department of State] *department* shall submit a budget for the operation or modernization of the [Corporation Bureau] *bureau* to the Governor for approval. Such funds as are approved by the

¹(a) [Establishment of restricted account.—] in enrolled bill.

Governor are hereby appropriated from the Corporation Bureau Restricted Account to the [Department of State] *department* for the operation of the bureau.

* * *

Section 5.3. Title 15 is amended by adding a section to read:

§ 156. References.

In statutes, regulations and orders, a reference to the Corporation Bureau shall be deemed a reference to the bureau.

Section 6. The introductory paragraph and the definitions of "act" or "action," "banking institution" or "domestic banking institution," "corporation for profit," "corporation not-for-profit," "court," "credit union," "department," "distribution," "domestic corporation for profit," "domestic corporation not-for-profit," "foreign corporation for profit," "foreign corporation not-for-profit," "insurance corporation" or "domestic insurance corporation," "Internal Revenue Code of 1986," "obligation," "officially publish," "representative," "savings association" or "domestic savings association" and "voting" or "casting a vote" in section 1103 of Title 15 are amended and the section is amended by adding a subsection to read:

§ 1103. Definitions.

(a) General definitions.—Subject to additional definitions contained in subsequent provisions of this subpart that are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

["Act" or "action." Includes failure to act.]

* * *

["Banking institution" or "domestic banking institution." A domestic corporation for profit that is an institution as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.]

* * *

["Corporation for profit." A corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members.

"Corporation not-for-profit." A corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.

"Court." Subject to any inconsistent general rule prescribed by the Supreme Court of Pennsylvania:

(1) the court of common pleas of the judicial district embracing the county where the registered office of the corporation is or is to be located; or

(2) where a corporation results from a merger, consolidation, division or other transaction without establishing a registered office in this Commonwealth or withdraws as a foreign corporation, the court of common pleas in which venue would have been laid immediately prior to the transaction or withdrawal.

"Credit union." A credit union as defined in 17 Pa.C.S. § 102 (relating to application of title).

"Department." The Department of State of the Commonwealth.]

* * *

"Distribution." A direct or indirect transfer of money or other property (except its own shares or options, rights or warrants to acquire its own shares) or incurrence of indebtedness by a corporation to or for the benefit of any or all of its shareholders in respect of any of its shares whether by dividend or by purchase, redemption or other acquisition of its shares or otherwise. Neither the making of, nor payment or performance upon, a guaranty or similar arrangement by a corporation for the benefit of any or all of its shareholders nor a direct or indirect transfer *or allocation of assets or liabilities* effected under Chapter 19 (relating to fundamental changes) with the approval of the shareholders shall constitute a distribution for the purposes of this subpart.

["Domestic corporation for profit." A corporation for profit incorporated under the laws of this Commonwealth.

"Domestic corporation not-for-profit." A corporation not-for-profit incorporated under the laws of this Commonwealth.]

* * *

["Foreign corporation for profit." A corporation for profit incorporated under any laws other than those of this Commonwealth.

"Foreign corporation not-for-profit." A corporation not-for-profit incorporated under any laws other than those of this Commonwealth.]

* * *

["Insurance corporation" or "domestic insurance corporation." An insurance corporation as defined in section 3102 (relating to definitions).

"Internal Revenue Code of 1986." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).]

* * *

["Obligation." Includes a note or other form of indebtedness, whether secured or unsecured.]

* * *

["Officially publish." Publish in two newspapers of general circulation in the English language in the county in which the registered office of the corporation is located, or in the case of a proposed corporation is to be located, one of which shall be the legal newspaper, if any, designated by the rules of court for the publication of legal notices or, if there is no legal newspaper, in two newspapers of general circulation in the county. When there is but one newspaper of general circulation in any county, advertisement in that newspaper shall be sufficient. Where no other frequency is specified, the notice shall be published one time in the appropriate newspaper or newspapers. See section 109(a)(2) (relating to name of commercial registered office provider in lieu of registered address).]

* * *

["Representative." When used with respect to an association, joint venture, trust or other enterprise, means a person occupying the position or discharging the functions of a director, officer, employee or agent thereof, regardless of the name or title by which the person may

be designated. The term does not imply that a director, as such, is an agent of a corporation.

"Savings association" or "domestic savings association." A domestic corporation for profit that is an association as defined in the act of December 14, 1967 (P.L.746, No.345), known as the Savings Association Code of 1967.]

* * *

"Voting" or "casting a vote." Includes the giving of [written] consent *in lieu of voting*. The term does not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes the conduct as voting or casting a vote.

(b) Index of other definitions.—The following is a nonexclusive list of words and phrases which when used in this subpart shall have the meanings given to them in section 102 (relating to definitions):

"Act" or "action."

"Banking institution" or "domestic banking institution."

"Corporation for profit."

"Corporation not-for-profit."

"Court."

"Credit union."

"Department."

"Domestic corporation for profit."

"Domestic corporation not-for-profit."

"Execute."

"Foreign corporation for profit."

"Foreign corporation not-for-profit."

"Insurance corporation" or "domestic insurance corporation."

"Internal Revenue Code of 1986."

"Obligation."

"Officially publish."

"Record form."

"Representative."

"Savings association" or "domestic savings association."

"Sign."

Section 7. Section 1104 of Title 15 is repealed:

[§ 1104. Other general provisions.

The following provisions of this title are applicable to corporations subject to this subpart:

Section 101 (relating to short title and application of title).

Section 102 (relating to definitions).

Section 103 (relating to subordination of title to regulatory laws).

Section 104 (relating to equitable remedies).

Section 105 (relating to fees).

Section 106 (relating to effect of filing papers required to be filed).

Section 107 (relating to form of records).

Section 108 (relating to change in location or status of registered office provided by agent).

Section 109 (relating to name of commercial registered office provider in lieu of registered address).

Section 110 (relating to supplementary general principles of law applicable).

Section 132 (relating to functions of Department of State).

Section 133 (relating to powers of Department of State).

Section 134 (relating to docketing statement).

Section 135 (relating to requirements to be met by filed documents).

Section 136 (relating to processing of documents by Department of State).

Section 137 (relating to court to pass upon rejection of documents by Department of State).

Section 138 (relating to statement of correction).

Section 139 (relating to tax clearance of certain fundamental transactions).

Section 140 (relating to custody and management of orphan corporate and business records).

Section 152 (relating to definitions).

Section 153 (relating to fee schedule).

Section 154 (relating to enforcement and collection).

Section 155 (relating to disposition of funds).

Section 162 (relating to contingent domestication of certain foreign associations).

Section 501 (relating to reserved power of General Assembly).

Section 503 (relating to actions to revoke corporate franchises).

Section 504 (relating to validation of certain defective corporations).

Section 505 (relating to validation of certain defective corporate acts).

Section 506 (relating to scope and duration of certain franchises).

Section 507 (relating to validation of certain share authorizations).]

Section 8. Section 1306 of Title 15 is amended by adding a subsection to read:

§ 1306. Articles of incorporation.

* * *

(e) Reference to external facts.—Except for the provisions required by subsection (a)(1), (2), (3), (4)(i), (5) and (7), any provision of the articles of incorporation may be made dependent upon facts ascertainable outside of the articles if the manner in which the facts will operate upon the provision is set forth in the articles. The facts may include actions or events within the control of or determinations made by the corporation or a representative of the corporation.

Section 9. Sections 1504(c) and 1523 of Title 15 are amended to read:

§ 1504. Adoption, amendment and contents of bylaws.

* * *

(c) Bylaw provisions in articles.—Where any provision of this subpart or any other provision of law refers to a rule as set forth in the bylaws of a corporation *or in a bylaw adopted by the shareholders*, the reference shall be construed to include and be satisfied by any rule on the same subject as set forth in the articles of the corporation.

* * *

§ 1523. Pricing and issuance of shares.

Except as otherwise restricted in the bylaws, shares of a business corporation may be issued at a price determined by the board of directors[,]; or the board may [set a minimum price or establish a formula or method by which the price may be determined.] *authorize one or more directors or one or more officers, acting alone or with the participation of one or more directors, to determine, within limits, pursuant to a formula or method or subject to relevant criteria specifically prescribed by the board:*

(1) the persons that shares will be issued to; and

(2) the number of shares, price or consideration and other terms on which shares will be issued.

Section 10. Section 1527(a)(3) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 1527. Issuance of fractional shares or scrip.

(a) General rule.—A business corporation may but shall not be required to create and issue fractions of a share, either represented by a certificate or uncertificated, which, unless otherwise provided in the articles, shall represent proportional interests in all the voting rights, preferences, limitations and special rights, if any, of full shares. If the corporation creates but does not provide for the issuance of fractions of a share, it shall:

* * *

(3) issue scrip or other evidence of ownership, in registered form (either represented by a certificate or uncertificated) or in bearer form (represented by a certificate), entitling the holder to receive a full share upon the surrender of the scrip or other evidence of ownership aggregating a full share, or the transfer of uncertificated scrip aggregating a full share, but which shall not[, **unless otherwise provided therein or with respect thereto,**] entitle the holder to exercise any voting right, to receive dividends or to participate in any of the assets of the corporation in the event of liquidation.

* * *

(c) Limitation.—The articles may not provide that scrip or other evidence of ownership entitles the holder to exercise any voting right, to receive dividends or to participate in any of the assets of the corporation in the event of liquidation.

Section 11. Section 1528 of Title 15 is amended by adding a subsection to read:

§ 1528. Shares represented by certificates and uncertificated shares.

* * *

(g) Bearer shares prohibited.—A business corporation may not issue share certificates in bearer form. This subsection may not be varied by the articles.

Section 12. Section 1529(b) of Title 15 is amended to read:

§ 1529. Transfer of securities; restrictions.

* * *

(b) Transfer restrictions generally.—A restriction on the transfer or registration of transfer of securities of a business corporation may be imposed by the bylaws or by an agreement among any number of

securityholders or among them and the corporation. A restriction so imposed shall not be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to the agreement or voted in favor of the restriction. *A restriction may be amended by the vote or consent and otherwise in the manner provided in the bylaws or agreement for amending the restriction or, in the absence of such a provision, as provided for amending the bylaws or agreement generally.*

* * *

Section 13. Section 1552(b) of Title 15 is relettered and the section is amended by adding subsections to read:

§ 1552. Power of corporation to acquire its own shares.

* * *

(b) Security for acquisition.—In connection with an acquisition by a corporation of its shares, the corporation may grant a security interest in the acquired shares to secure an obligation to pay for the acquisition. A share shall not be canceled on the books of the corporation until the obligation of the corporation secured by the share is fully paid or discharged.

(c) Application of distribution tests.—A corporation may acquire or agree to acquire its shares, even though the acquisition would violate section 1551 (relating to distributions to shareholders), if payment of all or part of the purchase price is deferred until the payment would not violate that section.

[(b)] (d) Cross reference.—See section 1914(c)(2) (relating to adoption by board of directors).

Section 14. Section 1575(a) introductory paragraph of Title 15 is amended to read:

§ 1575. Notice to demand payment.

(a) General rule.—If the proposed corporate action is approved by the required vote at a meeting of shareholders of a business corporation, the corporation shall mail a further notice to all dissenters who gave due notice of intention to demand payment of the fair value of their shares and who refrained from voting in favor of the proposed action. If the proposed corporate action is **[to be] approved by the shareholders by less than unanimous consent without a meeting or is taken without [a vote of] the need for approval by the** shareholders, the corporation shall send to all shareholders who are entitled to dissent and demand payment of the fair value of their shares a notice of the adoption of the plan or other corporate action. In either case, the notice shall:

* * *

Section 15. Section 1704(a) and (b) of Title 15 are amended and the section is amended by adding subsections to read:

§ 1704. Place and notice of meetings of shareholders.

(a) Place.—Meetings of shareholders may be held at such geographic location within or without this Commonwealth as may be provided in or fixed pursuant to the bylaws. Unless otherwise provided in or pursuant to the bylaws, all meetings of the shareholders shall be held at the executive office of the corporation wherever situated. If a meeting of the shareholders is held by means of the Internet or other electronic communications technology in a

fashion pursuant to which the shareholders have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the shareholders **[and]**, pose questions to the directors, *make appropriate motions and comment on the business of the meeting*, the meeting need not be held at a particular geographic location.

(b) Notice.—**[Written notice]** *Notice in record form* of every meeting of the shareholders shall be given by, or at the direction of, the secretary or other authorized person to each shareholder of record entitled to vote at the meeting at least:

- (1) ten days prior to the day named for a meeting that will consider a fundamental change under Chapter 19 (relating to fundamental changes); or
- (2) five days prior to the day named for the meeting in any other case.

[If the secretary or other authorized person neglects or refuses to give notice of a meeting, the person or persons calling the meeting may do so.]

* * *

(d) Alternative authority.—If the secretary or other authorized person neglects or refuses to give notice of a meeting, a person calling the meeting may do so.

(e) Cross reference.—See section 2528 (relating to notice of shareholder meetings).

Section 16. Sections 1705(a), 1727(b), 1756(a)(4) and 1759(a), (c) and (e) of Title 15 are amended to read:

§ 1705. Waiver of notice.

(a) **[Written waiver]** *General rule.*—Whenever any **[written]** notice is required to be given under the provisions of this subpart or the articles or bylaws of any business corporation, a waiver thereof **[in writing, signed]** *which is filed with the secretary of the corporation in record form signed* by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of the notice. Neither the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of the meeting.

* * *

§ 1727. Quorum of and action by directors.

* * *

(b) Action by consent.—Unless otherwise restricted in the bylaws, any action required or permitted to be **[taken]** *approved* at a meeting of the directors may be **[taken]** *approved* without a meeting if**[, prior or subsequent to the action,]** a consent or consents **[thereto]** *to the action in record form are signed, before, on or after the effective date of the action* by all of the directors in office **[is]** *on the date the first consent is signed. The consent or consents must be* filed with the **[secretary of the corporation]** *minutes of the proceedings of the board of directors.*

§ 1756. Quorum.

(a) General rule.—A meeting of shareholders of a business corporation duly called shall not be organized for the transaction of business unless a

quorum is present. Unless otherwise provided in a bylaw adopted by the shareholders:

* * *

(4) If a proxy casts a vote *or takes other action* on behalf of a shareholder on any issue other than a procedural motion considered at a meeting of shareholders, the shareholder shall be deemed to be present during the entire meeting for purposes of determining whether a quorum is present for consideration of any other issue.

* * *

§ 1759. Voting and other action by proxy.

(a) General rule.—

(1) Every shareholder entitled to vote at a meeting of shareholders or to express consent or dissent to corporate action **[in writing]** without a meeting may authorize another person to act for him by proxy.

(2) The **[presence of, or]** vote or other action *on behalf of a shareholder* at a meeting of shareholders, or the expression of consent or dissent to corporate action **[in writing]**, by a proxy of a shareholder shall constitute the **[presence of, or]** vote or action by, or **[written]** consent or dissent of the shareholder for the purposes of this subpart.

(3) Where two or more proxies of a shareholder are present, the corporation shall, unless otherwise expressly provided in the proxy, accept as the vote *or other action* of all shares represented thereby the vote cast *or other action taken* by a majority of them and, if a majority of the proxies cannot agree whether the shares represented shall be voted or upon the manner of voting the shares *or taking the other action*, the voting of the shares *or right to take other action* shall be divided equally among those persons.

* * *

(c) Revocation.—A proxy, unless coupled with an interest, 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 or its designated agent in writing or by electronic transmission. An unrevoked proxy shall not be valid after three years from the date of its **[execution]** *signature*, authentication or transmission unless a longer time is expressly provided therein. 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 *in record form* of the death or incapacity is given to the secretary of the corporation or its designated agent.

* * *

(e) Cross **[reference]** *references*.—See **[section]** *sections 1702 (relating to manner of giving notice) and 3135* (relating to proxies of members of mutual insurance companies).

Section 17. Section 1764(a) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 1764. Voting lists.

(a) General rule.—The officer or agent having charge of the transfer books for shares of a business corporation shall make a complete list of the

shareholders entitled to vote at any meeting of shareholders, arranged in alphabetical order, with the address of and the number of shares held by each. ***This section does not require the corporation to include electronic mail addresses or other electronic contact information on the list.*** The list shall be produced and kept open at the time and place of [the] *each* meeting ***of shareholders of a nonregistered corporation held at a geographic location*** and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof [except that, if a business corporation has 5,000 or more shareholders, in lieu of the making of the list the corporation may make the information therein available at the meeting by any other means]. *See section 2529 (relating to voting lists).*

* * *

(c) Electronic meetings.—If a meeting of shareholders of a nonregistered corporation is not held at a geographic location, the corporation shall make the list of shareholders required by subsection (a) available in a reasonably accessible manner.

Section 18. Section 1766(a), (b) and (d) of Title 15 are amended to read:
§ 1766. Consent of shareholders in lieu of meeting.

(a) Unanimous consent.—Unless otherwise restricted in the bylaws, any action required or permitted to be taken at a meeting of the shareholders or of a class of shareholders of a business corporation may be taken without a meeting if[, **prior or subsequent to the action,**] a consent or consents [thereto] ***to the action in record form are signed, before, on or after the effective date of the action*** by all of the shareholders who would be entitled to vote at a meeting for such purpose [shall be filed]. ***The consent or consents must be filed with the [secretary of the corporation] minutes of the proceedings of the shareholders.***

(b) Partial consent.—If the bylaws so provide, any action required or permitted to be taken at a meeting of the shareholders or of a class of shareholders may be taken without a meeting upon the ***signed*** consent of shareholders who would have been entitled to cast the minimum number of votes that would be necessary to authorize the action at a meeting at which all shareholders entitled to vote thereon were present and voting. The consents shall be filed ***in record form*** with the [secretary of the corporation] ***minutes of the proceedings of the shareholders.***

* * *

(d) Cross [reference] ***references.***—See [section] ***sections 1702 (relating to manner of giving notice) and 2524*** (relating to consent of shareholders in lieu of meeting).

Section 19. Section 1906(d)(3) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 1906. Special treatment of holders of shares of same class or series.

* * *

(c.1) Determination of groups.—For purposes of applying subsections (a)(1) and (b), the determination of which shareholders are part of each group receiving special treatment shall be made as of the record date for shareholder action on the plan.

(d) Exceptions.—This section shall not apply to:

* * *

(3) A plan that contains an express provision that this section shall not apply or that fails to contain an express provision that this section shall apply. **[The shareholders of a corporation that proposes a plan to which this section is not applicable by reason of this paragraph shall have the remedies contemplated by section 1105 (relating to restriction on equitable relief).]**

* * *

Section 20. Title 15 is amended by adding sections to read:

§ 1907. Purpose of fundamental transactions.

A transaction under this chapter does not require an independent business purpose in order for the transaction to be lawful.

§ 1908. Submission of matters to shareholders.

A business corporation may agree, in record form, to submit an amendment or plan to its shareholders whether or not the board of directors determines, at any time after approving the matter, that the matter is no longer advisable and recommends that the shareholders reject or vote against it, regardless of whether the board of directors changes its recommendation. If a corporation so agrees to submit a matter to its shareholders, the matter is deemed to have been validly adopted by the corporation when it has been approved by the shareholders.

Section 21. Sections 1911(a)(4), 1913, 1922(a)(3), 1923, 1931(a), (b)(2), (d) and (g), 1957(b)(1)(iv), 1973, 1978(b) and 2522 of Title 15 are amended to read:

§ 1911. Amendment of articles authorized.

(a) General rule.—A business corporation, in the manner provided in this subchapter, may from time to time amend its articles for one or more of the following purposes:

* * *

(4) To cancel or otherwise affect the right of holders of the shares of any class or series to receive dividends that have accrued but have not been declared or to otherwise effect a reclassification of or otherwise affect the substantial rights of the holders of any shares, including, without limitation, by providing special treatment of shares held by any shareholder or group of shareholders **[as authorized by, and subject to the provisions of,]** *consistent with* section 1906 (relating to special treatment of holders of shares of same class or series).

* * *

§ 1913. Notice of meeting of shareholders.

(a) General rule.—**[Written notice]** *Notice in record form* of the meeting of shareholders of a business corporation that will act on the proposed amendment **[shall] must** be given to each shareholder entitled to vote thereon. **[There shall be included in, or enclosed with, the notice a copy of]** *The notice must include* the proposed amendment or a summary of the changes to be effected thereby and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable, **[a copy]** *the text* of that subchapter.

(b) Cross [reference] *references*.—See Subchapter A of Chapter 17 (relating to notice and meetings generally) *and section 2528 (relating to notice of shareholder meetings)*.

§ 1922. Plan of merger or consolidation.

(a) Preparation of plan.—A plan of merger or consolidation, as the case may be, shall be prepared, setting forth:

* * *

(3) The manner and basis of converting the shares of each corporation into shares or other securities or obligations of the surviving or new corporation, *or of canceling some or all of the shares of a corporation*, as the case may be, and, if any of the shares of any of the corporations that are parties to the merger or consolidation are not to be *canceled or* converted solely into shares or other securities or obligations of the surviving or new corporation, the shares or other securities or obligations of any other person or cash, property or rights that the holders of such shares are to receive in exchange for, or upon conversion of, such shares, and the surrender of any certificates evidencing them, which securities or obligations, if any, of any other person or cash, property or rights may be in addition to or in lieu of the shares or other securities or obligations of the surviving or new corporation.

* * *

§ 1923. Notice of meeting of shareholders.

(a) General rule.—[Written notice] *Notice in record form* of the meeting of shareholders that will act on the proposed plan [shall] *must* be given to each shareholder of record, whether or not entitled to vote thereon, of each domestic business corporation that is a party to the merger or consolidation. [There shall be included in, or enclosed with, the notice a copy of] *The notice must include or be accompanied by* the proposed plan or a summary thereof [and, if]. *If* Subchapter D of Chapter 15 (relating to dissenters rights) is applicable to the holders of shares of any class or series, [a copy] *the text* of that subchapter and of section 1930 (relating to dissenters rights) [shall] *must* be furnished to the holders of shares of that class or series. If the surviving or new corporation will be a nonregistered corporation, the notice [shall] *must* state that a copy of its bylaws as they will be in effect immediately following the merger or consolidation will be furnished to any shareholder on request and without cost.

(b) Cross references.—See Subchapter A of Chapter 17 (relating to notice and meetings generally) and [section] *sections 2512 (relating to dissenters rights procedure) and 2528 (relating to notice of shareholder meetings)*.

§ 1931. Share exchanges.

(a) General rule.—All the outstanding shares of one or more classes or series of a domestic business corporation, designated in this section as the exchanging corporation, may, in the manner provided in this section, be acquired by any person, designated in this section as the acquiring person, through an exchange of all the shares pursuant to a plan of exchange. The plan of exchange may also provide for the [conversion of any other] shares *of any other class or series* of the exchanging corporation *to be canceled or converted* into shares, other securities or obligations of any person or cash,

property or rights. The procedure authorized by this section shall not be deemed to limit the power of any person to acquire all or part of the shares or other securities of any class or series of a corporation through a voluntary exchange or otherwise by agreement with the holders of the shares or other securities.

(b) Plan of exchange.—A plan of exchange shall be prepared, setting forth:

* * *

(2) The manner and basis of *canceling the shares of the exchanging corporation or* exchanging or converting the shares of the exchanging corporation into shares or other securities or obligations of the acquiring person, and, if any of the shares of the exchanging corporation are not to be exchanged or converted solely into shares or other securities or obligations of the acquiring person, the shares or other securities or obligations of any other person or cash, property or rights that the holders of the shares of the exchanging corporation are to receive in exchange for, or upon conversion of, the shares and the surrender of any certificates evidencing them, which securities or obligations, if any, of any other person or cash, property and rights may be in addition to or in lieu of the shares or other securities or obligations of the acquiring person.

* * *

(d) Dissenters rights in share exchanges.—Any holder of shares that are to be *cancel*ed, exchanged or converted pursuant to a plan of exchange who objects to the plan and complies with the provisions of Subchapter D of Chapter 15 shall be entitled to the rights and remedies of dissenting shareholders therein provided, if any. See section 1906(c) (relating to dissenters rights upon special treatment).

* * *

(g) Effect of plan.—Upon the plan of exchange becoming effective, the shares of the exchanging corporation that are, under the terms of the plan, to be *cancel*ed, converted or exchanged shall cease to exist or shall be *convert*ed or exchanged. The former holders of the shares shall thereafter be entitled only to the shares, other securities or obligations or cash, property or rights into which they have been converted or for which they have been exchanged in accordance with the plan, and the acquiring person shall be the holder of the shares of the exchanging corporation stated in the plan to be acquired by such person. The articles of incorporation of the exchanging corporation shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the plan of exchange.

* * *

§ 1957. Effect of division.

* * *

(b) Property rights; allocations of assets and liabilities.—

(1) * * *

(iv) [To] *Except as provided in section 1952(g) (relating to proposal and adoption of plan of division), to* the extent allocations of liabilities are contemplated by the plan of division, the liabilities of the dividing corporation shall be deemed without further action to be

allocated to and become the liabilities of the resulting corporations on such a manner and basis and with such effect as is specified in the plan; and one or more, but less than all, of the resulting corporations shall be free of the liabilities of the dividing corporation to the extent, if any, specified in the plan, if in either case:

(A) no fraud on minority shareholders or shareholders without voting rights or violation of law shall be effected thereby; and

(B) the plan does not constitute a fraudulent transfer under 12 Pa.C.S. Ch. 51 (relating to fraudulent transfers).

* * *

§ 1973. Notice of meeting of shareholders.

(a) General rule.—**[Written notice]** *Notice in record form* of the meeting of shareholders that will consider the resolution recommending dissolution of the business corporation **[shall]** *must* be given to each shareholder of record entitled to vote thereon **[and the purpose shall be included]**. *The purpose of the meeting must be stated* in the notice **[of the meeting]**.

(b) Cross **[reference]** *references*.—See Subchapter A of Chapter 17 (relating to notice and meetings generally) *and section 2528 (relating to notice of shareholder meetings)*.

§ 1978. Winding up of corporation after dissolution.

* * *

(b) Standard of care of directors and officers.—The dissolution of the corporation shall not subject its directors or officers to standards of conduct different from those prescribed by or pursuant to Chapter 17 (relating to officers, directors and shareholders). Directors of a dissolved corporation who have complied with section 1975 (relating to predissolution provision for liabilities) or Subchapter H (relating to postdissolution provision for liabilities) *and governing persons of a successor entity who have complied with Subchapter H* shall not be personally liable to the creditors *or claimants* of the dissolved corporation.

§ 2522. Adjournment of meetings of shareholders.

[Any] *Except as otherwise provided in the bylaws, any* regular or special meeting of the shareholders of a registered corporation, including one at which directors are to be elected, may be adjourned for such period as the shareholders present and entitled to vote shall direct.

Section 22. Title 15 is amended by adding sections to read:

§ 2528. *Notice of shareholder meetings.*

If a registered corporation solicits proxies generally with respect to a meeting of its shareholders, the corporation is not required to give notice of the meeting to any shareholder to whom the corporation is not required to send a proxy statement pursuant to the rules of the Securities and Exchange Commission.

§ 2529. *Voting lists.*

A registered corporation is not required to produce or make available to its shareholders a list of shareholders in connection with any meeting of its shareholders for which a judge or judges of election are appointed, but such a list must be furnished to the judge or judges of election.

Section 23. Section 2545(b) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 2545. Notice to shareholders.

* * *

(b) Obligations of the corporation.—If the controlling person or group so requests, the corporation shall, at the option of the corporation and at the expense of the person or group, either furnish a list of all such shareholders *and their postal addresses* to the person or group or **[mail]** *provide* the notice to all such shareholders.

* * *

(e) *Cross reference.*—*See section 1702 (relating to manner of giving notice).*

Section 24. Sections 3133(a) introductory paragraph and 3135 of Title 15 are amended to read:

§ 3133. Notice of meetings of members of mutual insurance companies.

(a) General rule.—Unless otherwise restricted in the bylaws, persons authorized or required to give notice of an annual meeting of members of a mutual insurance company for the election of directors or of a meeting of members of a mutual insurance company called for the purpose of considering amendment of the articles or bylaws, or both, of the corporation may, in lieu of any **[written]** notice of meeting of members required to be given by this subpart, give notice of such meeting by causing notice of such meeting to be officially published. Such notice shall be published each week for at least:

* * *

§ 3135. Proxies of members of mutual insurance companies.

In no event shall a proxy given by a member of a mutual insurance company, unless coupled with an interest, be voted on or utilized to express consent or dissent to corporate action **[in writing]** after 11 months from the date of execution of the proxy.

Section 24.1. Section 3322(a) and (b) of Title 15 are amended and the section is amended by adding a subsection to read:

§ 3322. Benefit director.

(a) General rule.—

(1) The board of directors of a benefit corporation *which is a registered corporation* shall include a director who:

(i) shall be designated as the benefit director; and

(ii) shall have, in addition to all of the powers, duties, rights and immunities of the other directors of the benefit corporation, the powers, duties, rights and immunities provided in this subchapter.

(2) *The board of directors of a benefit corporation which is not a registered corporation may include a director who:*

(i) *shall be designated as the benefit director; and*

(ii) *shall have, in addition to all of the powers, duties, rights and immunities of the other directors of the benefit corporation, the powers, duties, rights and immunities provided in this subchapter.*

(b) Election, removal and qualifications.—The benefit director shall be elected and may be removed in the manner provided under Subchapter C of Chapter 17 (relating to directors and officers) **[and]**. *Except as set forth in*

subsection (e)(2)(i) or (g), the benefit director shall be an individual who is independent. The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this subsection.

* * *

(g) Professional corporations.—The benefit director of a professional corporation does not need to be independent.

Section 24.2. Sections 3325(b)(2)(i) and (iii) and 3331(a)(5) of Title 15 are amended to read:

§ 3325. Right of action.

* * *

(b) Parties with standing.—A benefit enforcement proceeding may be commenced or maintained only:

* * *

(2) derivatively by:

(i) a shareholder *that owned at least 2% of the total number of shares of a class or series outstanding at the time of the act complained of;*

* * *

(iii) a person or group of persons that owns beneficially or of record 5% or more of the equity interests in an association of which the benefit corporation is a subsidiary *at the time of the act complained of;* or

* * *

§ 3331. Annual benefit report.

(a) Contents.—A benefit corporation must deliver to each shareholder an annual benefit report including:

* * *

[(5) The name of each person that owns 5% or more of the outstanding shares of the benefit corporation either beneficially, to the extent known to the benefit corporation without independent investigation, or of record.]

* * *

Section 24.3. Section 4127(a) introductory paragraph and (5), (b) and (d) of Title 15 are amended to read:

§ 4127. Merger, consolidation or division of qualified foreign corporations.

(a) General rule.—Whenever a qualified foreign business corporation is a nonsurviving party to a statutory merger, consolidation or division permitted by the laws of the jurisdiction under which it is incorporated, the corporation *or other association* surviving the merger, or the new corporation *or other association* resulting from the consolidation or division, as the case may be, shall file in the [Department of State] *department* a statement of merger, consolidation or division, which shall be executed by the surviving or new corporation *or other association* and shall set forth:

* * *

(5) In the case of a *merger*, consolidation or division *in which any of the new or resulting associations is a corporation*, or if the surviving corporation *in a merger* was a nonqualified foreign business corporation prior to the merger, the statements on the part of the surviving or *each new or resulting* corporation required by section 4124(a) (relating to application for a certificate of authority).

(b) Effect of filing.—The filing of the statement shall operate, as of the effective date of the merger, consolidation or division, to cancel the certificate of authority of each nonsurviving constituent corporation that was a qualified foreign business corporation and to qualify the surviving [or new corporation], *new or resulting corporations*, under this subchapter. If the surviving [or new corporation does], *new or resulting corporations do* not desire to continue as [a] qualified foreign business [corporation, it] *corporations, they* may thereafter withdraw in the manner provided by section 4129 (relating to application for termination of authority).

* * *

(d) Cross [reference] *references*.—See [section] *sections* 134 (relating to docketing statement) and 135 (*relating to requirements to be met by filed documents*).

Section 25. The introductory paragraph and the definitions of "act" or "action," "board of directors" or "board," "bylaws," "charitable purposes," "corporation for profit," "corporation not-for-profit," "court," "department," "directors," "domestic corporation for profit," "domestic corporation not-for-profit," "foreign corporation for profit," "foreign corporation not-for-profit," "fraternal benefit society," "member," "nonprofit corporation" or "domestic nonprofit corporation," "nonqualified foreign corporation" or "nonqualified foreign nonprofit corporation," "other body," "representative," "trust instrument," "unless otherwise provided" and "unless otherwise restricted" in section 5103 of Title 15 are amended and the section is amended by adding definitions and a subsection to read:

§ 5103. Definitions.

(a) *General definitions*.—Subject to additional definitions contained in subsequent provisions of this subpart that are applicable to specific provisions of this subpart, the following words and phrases when used in this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

["Act" or "action." Includes failure to act.]

"Amendment." *An amendment of the articles.*

* * *

"Board of directors" or "board." The group of persons [vested with the management of] *under the direction of whom* the business and affairs of the corporation *are managed* irrespective of the name by which [such] *the* group is designated. The term does not include an other body. [The term, when used in any provision of this subpart relating to the organization or procedures of or the manner of taking action by the board of directors, shall be construed to include and refer to any executive or other committee of the board. Any provision of this subpart relating or referring to action to be taken by the board of directors or the procedure required therefor shall be satisfied by the taking of

corresponding action by a committee of the board of directors to the extent authority to take such action has been delegated to such committee pursuant to section 5731 (relating to executive and other committees of the board).] *See section 5731(c) (relating to executive and other committees of the board).*

* * *

"Business corporation." *A domestic corporation for profit defined in section 1103 (relating to definitions).*

"Bylaws." The code or codes of rules adopted for the regulation or management of the business and affairs of the corporation irrespective of the name or names by which [such] *the* rules are designated. *The term includes provisions of the articles as provided by section 5504(c) (relating to adoption, amendment and contents of bylaws).*

"Charitable purposes." The relief of poverty, the advancement *and provision* of education, *including postsecondary education*, the advancement of religion, [the promotion of health,] *the prevention and treatment of disease or injury, including mental retardation and mental disorders*, governmental or municipal purposes, and *any* other [purposes] *purpose* the accomplishment of which is *recognized as important and beneficial* to the [community] *public*.

* * *

["Corporation for profit." A corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members.

"Corporation not-for-profit." A corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.

"Court." Subject to any inconsistent general rule prescribed by the Supreme Court of Pennsylvania:

(1) the court of common pleas of the judicial district embracing the county where the registered office of the corporation is or is to be located; or

(2) where a corporation results from a merger, consolidation, division or other transaction without establishing a registered office in this Commonwealth or withdraws as a foreign corporation, the court of common pleas in which venue would have been laid immediately prior to the transaction or withdrawal.

"Department." The Department of State of the Commonwealth.]

"Directors." [Persons] *Individuals* designated, elected or appointed, by that or any other name or title, to act as *members of the board of* directors, and their successors. The term does not include a member of an other body, [as such] *unless the person is also a director*. The term, when used in relation to any power or duty requiring collective action, shall be construed to mean "board of directors."

* * *

["Domestic corporation for profit." A corporation for profit incorporated under the laws of this Commonwealth.

"Domestic corporation not-for-profit." A corporation not-for-profit incorporated under the laws of this Commonwealth.]

"Employee." The term does not include a member, director or member of an other body, unless the person is also an employee. See section 5730 (relating to compensation of directors) as to acceptance by a director of duties that make the director also an employee.

* * *

["Foreign corporation for profit." A corporation for profit incorporated under any laws other than those of this Commonwealth.

"Foreign corporation not-for-profit." A corporation not-for-profit incorporated under any laws other than those of this Commonwealth.]

"Foreign domiciliary corporation." A foreign nonprofit corporation described in section 6102 (relating to foreign domiciliary corporations).

* * *

"Fraternal benefit society." A domestic corporation not-for-profit that is a society as defined in [the act of July 29, 1977 (P.L.105, No.38) known as the Fraternal Benefit Society Code] section 2402 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

* * *

"Member." [One having membership rights in a corporation in accordance with the provisions of its bylaws. The term, when used in relation to the taking of corporate action includes:

- (1) the proxy of a member, if action by proxy is permitted under the bylaws of the corporation; and*
- (2) a delegate to any convention or assembly of delegates of members established pursuant to any provision of this subpart.*

If and to the extent the bylaws confer rights of members upon holders of securities evidencing indebtedness or governmental or other entities pursuant to any provision of this subpart the term shall be construed to include such security holders and governmental or other entities. The term shall be construed to include "shareholder" if the corporation issues shares of stock.] Any of the following:

- (1) A person that has voting rights in a membership corporation.*
- (2) When used in relation to the taking of corporate action by a membership corporation, a delegate to a convention or assembly of delegates of members established pursuant to any provision of this subpart who has the right to vote at the convention or assembly in accordance with the rules of the convention or assembly.*
- (3) A person that has been given voting rights or other membership rights in a membership corporation by a bylaw adopted by the members pursuant to section 5770 (relating to voting powers and other rights of certain securityholders and other entities) or other provision of law, but only to the extent of those rights.*
- (4) A shareholder of a corporation, if the corporation issues shares of stock.*

"Membership corporation." A nonprofit corporation having articles of incorporation that do not provide that the corporation is to have no members.

"Nonprofit corporation" or "domestic nonprofit corporation." A domestic corporation not-for-profit [which] that is not excluded from the scope of this subpart by section 5102 (relating to application of subpart).

"Nonqualified foreign corporation" or "nonqualified foreign nonprofit corporation." A foreign corporation not-for-profit **[which] that** is not a qualified foreign corporation, as defined in this section.

* * *

"Other body." A term employed in this subpart to denote a person or group, other than the board of directors or a committee thereof, who pursuant to authority expressly conferred by this subpart may be vested by the bylaws of the corporation with powers **[which] that**, if not vested by the bylaws in **[such] the** person or group, would by this subpart be required to be exercised by **[either]**:

- (1) the **[membership of a corporation taken as a whole] members**;
- (2) a convention or assembly of delegates of members established pursuant to any provision of this subpart; or
- (3) the board of directors.

Except as otherwise provided in this subpart, a corporation may establish distinct persons or groups to exercise different powers **[which] that** this subpart authorizes a corporation to vest in an other body.

"Plan." A plan of reclassification, merger, consolidation, asset transfer, division or conversion.

* * *

["Representative." When used with respect to a corporation, partnership, joint venture, trust or other enterprise, means a director, officer, employee or agent thereof.]

"Trust instrument." Any lawful deed of gift, grant, will or other document by which the donor, grantor or testator **[shall give, grant or devise] gives, grants or devises** any real or personal property or the income **[therefrom] from any real or personal property** in trust for any charitable purpose.

"Unless otherwise provided" or **"except as otherwise provided."** When used to introduce **or modify** a rule, **the term** implies that the alternative provisions contemplated may either relax or restrict the stated rule.

"Unless otherwise restricted" or **"except as otherwise restricted."** When used to introduce **or modify** a rule, **the term** implies that the alternative provisions contemplated may further restrict, but may not relax, the stated rule.

"Voting" or "casting a vote." Includes the giving of consent in lieu of voting. Whether or not the person entitled to vote characterizes the conduct as voting or casting a vote, the term does not include:

- (1) **recording the fact of abstention; or**
- (2) **failing to vote for a candidate or for approval or disapproval of a matter.**

"Voting rights." The right of a person in a membership corporation, other than in the capacity of a director or member of an other body, to vote on the election or removal of directors or members of an other body or on approval of an amendment of the articles of incorporation, a plan or the dissolution of the corporation.

(b) Index of other definitions.—The following is a nonexclusive list of words and phrases which when used in this subpart shall have the meanings given to them in section 102 (relating to definitions):

"Act" or "action."

"Corporation for profit."

"Corporation not-for-profit."

"Court."

"Department."

"Domestic corporation for profit."

"Domestic corporation not-for-profit."

"Execute."

"Foreign corporation for profit."

"Foreign corporation not-for-profit."

"Internal Revenue Code of 1986."

"Obligation."

"Officially publish."

"Record form."

"Representative."

"Sign."

Section 26. Sections 5104, 5105, 5106, 5107, 5108, 5109, 5302, 5306(a)(6) introductory paragraph and (11)(ii), 5307, 5308, 5309, 5310, 5331 and 5501 of Title 15 are amended to read:

[§ 5104. Other general provisions.

The following provisions of this title are applicable to corporations subject to this subpart:

Section 101 (relating to short title and application of title).

Section 102 (relating to definitions).

Section 103 (relating to subordination of title to regulatory laws).

Section 104 (relating to equitable remedies).

Section 105 (relating to fees).

Section 106 (relating to effect of filing papers required to be filed).

Section 107 (relating to form of records).

Section 108 (relating to change in location or status of registered office provided by agent).

Section 109 (relating to name of commercial registered office provider in lieu of registered address).

Section 110 (relating to supplementary general principles of law applicable).

Section 132 (relating to functions of Department of State).

Section 133 (relating to powers of Department of State).

Section 134 (relating to docketing statement).

Section 135 (relating to requirements to be met by filed documents).

Section 136 (relating to processing of documents by Department of State).

Section 137 (relating to court to pass upon rejection of documents by Department of State).

Section 138 (relating to statement of correction).

Section 139 (relating to tax clearance of certain fundamental transactions).

Section 140 (relating to custody and management of orphan corporate and business records).

Section 152 (relating to definitions).

Section 153 (relating to fee schedule).

Section 154 (relating to enforcement and collection).

Section 155 (relating to disposition of funds).

Section 162 (relating to contingent domestication of certain foreign associations).

Section 501 (relating to reserved power of General Assembly).

Section 503 (relating to actions to revoke corporate franchises).

Section 504 (relating to validation of certain defective corporations).

Section 505 (relating to validation of certain defective corporate acts).

Section 2552 (relating to definitions) (definitions of "affiliate" and "associate").]

§ 5105. [Saving clause and restriction] *Restriction* on equitable relief.

(a) **General rule.**—Except as otherwise provided in subsection (b) of this section, this subpart and its amendments shall not impair or affect any act done, offense committed, or substantial right accruing, accrued, or acquired, or liability, duty, obligation, penalty, judgment or punishment incurred prior to the time this subpart or any amendment thereto takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if this subpart or any amendment thereto had not been enacted.

(b) **Exception.**—A member *of a nonprofit corporation* shall not have any right to claim the right to valuation [of] and payment [for] *of the fair value of* his membership interest or shares because of any proposed plan or amendment [of articles] authorized under any provision of this subpart, or to obtain, in the absence of fraud or fundamental unfairness, an injunction against [any such] *the* plan or amendment.

§ 5106. [Limited uniform] *Uniform* application of subpart.

(a) **General rule.**—Except as provided in subsection (b), this subpart and its amendments are intended to provide uniform rules for the [government] *governance* and regulation of the affairs of *nonprofit* corporations and of their officers, directors and members *and of members of other bodies*, regardless of the date or manner of incorporation or qualification, or of the issuance of any evidences of membership in or shares [thereof] *of a nonprofit corporation*.

(b) **Exceptions.**—

(1) Unless expressly provided otherwise in any amendment to this subpart [any such], *the* amendment shall take effect only prospectively.

(2) Any existing corporation lawfully using a name[,], or as a part of its name, a word[, **which**] *that* could not be used as or included in the name of a corporation [hereafter] *subsequently* incorporated or qualified under this subpart[,], may continue to use [such] *the* name[,], or word as part of its name[, **provided**] *if* the use or inclusion of [such] *the* word or name was lawful when first adopted by the corporation in this Commonwealth.

(3) [Nothing in subsection] *Subsection* (a) shall *not* adversely affect the rights *specifically provided for or saved* [by the general terms of section 5105 (relating to saving clause and restriction on equitable relief)] *in this subpart, including, without limiting the generality of the*

foregoing, the provisions of section 5952(d) (relating to proposal and adoption of plan of division).

(4) Nothing in this subpart shall be deemed to repeal or supersede any provision in section 7 of the act of April 26, 1855 (P.L.328, No.347), entitled "An act relating to Corporations and to Estates held for Corporate, Religious and Charitable uses."

§ 5107. Subordination of subpart to canon law.

If and to the extent canon law *or similar principles* applicable to a corporation incorporated for religious purposes [shall set] *sets* forth provisions relating to the government and regulation of the affairs of the corporation [which] *that* are inconsistent with the provisions of this subpart on the same subject, the [provisions of] canon law *or similar principles* shall control *except* to the extent[, and only to the extent, required] *prohibited* by the Constitution of the United States or the Constitution of Pennsylvania[, or both].

§ 5108. Limitation on incorporation.

[No corporation which might] *A corporation that can* be incorporated under this subpart shall [hereafter] *not* be incorporated except under the provisions of this subpart.

§ 5109. Execution of documents.

(a) General rule.—Any document filed in the [Department of State] *department* under this title by a domestic *or foreign* nonprofit corporation [or a foreign corporation not-for-profit] subject to this subpart may be executed on behalf of the corporation by any one duly authorized officer [thereof] *of the corporation*. The corporate seal may be affixed and attested, but the affixation or attestation of the corporate seal shall not be necessary for the due execution of any filing by a corporation under this title.

(b) Cross reference.—See section 135 (relating to requirements to be met by filed documents).

[(c) Transitional provision.—This section supersedes any contrary provision of this subpart enacted prior to the enactment of the act of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988.]

§ 5302. Number and qualifications of incorporators.

One or more corporations for profit or not-for-profit or natural persons of full age may incorporate a nonprofit corporation under the provisions of this [article] *subpart*.

§ 5306. Articles of incorporation.

(a) General rule.—Articles of incorporation shall be signed by each of the incorporators and shall set forth in the English language:

* * *

(6) [A] *If the corporation is a membership corporation, a* statement whether the corporation is to be organized upon a nonstock basis or a stock share basis, and, if it is to be organized on a stock share basis:

* * *

(11) Any other provisions that the incorporators may choose to insert if:

* * *

(ii) such provisions are not inconsistent with this subpart and relate to the purpose or purposes of the corporation, the management of its business or affairs or the rights, powers or duties of its members, security holders, directors, *members of an other body* or officers.

* * *

§ 5307. Advertisement.

The incorporators or the corporation shall officially publish a notice of intention to file or of the filing of articles of incorporation. The notice may appear prior to or after the day the articles of incorporation are filed in the **[Department of State,] department** and shall set forth briefly:

(1) The name of the proposed corporation.

(2) A statement that the corporation is to be or has been incorporated under the provisions of this **[article] subpart**.

[(3) A brief summary of the purpose or purposes of the corporation.

(4) A date on or before which the articles will be filed in the Department of State or the date the articles were filed.]

§ 5308. Filing of articles.

(a) General rule.—The articles of incorporation shall be **[filed in the Department of State] delivered to the department for filing**.

(b) Cross **[reference] references**.—See **[section] sections** 134 (relating to docketing statement) *and* 135 (*relating to requirements to be met by filed documents*).

§ 5309. Effect of filing of articles of incorporation.

(a) Corporate existence.—Upon the filing of the articles of incorporation in the **[Department of State] department or upon the effective date specified in the articles of incorporation, whichever is later**, the corporate existence shall begin.

(b) Evidence of incorporation.—Subject to the provisions of section 503 (relating to actions to revoke corporate franchises), the articles of incorporation filed in the **[Department of State, or approved by the court and] department, or** recorded in the office of the recorder of deeds under the former provisions of law, shall be conclusive evidence of the fact that the corporation has been incorporated.

§ 5310. Organization meeting.

(a) General rule.—After the **[filing of the articles of incorporation] corporate existence begins**, an organization meeting of the initial directors~~[,]~~ or, if directors are not named in the articles, of the **[incorporator or] incorporators~~[,]~~** shall be held, within or without this Commonwealth, for the purpose of adopting bylaws, which they shall have authority to do at **[such] the meeting~~[,]~~**; of electing directors **[to hold office as provided in the bylaws]**, if directors are not named in the articles~~[,]~~; and **[the transaction of such] of transacting** other business as may come before the meeting. A bylaw adopted at **[such] the organization** meeting of directors or incorporators shall be deemed to be a bylaw adopted by the members for the purposes of this **[article and of] subpart and** any other provision of law.

(b) Call of and action at meeting.—The meeting may be held at the call of any director or, if directors are not named in the articles, of any incorporator~~[,]~~ who shall give at least five days' **[written notice thereof]**

notice of the meeting to each other director or incorporator[, **which**]. *The* notice shall set forth the time and place of the meeting. For the purposes of this section **[an]**, *any director or* incorporator may act in person, *by consent* or by proxy signed by him or his **[attorney in fact]** *attorney-in-fact*.

(c) Death or incapacity of directors or incorporators.—If a designated director or an incorporator dies or is for any reason unable to act at the meeting, the other or others may act. If there is no other designated director or incorporator able to act, any person for whom **[an]** *a director or* incorporator was acting as agent may act *or appoint another to act* in his stead.

§ 5331. **[Unincorporated]** *Incorporation of unincorporated associations.*

In the case of the incorporation as a nonprofit corporation under this **[article]** *subpart* of an unincorporated association, the articles of incorporation shall contain, in addition to the provisions **[heretofore required in this chapter]** *required in Subchapter A (relating to incorporation generally)*, a statement that the incorporators constitute a majority of the members of the committee authorized to incorporate **[such]** *the* association by the requisite vote required by the organic law of the association for the amendment of **[such]** *the* organic law.

§ 5501. Corporate capacity.

Except as provided in section 103 **[of this title]** (relating to subordination of title to regulatory laws), a nonprofit corporation shall have the *legal* capacity of natural persons to act.

Section 27. Section 5504(b), (c) and (d) of Title 15 are amended and the section is amended by adding a subsection to read:

§ 5504. Adoption, amendment and contents of bylaws.

* * *

(b) Exception.—Except as provided in section 5310(a) (relating to organization meeting), the board of directors or other body shall not have the authority to adopt or change a bylaw on any subject that is committed expressly to the members by any of the provisions of this subpart. See:

Subsection (d) (relating to amendment of voting provisions).

Section 5713 (relating to personal liability of directors).

Section 5721 (relating to board of directors).

Section 5725(b) (relating to selection of directors).

Section 5726(a) (relating to removal of directors by the members).

Section 5726(b) (relating to removal of directors by the board).

Section 5729 (relating to voting rights of directors).

Section 5751(a) (relating to classes and qualifications of membership).

Section 5752(c) (relating to rights of shareholders).

Section 5754(a) (relating to members grouped in local units).

Section 5755(a) (relating to regular meetings).

Section 5756 (relating to quorum).

Section 5757 (relating to action by members).

Section 5758 (relating to voting rights of members).

Section 5759(a) (relating to voting and other action by proxy).

Section **[5760(a)]** *5762(a)* (relating to voting **[in nonprofit corporation matters]** *by corporations*).

Section **[5762]** *5765* (relating to judges of election).

Section **[5766(a)] 5769(a)** (relating to termination and transfer of membership).

Section **[5767] 5770** (relating to voting powers and other rights of certain **[security holders] securityholders** and other entities).

Section 5975(c) (relating to **[winding up and distribution] predissolution provision for liabilities**).

(c) Bylaw provisions in articles.—Where any provision of this subpart or any other provision of law refers to a rule as set forth in the bylaws of a corporation *or in a bylaw adopted by the members*, the reference shall be construed to include and be satisfied by any rule on the same subject as set forth in the articles of the corporation.

(d) Amendment of voting provisions.—

(1) Unless otherwise restricted in a bylaw adopted by the members, whenever the bylaws require for the taking of any action by the members or a class of members a specific number or percentage of votes, the provision of the bylaws setting forth that requirement shall not be amended or repealed by any lesser number or percentage of votes of the members or of the class of members.

(2) *Paragraph (1) shall not apply to a bylaw setting forth the right of members to act by unanimous written consent as provided in section 5766(a) (relating to consent of members in lieu of meeting).*

(e) *Cross reference.—See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

Section 28. Section 5509 of Title 15 is amended to read:

§ 5509. Bylaws and other powers in emergency.

(a) General rule.—**[The] Except as otherwise restricted in the bylaws, the board of directors or other body of any nonprofit corporation may adopt emergency bylaws, subject to repeal or change by action of the members, which shall, notwithstanding any different provisions of law or of the articles or bylaws, be [operative] effective during any emergency resulting from [warlike damage or] an attack on the United States [or any], a nuclear [or atomic] disaster or another catastrophe as a result of which a quorum of the board cannot readily be assembled.** The emergency bylaws may make any provision that may be **[practical and necessary] appropriate** for the circumstances of the emergency, including **[provisions that]**:

(1) **[A meeting of the board of directors or other body may be called by any officer or director or member of such other body in such manner and under such conditions as shall be prescribed in the emergency bylaws.] Procedures for calling meetings of the board or other body.**

(2) **[The director or directors or the member or members of such other body in attendance at the meeting, or any other number fixed in the emergency bylaws, shall constitute a quorum.] Quorum requirements for meetings.**

(3) **[The officers or other persons designated on a list approved by the board of directors or other body before the emergency, all in such order of priority and subject to such conditions and for such period of time, not longer than reasonably necessary after the termination of the emergency as may be provided in the emergency**

bylaws or in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the board of directors or such other body, be deemed directors or members of such other body for such meeting.] *Procedures for designating additional or substitute directors or members of an other body.*

(b) Lines of succession; head office.—The board of directors or [such] other body, *or the officers, if given authorization by the board of directors or other body*, either before or during any [such] emergency, may [provide,]:

(1) *provide*, and from time to time modify, lines of succession in the event that during [such an] *the* emergency any or all officers or agents of the corporation shall for any reason be rendered incapable of discharging their duties[, and may,]; *and*

(2) effective in the emergency, change the head offices or designate several alternative head offices or regional offices of the corporation[, or authorize the officers so to do].

(c) Personnel not liable.—[No officer, director, member of such other body, or employee acting in accordance with any emergency bylaws shall be liable except for wilful misconduct.] *A representative of the corporation:*

(1) *Acting in accordance with any emergency bylaws shall not be liable except for willful misconduct.*

(2) *Shall not be liable for any action taken by him in good faith in an emergency in furtherance of the ordinary business affairs of the corporation even though not authorized by the emergency or other bylaws then in effect.*

(d) Effect on regular bylaws.—To the extent *that they are* not inconsistent with any emergency bylaws [so] adopted, the bylaws of the corporation shall remain in effect during any emergency, and, upon its termination, the emergency bylaws shall cease to be [operative] *effective*.

(e) Procedure in absence of emergency bylaws.—Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors or [such] *an* other body during [such] an emergency shall be given only to [such of the] *those* directors or members of [such] *an* other body [as it may be] *it is* feasible to reach at the time and by such means as [may be] *are* feasible at the time, including publication [or], radio *or television*. To the extent required to constitute a quorum at any meeting of the board of directors or [such] *an* other body during [such an] *any* emergency, the officers of the corporation who are present shall, unless otherwise provided in emergency bylaws, be deemed, in order of rank and within the same rank in order of seniority, directors or members of [such] *the* other body, as the case may be, for [such] *the* meeting.

Section 29. Section 5511 of Title 15 is reenacted to read:

§ 5511. Establishment of subordinate units.

A nonprofit corporation may establish and terminate local branches, chapters, councils, clubs, churches, lodges, parishes or other subordinate units regardless of their designation, form of government, incorporated or unincorporated status or relationship to the corporation or other supervising

and controlling organization of which the corporation is a member or with which it is in allegiance and to which it is subordinate.

Section 30. Sections 5541, 5542, 5543, 5544, 5546, 5547(b), 5548(b) and 5550 of Title 15 are amended to read:

§ 5541. Capital contributions of members.

(a) General rule.—A nonprofit corporation organized on a nonstock basis may provide in its bylaws that members, upon or subsequent to admission, shall make capital contributions. The amount shall be specified in, or fixed by the board of directors or other body pursuant to authority granted by, the bylaws. The requirement of a capital contribution may apply to all members, **[or]** to the members of a single class~~[,]~~ or to members of different classes in different amounts or proportions.

(b) Consideration receivable.—**[The capital contribution of a member shall consist of money or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud in the transaction, the judgment of the board of directors or other body as to the value of the consideration received by the corporation shall be conclusive.]** *The capital contribution of a member, unless otherwise provided in the bylaws:*

(1) May consist of money, obligations (including an obligation of a member), services performed whether or not contracted for, contracts for services to be performed, memberships in or securities or obligations of the corporation or any other tangible or intangible property or benefit to the corporation. If a capital contribution is made in a form other than money, the value of the contribution shall be determined by or in the manner provided by the board of directors or other body.

(2) Shall be provided or paid to or as ordered by the corporation.

(c) Evidence of contribution.—The capital contribution of a member shall be recorded on the books of the corporation and may be evidenced by a written instrument delivered to the member, but **[such]** *the* instrument shall not be denominated a "share certificate" or by any other word or term implying that the instrument is a share certificate subject to section 5752 (relating to organization on a stock share basis).

(d) Transferability of interest.—Unless otherwise provided in the bylaws, the capital contribution of a member shall not be transferable.

(e) Repayment of contribution.—The capital contribution of a member shall not be repaid by the corporation except upon dissolution of the corporation or as provided in this **[article]** *subpart*. A corporation may provide in its bylaws that its capital contributions, or some of them, shall be repayable, in whole or in part, at the option of the corporation only, **[at such]** *in the* amount or amounts (not to exceed the amount of the capital contribution), within **[such]** *the* period or periods~~[,]~~ and on **[such]** *the* terms and conditions, not inconsistent with this **[article]** *subpart*, as are stated in, or fixed by the board of directors or other body pursuant to authority granted by, the bylaws.

§ 5542. Subventions.

(a) General rule.—The bylaws *of a nonprofit corporation* may provide that the corporation shall be authorized by resolution of the board of

directors or other body to accept subventions from members or nonmembers on terms and conditions not inconsistent with this **[article, and to issue certificates therefor]** *subpart*. The resolution of the board or other body may provide that **[holders of]** *the maker of a* subvention **[certificates]** shall be entitled to a fixed or contingent periodic payment out of the corporate assets equal to a percentage of the original amount or value of the subvention. The rights of **[holders of subvention certificates]** *makers of subventions* shall at all times be subordinate to the rights of creditors of the corporation.

(b) Consideration receivable.—**[A subvention shall consist of money or other property, tangible or intangible, actually received by the corporation or expended for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud in the transaction, the judgment of the board of directors or other body as to the value of the consideration received by the corporation shall be conclusive.**

(c) Form of certificate.—**Each subvention certificate shall be signed by two duly authorized officers of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the officers upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the corporation itself or its employees. In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of issue. The fact that the corporation is a nonprofit corporation shall be noted conspicuously on the face or back of each certificate.]** *Consideration for subventions, unless otherwise provided in the bylaws:*

(1) *May consist of money, obligations (including an obligation of a subventor), services performed whether or not contracted for, contracts for services to be performed, memberships in or securities or obligations of the corporation or any other tangible or intangible property or benefit to the corporation. If subventions are issued for other than money, the value of the consideration shall be determined by or in the manner provided by the board of directors or other body.*

(2) *Shall be provided or paid to or as ordered by the corporation.*

(c.1) *Form of subventions.—Subventions shall be represented by certificates or shall be uncertificated subventions. Each subvention certificate shall be executed by or on behalf of the corporation issuing the subvention in the manner it may determine. The fact that the corporation is a nonprofit corporation shall be noted conspicuously on the face or back of each certificate.*

(d) Transferability of subvention.—**[Subvention certificates]** *Subventions* shall be nontransferable unless the resolution of the board of directors or other body **[shall provide]** *provides* that they shall be transferable either at will or subject to specified restrictions.

(e) Redemption at option of corporation.—The resolution of the board of directors or other body may provide that a subvention shall be redeemable,

in whole or in part, at the option of the corporation at **[such] the** price or prices (not to exceed the original amount or value of the subvention plus any periodic payments due or accrued thereon), within **[such] the** period or periods, and on **[such] the** terms and conditions, not inconsistent with this **[article] subpart**, as are stated in the resolution.

(f) Redemption at option of holders.—The resolution of the board of directors or other body may provide that **makers or** holders of all or some **[subvention certificates] subventions** shall have the right to require the corporation after a specified period of time to redeem **[such certificates] the subventions**, in whole or in part, at a price or prices that do not exceed the original amount or value of the subvention plus any periodic payments due or accrued **[thereon] on the subvention**, upon an affirmative showing that the financial condition of the corporation will permit the required payment to be made without impairment of its operations or injury to its creditors. The right to require redemption may in addition be conditioned upon the occurrence of a specified event. For the purpose of enforcing their rights under this subsection, **makers or** holders of **[subvention certificates] subventions** shall be entitled to inspect the books and records of the corporation.

(g) Rights of **makers or** holders on dissolution.—**[Holders] Makers or holders** of **[subvention certificates] subventions**, upon dissolution of the corporation, shall be entitled, after the claims of creditors have been satisfied, to repayment of the original amount or value of the subvention plus any periodic payments due or accrued **[thereon] on the subvention**, unless a lesser sum is specified in the resolution of the board of directors or other body concerning **[such] the** subvention.

§ 5543. Debt and security interests.

(a) General rule.—**[No corporation shall issue bonds or other evidences of indebtedness except for money or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud in the transaction, the judgment of the board of directors or other body as to the value of the consideration received by the corporation shall be conclusive.] Unless otherwise provided in the bylaws, a nonprofit corporation may issue its bonds or other obligations for an amount and form of consideration as may be determined by or in the manner provided by the board of directors or other body.**

(b) Creation of lien on **real or** personal property.—The board of directors or other body may authorize any mortgage or pledge of, or the creation of a security interest in, all or any part of the **real or** personal property of the corporation, or any interest **[therein. Unless] in the real or personal property. No application to or confirmation by a court shall be required, and, unless** otherwise restricted in the bylaws, no vote or consent of the members shall be required to make effective **[such] the** action by the board or other body.

§ 5544. **[Fees, dues] Dues** and assessments.

(a) General rule.—A nonprofit corporation may levy dues or assessments, or both, on its members, if authority to do so is conferred by the

bylaws, subject to any limitations [therein] contained *in the bylaws*. [Such] *The dues or assessments, or both, may be imposed upon all members of the same class either alike or in different amounts or proportions, and upon a different basis upon different classes of members. Members of one or more classes may be made exempt from either dues or assessments, or both, in the manner or to the extent provided in the bylaws.*

(b) Amount and method of collection.—The amount of the levy and method of collection of [such] *the dues or assessments, or both, may be fixed in the bylaws, or the bylaws may authorize the board of directors or other body to fix the amount [thereof] of the dues or assessments from time to time, and make them payable at [such] the time and by [such] the methods of collection as the board of directors or other body may prescribe.*

(c) Enforcement of payment.—A nonprofit corporation may make bylaws necessary to enforce the collection of [such] dues or assessments, including provisions for the termination of membership, upon reasonable notice, for nonpayment of [such] dues or assessments, and for reinstatement of membership.

§ 5546. Purchase, sale, mortgage and lease of real property.

[Except for an industrial development corporation whose articles or bylaws otherwise provide, no purchase of real property shall be made by a nonprofit corporation and no corporation shall sell, mortgage, lease away or otherwise dispose of its real property, unless authorized by the vote of two-thirds of the members in office of the board of directors or other body, except that if there are 21 or more directors or members of such other body, the vote of a majority of the members in office shall be sufficient. No application to or confirmation of any court shall be required and, unless otherwise restricted in the bylaws, no vote or consent of the members shall be required to make effective such action by the board or other body. If the real property is subject to a trust the conveyance away shall be free of trust and the trust shall be impinged upon the proceeds of such conveyance.] Except as otherwise provided in this subpart and unless otherwise provided in the bylaws, no application to or confirmation of any court shall be required for the purchase by or the sale, lease or other disposition of the real or personal property, or any part of the real or personal property, of a nonprofit corporation, and, unless otherwise restricted in section 5930 (relating to voluntary transfer of corporate assets) or in the bylaws, no vote or consent of the members shall be required to make effective such action by the board or other body. If the property is subject to a trust, the conveyance away shall be free of trust, and the trust shall be impinged upon the proceeds of the conveyance.

§ 5547. Authority to take and hold trust property.

* * *

(b) Nondiversion of certain property.—Property committed to charitable purposes shall not, by any proceeding under Chapter 59 (relating to fundamental changes) or otherwise, be diverted from the objects to which it was donated, granted or devised, unless and until the board of directors or other body obtains from the court an order under 20 Pa.C.S. Ch. 77 [Subch. D] (relating to [creation, validity, modification and termination of trust] trusts) specifying the disposition of the property.

§ 5548. Investment of trust funds.

* * *

(b) Use and management.—Except as otherwise permitted under 20 Pa.C.S. Ch. 77 [Subch. D] (relating to [creation, validity, modification and termination of trust] trusts), the board of directors or other body shall apply all assets thus received to the purposes specified in the trust instrument. The directors or other body shall keep accurate accounts of all trust funds, separate and apart from the accounts of other assets of the corporation.

* * *

§ 5550. Devises, bequests and gifts after certain fundamental changes.

A devise, bequest or gift to be effective in the future, in trust or otherwise, to or for a nonprofit corporation which has:

- (1) changed its purposes;
- (2) sold, leased away or exchanged all or substantially all its property and assets;
- (3) been converted into a business corporation;
- (4) become a party to a consolidation or a division;
- (5) become a party to a merger which it did not survive; or
- (6) been dissolved;

after the execution of the document containing [such] the devise, bequest or gift *and before the nonprofit corporation acquires a vested interest in the devise, bequest or gift* shall be effective only as a court having jurisdiction over the assets may order under [the Estates Act of 1947] 20 Pa.C.S. Ch. 77 (relating to trusts) or other applicable provisions of law.

Section 31. Section 5551 of Title 15 is reenacted to read:

§ 5551. Dividends prohibited; compensation and certain payments authorized.

(a) General rule.—A nonprofit corporation shall not pay dividends or distribute any part of its income or profits to its members, directors, or officers. Nothing herein contained shall prohibit a fraternal benefit society operating under the insurance laws of Pennsylvania from paying dividends or refunds by whatever name known pursuant to the terms of its insurance contracts.

(b) Reasonable compensation for services.—A nonprofit corporation may pay compensation in a reasonable amount to members, directors, or officers for services rendered.

(c) Certain payments authorized.—A nonprofit corporation may confer benefits upon members or nonmembers in conformity with its purposes, may repay capital contributions, and may redeem its subvention certificates or evidences of indebtedness, as authorized by this article, except when the corporation is currently insolvent or would thereby be made insolvent or rendered unable to carry on its corporate purposes, or when the fair value of the assets of the corporation remaining after such conferring of benefits, payment or redemption would be insufficient to meet its liabilities. A nonprofit corporation may make distributions of cash or property to members upon dissolution or final liquidation as permitted by this article.

Section 32. Title 15 is amended by adding a section to read:

§ 5552. (Reserved).

Section 33. Section 5552 of Title 15 is renumbered to read:

§ ~~5552~~ **5553**. Liabilities of members.

(a) General rule.—A member of a nonprofit corporation shall not be liable, solely by reason of being a member, under an order of a court or in any other manner for a debt, obligation or liability of the corporation of any kind or for the acts of any member or representative of the corporation.

(b) Obligations of member to corporation.—A member shall be liable to the corporation only to the extent of any unpaid portion of the capital contributions, membership dues or assessments which the corporation may have lawfully imposed upon him, or for any other indebtedness owed by him to the corporation. No action shall be brought by any creditor of the corporation to reach and apply any such liability to any debt of the corporation until after:

(1) final judgment has been rendered against the corporation in favor of the creditor and execution thereon returned unsatisfied;

(2) a case involving the corporation has been brought under 11 U.S.C. Ch. 7 (relating to liquidation) and a distribution has been made and the case closed or a notice of no assets has been issued; or

(3) a receiver has been appointed with power to collect debts, and the receiver, on demand of a creditor to bring an action thereon, has refused to sue for the unpaid amount, or the corporation has been dissolved or ceased its activities leaving debts unpaid.

(c) Action by a creditor.—An action by a creditor under subsection (b) shall not be brought more than three years after the happening of the first to occur of the events listed in subsection (b)(1) through (3).

Section 34. Section 5553 of Title 15 is renumbered and amended to read:

§ ~~5553~~ **5554**. Annual report of directors or other body.

(a) Contents.—The board of directors or other body *of a nonprofit corporation* shall present annually to the members a report, verified by the president and treasurer or by a majority of the directors or members of ~~[such]~~ **the** other body, showing in appropriate detail the following:

(1) The assets and liabilities, including ~~[the]~~ trust funds, of the corporation as of the end of the fiscal year immediately preceding the date of the report.

(2) The principal changes in assets and liabilities, including trust funds, during the *fiscal* year immediately preceding the date of the report.

(3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the *fiscal* year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.

(4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the *fiscal* year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.

(5) The number of members of the corporation as of the date of the report, together with a statement of increase or decrease in ~~[such]~~ **their** number during the year immediately preceding the date of the report, and a statement of the place where the names and addresses of the current members may be found.

(b) Place of filing.—The annual report of the board of directors or other body shall be filed with the minutes of the meetings of members.

(c) Report in absence of meeting of members.—The board of directors or other body of a corporation having no members shall direct the president and treasurer to present at the annual meeting of the board or **[of such]** other body a report in accordance with subsection (a) **[of this section]**, but omitting the requirement of paragraph (5) **[thereof]**. **[Such]** *The* report shall be filed with the minutes of the annual meeting of the board or **[of such]** other body.

(d) Cross reference.—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

Section 35. Sections 5585, 5586, 5587, 5588, 5589, 5702(a), 5704(a) and (b), 5705(a), 5708, 5722(a), 5723, 5724, 5725, 5726, 5727, 5728 heading, (a) and (b), 5729(b) and 5730 of Title 15 are amended to read:

§ 5585. Establishment or use of common trust funds authorized.

(a) General rule.—Every nonprofit corporation may establish and maintain one or more common trust funds, the assets of which shall be held, invested and reinvested by the corporation itself or by a corporate trustee to which the assets have been transferred pursuant to section 5549 (relating to transfer of trust or other assets to institutional trustee). Upon the payment by the corporate trustee to the nonprofit corporation of the net income from **[such]** *the* assets, which income may be determined under section 5548(c) (relating to investment of trust funds) if **[such]** *the* election is properly made by the board of directors or other body of the corporation, for use and application to the several participating interests in **[such]** *the* common trust fund, the proportionate participation of each interest in **[such]** *the* net income shall be designated by the corporate trustee. The nonprofit corporation may, at any time, withdraw the whole or part of any participating interest in **[such]** *the* common trust fund for distribution by it as provided in this subchapter.

(b) Limitations in trust instrument.—Nothing contained in this section shall be construed to authorize the corporation to invest assets of a trust or fund in any **[such]** common trust fund contrary to any specific limitation or restriction contained in the trust instrument^[,] nor to limit or restrict the authority conferred upon the corporation with respect to investments by **[any such]** *the* trust instrument.

(c) Effect of good faith mistakes.—**[No mistakes]** *Mistakes* made in good faith^[,] and in the exercise of due care and prudence^[,] in connection with the administration of any **[such]** common trust fund^[,] shall *not* be held to exceed any power granted to or violate any duty imposed upon the corporation^[,] if, promptly after the discovery of the mistake, the corporation takes **[such]** *whatever* action **[as]** may be practicable under the circumstances to remedy the mistake.

§ 5586. Restrictions on investments.

(a) Legal investments.—If the trust instrument **[shall limit or restrict]** *limits or restricts* the investment of **[such]** *the* assets to investments of the class authorized by law as legal investments, **[the]** *a nonprofit* corporation may invest and reinvest the assets of the trust or fund in any **[such]** common trust fund maintained by the corporation^[,] **[provided]** *if* the investments composing **[such]** *the* fund consist solely of investments of the class

authorized by **[the Fiduciaries Investment Act of 1949] 20 Pa.C.S. Ch. 72 (relating to prudent investor rule)** to be held by fiduciaries.

(b) Other than legal investments.—If the trust instrument **[shall] does** not limit or restrict the investment of **[such] the** assets to investments of the class authorized by law as legal investments, the corporation may invest and reinvest the assets of the trust or fund in any **[such]** common trust fund maintained by the corporation[,], composed of **[such] the** investments as in the honest exercise of the judgment of the directors or other body of the corporation they may, after investigation, determine to be safe and proper investments.

§ 5587. Determination of interests.

A nonprofit corporation shall invest the assets of a trust or fund in a common trust fund authorized by this subchapter by adding **[such] those** assets thereto[,], and by apportioning a participation therein to **[such] the** trust or fund in the proportion that the assets of the trust or fund added thereto bears to the aggregate value of all the assets of **[such] the** common trust fund at the time of **[such] the** investment, including in **[such] those** assets the assets of the trust or fund so added. The withdrawal of a participation from **[such] the** common trust fund shall be on a basis of its proportionate interest in the aggregate value of all the assets of **[such] the** common trust fund at the time of **[such] the** withdrawal. The participating interest of any trust or fund in **[such] the** common trust fund may from time to time be withdrawn, in whole or in part, by the corporation. Upon **[such withdrawals] a withdrawal**, the corporation may make distribution in cash, or ratably in kind, or partly in cash and partly in kind. Participations in **[such] the** common trust funds shall not be sold by the corporation to any other corporation or person, but this sentence shall not prevent a corporate trustee designated under section 5585 (relating to establishment or use of common trust funds authorized) from investing the assets of **[such a] the** common trust fund in any collective investment fund established and maintained by it in accordance with law and to which the assets comprising **[such a] the** common trust fund are eligible contributions.

§ 5588. Amortization of premiums on securities held.

If a bond or other obligation for the payment of money is acquired as an investment for any common trust fund at a cost in excess of the par or maturity value thereof, the nonprofit corporation may, during **[(but not beyond)] but not beyond** the period that **[such] the** obligation is held as an investment in **[such] the** fund, amortize **[such] the** excess cost out of the income on **[such] the** obligation, by deducting from each payment of income and adding to principal an amount equal to the sum obtained by dividing **[such] the** excess cost by the number of periodic payments of income to accrue on **[such] the** obligation from the date of **[such] the** acquisition until its maturity date.

§ 5589. Records; ownership of assets.

The nonprofit corporation shall designate clearly upon its records the names of the trusts or funds on behalf of which **[such] the** corporation, as fiduciary or otherwise, owns a participation in any common trust fund and the extent of the interest of the trust or fund therein. **[No such] The** trust or fund shall **not** be deemed to have individual ownership of any asset in **[such]**

the common trust fund, but shall be deemed to have a proportionate undivided interest in the common trust fund. The ownership of the individual assets comprising any common trust fund shall be solely in the nonprofit corporation as fiduciary or otherwise.

§ 5702. Manner of giving notice.

(a) General rule.—**[Whenever written]**

(1) *Any* notice [is] required to be given to any person under the provisions of this subpart or by the articles or bylaws of any nonprofit corporation[, it may] *shall* be given to the person either personally or by sending a copy thereof [by]:

(i) *By* first class or express mail, postage prepaid, [or by telegram (with messenger service specified), telex or TWX (with answer back received)] or courier service, charges prepaid, [or by facsimile transmission,] to [his] *the person's postal* address [(or to his telex, TWX or facsimile number)] appearing on the books of the corporation or, in the case of directors or members of an other body, supplied by [him] *the person* to the corporation for the purpose of notice. [If the notice is sent by mail, telegraph or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a telegraph office or courier service for delivery to that person or, in the case of telex or TWX, when dispatched.] *Notice under this subparagraph shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or with a courier service for delivery to that person.*

(ii) *By facsimile transmission, e-mail or other electronic communication to the person's facsimile number or address for e-mail or other electronic communications supplied by the person to the corporation for the purpose of notice. Notice under this subparagraph shall be deemed to have been given to the person entitled thereto when sent.*

(2) A notice of meeting shall specify the [place,] day [and,] hour *and geographic location, if any,* of the meeting and any other information required by any other provision of this subpart.

* * *

§ 5704. Place and notice of meetings of members.

(a) Place.—Meetings of members may be held at [such place] *the geographic location* within or without this Commonwealth [as may be] provided in or fixed pursuant to the bylaws. Unless otherwise provided in or pursuant to the bylaws, all meetings of the members shall be held [in this Commonwealth at the registered office of the corporation.] *at the executive office of the corporation wherever situated. If a meeting of members is held by means of the Internet or other electronic communications technology in a fashion pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions to the directors and members of any other body, make appropriate motions and comment on the business of the meeting, the meeting need not be held at a particular geographic location.*

(b) Notice.—**[Written notice]** *Notice in record form* of every meeting of the members shall be given by, or at the direction of, the secretary or other authorized person to each member of record entitled to vote at the meeting at least:

- (1) ten days prior to the day named for a meeting that will consider a fundamental change under Chapter 59 (relating to fundamental changes); or
- (2) five days prior to the day named for the meeting in any other case.

If the secretary or other authorized person neglects or refuses to give notice of a meeting, the person or persons calling the meeting may do so.

* * *

§ 5705. Waiver of notice.

(a) **[Written waiver]** *General rule.*—Whenever any **[written]** notice is required to be given under the provisions of this subpart or the articles or bylaws of any nonprofit corporation, a waiver thereof **[in writing, signed]** *that is filed with the secretary of the corporation in record form, signed* by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of the notice. **[Except as otherwise required by this subsection, neither]** *Neither* the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of the meeting.

* * *

§ 5708. Use of conference telephone **[and similar equipment.]** *or other electronic technology.*

(a) *Incorporators, directors and members of an other body.*—Except as otherwise provided in the bylaws, one or more persons may participate in a meeting of the incorporators, the board of directors or an other body, **or the members** of a nonprofit corporation by means of conference telephone or **[similar communications equipment]** *other electronic technology* by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at the meeting.

(b) *Members.*—*Except as otherwise provided in the bylaws, the presence or participation, including voting and taking other action, at a meeting of members, or the expression of consent or dissent to corporate action, by a member by conference telephone or other electronic means, including, without limitation, the Internet, shall constitute the presence of, or vote or action by, or consent or dissent of the member for the purposes of this subpart.*

§ 5722. Qualifications of directors.

(a) General rule.—Each director *of a nonprofit corporation* shall be a natural person of full age, except as provided in subsection (b), who, unless otherwise restricted in the bylaws, need not be a resident of this Commonwealth or a member of the corporation. Except as otherwise provided in this section, the qualifications of directors may be prescribed in the bylaws.

* * *

§ 5723. Number of directors.

The board *of directors of a nonprofit corporation* shall consist of one or more members. **[Except as otherwise provided in this section, the]** *The* number of directors shall be fixed by[,], or in the manner provided in[,], the bylaws[; or if]. *If* not so fixed, the number of directors shall be the same as that stated in the articles or three if no number is so stated.

§ 5724. Term of office of directors.

(a) *General rule.*—Each director *of a nonprofit corporation* shall hold office until the expiration of the term for which **[he]** *the director* was selected and until **[his]** *a* successor has been selected and qualified or until **[his]** *the director's* earlier death, resignation or removal. Directors, other than those selected by virtue of their office or former office in the corporation or in any other entity or organization, shall be selected for the term of office provided in the bylaws. In the absence of a provision fixing the term, it shall be one year.

(b) *Resignations.*—*Any director may resign at any time upon notice in record form to the corporation. The resignation shall be effective upon its receipt by the corporation or at a subsequent time specified in the notice of resignation.*

(c) *Decrease in number.*—*A decrease in the number of directors shall not have the effect of shortening the term of any incumbent director.*

(d) *Classified board of directors.*—*Except as otherwise provided in the bylaws, if the directors are classified in respect of the time for which they shall severally hold office:*

(1) *Each class shall be as nearly equal in number as possible.*

(2) *The term of office of at least one class shall expire in each year.*

(3) *The members of a class shall not be elected for a longer period than four years.*

§ 5725. Selection of directors.

(a) *General rule.*—Except as otherwise provided in this section, directors *of a nonprofit corporation*, other than those **[named in the articles, if any,]** *constituting the first board of directors*, shall be elected by the members.

(b) *Other methods.*—If a bylaw adopted by the members so provides, directors may be elected, appointed, designated or otherwise selected by **[such]** *the* person or persons or by **[such]** *the* method or methods as shall be fixed by, or in the manner provided in, **[such]** *the* bylaw, *and the directors may be classified as to the members who exercise the power to select directors.*

(c) *Vacancies.*—Except as otherwise provided in the bylaws[,]:

(1) **[vacancies]** *Vacancies* in the board of directors, including vacancies resulting from an increase in the number of directors, **[shall]** *may* be filled by a majority of the remaining members of the board though less than a quorum, *or by a sole remaining director*, and each person so **[elected]** *selected* shall be a director to serve for the balance of the unexpired term unless otherwise restricted in the bylaws.

(2) *When one or more directors resign from the board effective at a future date, the directors then in office, including those who have so resigned, shall have power by the applicable vote to fill the vacancies, the vote thereon to take effect when the resignations become effective.*

(3) *In the case of a corporation having a board of directors classified in respect of the time for which directors shall severally hold office, any director chosen to fill a vacancy, including a vacancy resulting from an increase in the number of directors, shall hold office until the next election of the class for which the director has been chosen and until a successor has been selected and qualified or until the director's earlier death, resignation or removal.*

(d) Alternate directors.—If the bylaws so provide, a person or group of persons entitled to elect, appoint, designate or otherwise select one or more directors may select **[one or more alternates]** *an alternate* for each **[such]** director. In the absence of a director from a meeting of the board **[one of his alternates]**, *the director's alternate* may, in the manner and upon **[such]** *the* notice, if any, as may be provided in the bylaws, attend **[such]** *the* meeting *or execute a consent in record form* and exercise at the meeting **[such of]** *or in the consent*, the powers of the absent director as may be specified by, or in the manner provided in, the bylaws. When so exercising the powers of the absent director, **[such]** *the* alternate shall be subject in all respects to the provisions of this **[article]** *subpart* relating to directors.

(e) Nomination of directors.—Unless *otherwise provided in* the bylaws **[provide otherwise]**, directors shall be nominated by a nominating committee or from the floor.

(f) *Cross reference.—See the definition of "member" in section 5103 (relating to definitions).*

§ 5726. Removal of directors.

(a) **[By]** *Removal by* the members.—

(1) Unless otherwise provided in a bylaw adopted by the members, the entire board of directors, or a class of the board[,], where the board is classified with respect to the power to select directors, or any individual director[,], *of a nonprofit corporation* may be removed from office without assigning any cause by the vote of members, *or a class of members*, entitled to **[cast at least a majority of the votes which all members present would be entitled to cast at any annual or other regular election of the directors or of such class of directors]** *elect directors, or the class of directors*. In case the board or **[such]** a class of the board or any one or more directors are so removed, new directors may be elected at the same meeting. **[If members are entitled to vote cumulatively for the board or a class of the board, no individual director shall be removed unless the entire board or class of the board is removed in case sufficient votes are cast against the resolution for his removal, which, if cumulatively voted at an annual or other regular election of directors, would be sufficient to elect one or more directors to the board or to the class.]**

(2) *An individual director shall not be removed, unless the entire board or class of the board is removed, from the board of a corporation in which members are entitled to vote cumulatively for the board or a class of the board if sufficient votes are cast against the resolution for removal of the director which, if cumulatively voted at an annual or other regular election of directors, would be sufficient to elect one or more directors to the board or to the class.*

(b) **[By] Removal by the board.**—Unless otherwise provided in a bylaw adopted by the members, the board of directors may declare vacant the office of a director **[if he is declared] who has been judicially declared** of unsound mind **[by an order of court or is convicted of felony] or who has been convicted of an offense punishable by imprisonment for a term of more than one year**, or for any other proper cause which the bylaws may specify, or if, within 60 days, or **[such]** other time as the bylaws may specify, after notice of **[his]** selection, **[he] a director** does not accept **[such] the** office either in writing or by attending a meeting of the board of directors[,] and fulfill **[such] the** other requirements of qualification as the bylaws may specify.

(c) **[By] Removal by the court.**—**[The court may, upon petition of any member or director, remove from office any director in case of fraudulent or dishonest acts, or gross abuse of authority or discretion with reference to the corporation, or for any other proper cause, and may bar from office any director so removed for a period prescribed by the court. The corporation shall be made a party to such action.] Upon application of any member or director, the court may remove from office any director in case of fraudulent or dishonest acts, or gross abuse of authority or discretion with reference to the corporation, or for any other proper cause, and may bar from office any director so removed for a period prescribed by the court. The corporation shall be made a party to the action and, as a prerequisite to the maintenance of an action under this subsection, a member shall comply with Subchapter G (relating to judicial supervision of corporate action).**

(d) **Effect of reinstatement.**—**An act of the board done during the period when a director has been suspended or removed for cause shall not be impugned or invalidated if the suspension or removal is thereafter rescinded by the members or by the board or by the final judgment of a court.**

§ 5727. Quorum of and action by directors.

(a) **General rule.**—Unless otherwise provided in the bylaws, a majority of the directors in office **of a nonprofit corporation** shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the directors present **and voting** at a meeting at which a quorum is present shall be the acts of the board of directors.

(b) **Action by [written] consent.**—Unless otherwise restricted in the bylaws, any action **[which may] required or permitted to be [taken] approved** at a meeting of the directors may be **[taken] approved** without a meeting[,] if a consent or consents **[in writing setting forth the action so taken shall be signed] to the action in record form are signed, before, on or after the effective date of the action** by all of the directors in office **[and shall be] on the date the last consent is signed. The consent or consents must be** filed with the secretary of the corporation.

§ 5728. Interested **[members,] directors or officers; quorum.**

(a) **General rule.**—**[No] A** contract or transaction between a nonprofit corporation and one or more of its **[members,] directors or officers** or between a nonprofit corporation and **[any other corporation, partnership, association, or other organization] another domestic or foreign**

corporation for profit or not-for-profit, partnership, joint venture, trust or other association in which one or more of its directors or officers are directors or officers[,], or have a financial *or other* interest, shall *not* be void or voidable solely for [such] *that* reason, or solely because the [member,] director or officer is present at or participates in the meeting of the board of directors [which] *that* authorizes the contract or transaction, or solely because [his or their votes are] *the vote of the director or officer is* counted for [such] *that* purpose, if:

(1) the material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board [in good faith] authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(2) the material facts as to [his] *the director's or officer's* relationship or interest and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of [such] *those* members; or

(3) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors or the members.

(b) Quorum.—Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board [which] *that* authorizes a contract or transaction specified in subsection (a) [of this section].

* * *

§ 5729. Voting rights of directors.

* * *

(b) Multiple and fractional voting.—The requirement of this [article] *subpart* for the presence of or vote or other action by a specified percentage of directors shall be satisfied by the presence of or vote or other action by directors entitled to cast [such] *the* specified percentage of the votes which all directors are entitled to cast.

§ 5730. Compensation of directors.

Except as otherwise restricted in the bylaws, the board of directors *of a nonprofit corporation* shall have the authority to fix the compensation of directors for their services as [such] *directors*, and a director may be a salaried officer of the corporation.

Section 36. Section 5731 of Title 15 is amended by adding a subsection to read:

§ 5731. Executive and other committees of the board.

* * *

(c) *Status of committee action.*—The term "board of directors" or "board," when used in any provision of this subpart relating to the organization or procedures of or the manner of taking action by the board of directors, shall be construed to include and refer to any executive or other committee of the board. Any provision of this subpart relating or referring to action to be taken by the board of directors or the procedure required therefor shall be satisfied by the taking of corresponding action

by a committee of the board of directors to the extent authority to take the action has been delegated to the committee under this section.

Section 37. Sections 5733, 5746(a), 5751, 5752, 5753, 5754, 5755, 5756(a)(1) and (3) and (b), 5757 and 5759 of Title 15 are amended to read: § 5733. Removal of officers and agents.

Unless otherwise provided in the bylaws, any officer or agent *of a nonprofit corporation* may be removed by the board of directors or other body [whenever in its judgment the best interests of the corporation will be served thereby, but such] *with or without cause. The* removal shall be without prejudice to the contract rights, *if any*, of any person so removed. *Election or appointment of an officer or agent shall not of itself create contract rights.*

§ 5746. Supplementary coverage.

(a) General rule.—The indemnification and advancement of expenses provided by or granted pursuant to the other sections of this subchapter shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in [his] *an* official capacity and as to action in another capacity while holding that office. Section 5728 (relating to interested [members,] directors or officers; quorum) shall be applicable to any bylaw, contract or transaction authorized by the directors under this section. A corporation may create a fund of any nature, which may, but need not, be under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.

* * *

§ 5751. Classes and qualifications of membership.

(a) General rule.—Membership in a nonprofit corporation shall be of [such] *the* classes, and shall be governed by [such] *the* rules of admission, retention, suspension and expulsion, [as] *prescribed in* bylaws adopted by the members [shall prescribe], except that [all such] *the* rules shall be reasonable, germane to the purpose or purposes of the corporation[,] and equally enforced as to all members of the same class. Unless otherwise provided by a bylaw adopted by the members[, there]:

(1) *There* shall be one class of members whose voting and other rights and interests shall be equal.

(2) *If there is only one class of members, the members shall have all the rights of members generally in a nonprofit corporation.*

(b) Corporations without voting members.—Where the articles provide that the corporation shall have no members, as such, or where a nonprofit corporation has under its bylaws or in fact no members entitled to vote on a matter, any provision of this [article] *subpart* or any other provision of law requiring notice to, the presence of, or the vote, consent or other action by members of the corporation in connection with [such] *the* matter shall be satisfied by notice to, the presence of, or the vote, consent or other action by the board of directors or other body of the corporation.

(c) *Membership status.—Regardless of whether a nonprofit corporation designates or refers to a person as a member of the corporation, the*

person is not a member of the corporation for purposes of this subpart unless the person satisfies the definition of "member" in section 5103(a) (relating to definitions).

§ 5752. Organization on a stock share basis.

(a) General rule.—A nonprofit corporation may be organized upon either a nonstock basis or, *if so provided in its articles*, upon a stock share basis[, *as set forth in its articles*].

(b) Form of certificates; *uncertificated shares*.—The shares of nonprofit corporations organized upon a stock share basis shall be of [such] *the* denominations [as] *provided in* the bylaws [shall provide] and shall be represented by share certificates[.] *unless the articles provide that any or all classes and series of shares, or any part thereof, shall be uncertificated shares. A provision of the articles providing for uncertificated shares shall not apply to shares represented by a certificate until the certificate is surrendered to the corporation. Except as otherwise expressly provided by law, the rights and obligations of the holders of shares represented by certificates and the rights and obligations of the holders of uncertificated shares of the same class and series shall be identical.* The fact that the corporation is a nonprofit corporation shall be noted conspicuously on the face of each certificate. *Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice stating:*

(1) That the corporation is a nonprofit corporation incorporated under the laws of this Commonwealth.

(2) The name of the registered owner.

(3) The denomination and class of shares and the designation of the series, if any, of the shares issued or transferred.

(c) Rights of shareholders.—Unless otherwise provided in a bylaw adopted by the members, each share shall entitle the holder thereof to one vote. No dividends shall be directly or indirectly paid on [any such] *the* shares, nor shall the shareholders be entitled to any portion of the earnings of [such] *the* corporation derived through increment of value upon its property, or otherwise incidentally made, until the dissolution of [any such] *the* corporation.

(d) Transferability of shares.—Unless otherwise provided in the bylaws, [such] *the* shares shall not be transferable by operation of law or otherwise.

(e) Power to cancel shares.—A nonprofit corporation shall have power to exclude from further membership any shareholder who fails to comply with the reasonable and lawful bylaws of the corporation, and may cancel the shares of any [such] offending member without liability for an accounting[.] except as may be provided in the bylaws.

(f) Applicability of the Uniform Commercial Code.—The provisions of [Division 8 of Title 13] *13 Pa.C.S. Div. 8* (relating to investment securities) shall not apply in any manner to the shares of a nonprofit corporation.

(g) *Cross reference*.—*See the definition of "member" in section 5103 (relating to definitions).*

§ 5753. Membership certificates.

A nonprofit corporation organized upon a nonstock basis shall not issue shares of stock, but membership in [such] *the* corporation may be evidenced

by certificates of membership. The fact that the corporation is a nonprofit corporation shall be noted conspicuously on the face of each certificate.

§ 5754. Members grouped in local units.

(a) General rule.—The bylaws of a nonprofit corporation may provide that the members of the corporation shall be grouped in incorporated or unincorporated local units formed upon the basis of territorial areas, or **[such]** other basis as may be determined in the bylaws, for the purpose of election of delegates or representatives to represent the members of **[such]** *the* local units at any regular or special meetings of **[such]** *the* corporation. Unless otherwise provided in a bylaw adopted by the members, each local unit participating in a representative capacity by means of one or more delegates or otherwise at a meeting of the corporation shall have a number of votes equal to the total membership of the local unit.

(b) Voting at meetings of delegates.—The requirements of this **[article]** *subpart* for action by or the consent of a specified number or percentage of the members shall be satisfied by action by or the consent of **[such]** *that* number or percentage of votes of delegates or representatives of members selected pursuant to this section.

(c) Calling and holding meetings of delegates.—The provisions of this **[article]** *subpart* relating to the manner of the calling and holding of and the taking of action at meetings of members shall be applicable to meetings of delegates or representatives of members.

(d) Incorporation of local units.—A local unit of an incorporated or unincorporated parent body **[which]** *that* is incorporated or organized for a purpose or purposes not involving pecuniary profit, incidental or otherwise, to its members[,] may be incorporated under this **[article]** *subpart* by an incorporated parent body or by the members of **[such]** *the* local unit.

§ 5755. Time of holding meetings of members.

(a) Regular meetings.—The bylaws of a nonprofit corporation may provide for the number and the time of meetings of members, but unless otherwise provided in a bylaw adopted by the members at least one meeting of the members of a corporation **[which]** *that* has members, as such, entitled to vote, shall be held in each calendar year for the election of directors[, **at such]** *at the time [as shall be]* provided in or fixed pursuant to authority granted by the bylaws. Failure to hold the annual or other regular meeting at the designated time shall not work a dissolution of the corporation *or affect otherwise valid corporate acts*. If the annual or other regular meeting **[shall not be]** *is not* called and held within six months after the designated time, any member may call **[such]** *the* meeting at any time thereafter.

(b) Special meetings.—Special meetings of the members may be called at any time *by*:

(1) **[by]** the board of directors[, **or**];

(2) members entitled to cast at least 10% of the votes **[which]** *that* all members are entitled to cast at the particular meeting[, **or by such**]; *or*

(3) other officers or persons as may be provided in the bylaws.

At any time, upon written request of any person who has called a special meeting, it shall be the duty of the secretary to fix the time of the meeting[,] which, *if the meeting is called pursuant to a statutory right*, shall be held not more than 60 days after the receipt of the request. If the secretary **[shall]**

neglect or refuse] neglects or refuses to fix the time of the meeting, the person or persons calling the meeting may do so.

(c) **Adjournments.**—Adjournments of any regular or special meeting may be taken[,] but any meeting at which directors are to be elected shall be adjourned only from day to day, or for **[such]** longer periods not exceeding 15 days each, as the members present **and** entitled to **[cast at least a majority of the votes which all members present and voting are entitled to cast] vote** shall direct, until **[such] the** directors have been elected.

(d) Cross reference.—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ 5756. Quorum.

(a) **General rule.**—A meeting of members of a nonprofit corporation duly called shall not be organized for the transaction of business unless a quorum is present. Unless otherwise provided in a bylaw adopted by the members:

(1) The presence of members entitled to cast at least a majority of the votes **[which] that** all members are entitled to cast on **[the matters] a particular matter** to be acted upon at the meeting shall constitute a quorum **for the purposes of consideration and action on the matter.**

* * *

(3) If a meeting cannot be organized because a quorum has not attended, those present may, except as otherwise provided in this **[article] subpart**, adjourn the meeting to **[such] a** time and place **[as]** they may determine.

(b) **Exceptions.**—Notwithstanding any contrary provision in the articles or bylaws, **those members entitled to vote who attend a meeting of members:**

(1) **[In the case of any meeting called for the election of directors those who attend the second of such adjourned meetings] At which directors are to be elected that has been previously adjourned for lack of a quorum**, although less than a quorum as fixed in this section[,] or in the **[articles or]** bylaws, shall nevertheless constitute a quorum for the purpose of election of directors.¹

(2) **[In the case of any meeting called for any other purpose those who attend the second of such adjourned meetings] That has been previously adjourned for one or more periods aggregating at least 15 days because of an absence of a quorum**, although less than a quorum as fixed in this section[,] or in the **[articles or]** bylaws, shall nevertheless constitute a quorum for the purpose of acting upon any **[resolution or other] matter** set forth in the notice of the meeting[, **if written notice of such second adjourned meeting, stating] if the notice states** that those members who attend **the adjourned meeting** shall **nevertheless** constitute a quorum for the purpose of acting upon **[such resolution or other] the matter**[, **is given to each member of record entitled to vote at such second adjourned meeting at least ten days prior to the day named for the second adjourned meeting].**

§ 5757. Action by members.

¹"directors[.];" in enrolled bill.

(a) General rule.—[Except as otherwise provided in this article or in a bylaw adopted by the members, the acts at a duly organized meeting of members present entitled to cast at least a majority of the votes which all members present and voting are entitled to cast shall be the acts of the members.

(b) Increased minimum vote.—Whenever in this article a specified number or percentage of votes of members or of a class of members is required for the taking of any action, a nonprofit corporation may prescribe in a bylaw adopted by the members that a higher number or percentage of votes shall be required for such action.] *Except as otherwise provided in this subpart or in a bylaw adopted by the members, whenever any corporate action is to be taken by vote of the members of a nonprofit corporation, it shall be authorized upon receiving the affirmative vote of a majority of the votes cast by the members entitled to vote thereon and, if any members are entitled to vote thereon as a class, upon receiving the affirmative vote of a majority of the votes cast by the members entitled to vote as a class.*

(b) *Changes in required vote.—Whenever a provision of this subpart requires a specified number or percentage of votes of members or of a class of members for the taking of any action, a nonprofit corporation may prescribe in a bylaw adopted by the members that a higher number or percentage of votes shall be required for the action. The number or percentage of members necessary to call a special meeting of members or to petition for the proposal of an amendment of articles under this subpart may not be increased under this subsection. See sections 5504(d) (relating to adoption, amendment and contents of bylaws) and 5914(d) (relating to adoption of amendments).*

(c) *Expenses.—Unless otherwise restricted in the articles, the corporation shall pay the reasonable expenses of solicitation of votes, proxies or consents of members by or on behalf of the board of directors or its nominees for election to the board, including solicitation by professional proxy solicitors and otherwise, and may pay the reasonable expenses of a solicitation by or on behalf of other persons.*

§ 5759. Voting and other action by proxy.

(a) General rule.—Voting by members of a nonprofit corporation shall be only in person unless a bylaw adopted by the members provides for voting by proxy. [The presence of or vote or other action at a meeting of members, or the expression of consent or dissent to corporate action in writing, by a proxy of a member pursuant to such a bylaw shall constitute the presence of, or vote or action by, or written consent or dissent of such member for the purposes of this article.] *Unless otherwise restricted by a bylaw adopted by the members:*

(1) *The presence of, or vote or other action at a meeting of members, or the expression of consent or dissent to corporate action, by a proxy of a member pursuant to a bylaw shall constitute the presence of, or vote or action by, or consent or dissent of the member for the purposes of this subpart.*

(2) *Where two or more proxies of a member are present, the corporation shall, unless otherwise expressly provided in the proxy,*

accept as the vote or other action of all the members or shares represented thereby the vote cast or other action taken by a majority of them, and, if a majority of the proxies cannot agree whether the memberships or shares represented shall be voted or upon the manner of voting the memberships or shares or taking the other action, the voting of the memberships or shares or right to take other action shall be divided equally among those persons.

(b) **[Minimum requirements]** *Execution and filing.*—Every proxy shall be executed **[in writing]** *or authenticated* by the member or by **[his]** *the member's* duly authorized **[attorney in fact]** *attorney-in-fact* and filed with *or transmitted* to the secretary of the corporation~~[,] or its designated agent.~~ *A member or the member's duly authorized attorney-in-fact may execute or authenticate a writing or transmit an electronic message authorizing another person to act for the member by proxy. A telegram, telex, cablegram, datagram, e-mail, Internet communication or other means of electronic transmission from a member or attorney-in-fact, or a photographic, facsimile or similar reproduction of a writing executed by a member or attorney-in-fact:*

(1) may be treated as properly executed or authenticated for purposes of this subsection; and

(2) shall be so treated if it sets forth or utilizes a confidential and unique identification number or other mark furnished by the corporation to the member for the purposes of a particular meeting or transaction.

(c) *Revocation.*—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]** *or its designated agent in writing or by electronic transmission.* An unrevoked proxy shall *not* be valid after 11 months from the date of its execution, *authentication or transmission* 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]** *the* death or incapacity is given to the secretary of the corporation~~.] or its designated agent.~~ *See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

Section 38. Title 15 is amended by adding sections to read:

§ 5760. *(Reserved).*

§ 5761. *(Reserved).*

Section 39. Sections 5760 and 5761 of Title 15 are renumbered and amended to read:

§ **[5760]** 5762. Voting by corporations.

(a) Voting in nonprofit corporation matters.—Unless otherwise provided in a bylaw of a nonprofit corporation adopted by the members, any other **[corporation which is a member of such a nonprofit corporation may vote therein by any of its officers,]** *domestic or foreign corporation for profit or not-for-profit that is a member of the nonprofit corporation may vote by any of its officers or agents, or by proxy appointed by any officer or*

agent, unless some other person, by resolution of the board of directors of **[such] the** other corporation[,] or a provision of its articles or bylaws, a copy of which resolution or provision certified to be correct by one of its officers **[shall have] has** been filed with the secretary of the nonprofit corporation, **[shall be] is** appointed its general or special proxy[,] in which case **[such] that** person shall be entitled to vote **[therein] as the proxy**.

(b) Voting by nonprofit corporations.—Shares of or memberships in a domestic or foreign corporation for profit or not-for-profit other than a nonprofit corporation, standing in the name of a shareholder or member **[which] that** is a nonprofit corporation, may be voted by the persons and in the manner provided for in the case of nonprofit corporations by subsection (a) **[of this section]** unless the laws of the jurisdiction in which the issuer of **[any such] the** shares or memberships is incorporated **[shall]** require the shares or memberships to be voted by some other person or persons or in some other manner[,] in which case, to the extent that **[such] those** laws are inconsistent **[herewith] with this subsection**, this subsection shall not apply. § **[5761] 5763**. Determination of members of record.

(a) Fixing record date.—Unless otherwise restricted in the bylaws, the board of directors of a nonprofit corporation may fix a time[, **not more than 70 days]** prior to the date of any meeting of members **[or any adjournment thereof,]** as a record date for the determination of the members entitled to notice of, or to vote at, **[such] the** meeting[. **In such case only, which time, except in the case of an adjourned meeting, shall not be more than 90 days prior to the date of the meeting of members. Only** members of record on the date **[so]** fixed shall **[so]** be *so* entitled notwithstanding any increase or other change in membership on the books of the corporation after any record date fixed as **[aforesaid] provided in this subsection**. Unless otherwise **[restricted] provided** in the bylaws, the board of directors may similarly fix a record date for the determination of members of record for any other purpose. *When a determination of members of record has been made as provided in this section for purposes of a meeting, the determination shall apply to any adjournment thereof unless otherwise restricted in the bylaws or unless the board fixes a new record date for the adjourned meeting.*

(b) Determination when no record date fixed.—Unless otherwise **[restricted] provided** in the bylaws, if **[no] a** record date is *not* fixed:

(1) The record date for determining members entitled to notice of or to vote at a meeting of members shall be at the close of business on the day next preceding the day on which notice is given[,] or, if notice is waived, at the close of business on the day **[next] immediately** preceding the day on which the meeting is held.

(2) The record date for determining members entitled to:

(i) express consent or dissent to corporate action in writing without a meeting, when **[no]** prior action by the board of directors or other body is *not* necessary[,];

(ii) call a special meeting of the members; or

(iii) propose an amendment of the articles;

shall be *the close of business on* the day on which the first written consent or dissent, *request for a special meeting or petition proposing an*

amendment of the articles is [expressed] *filed with the secretary of the corporation.*

(3) The record date for determining members for any other purpose shall be at the close of business on the day on which the board of directors or other body adopts the resolution relating thereto.

Section 40. Title 15 is amended by adding a section to read:

§ 5764. (*Reserved*).

Section 41. Sections 5762, 5763, 5764, 5765, 5766 and 5767 of Title 15 are renumbered and amended to read:

§ [5762] 5765. Judges of election.

(a) *General rule.*—Unless otherwise provided in a bylaw adopted by the members:

(1) In advance of any meeting of members *of a nonprofit corporation*, the board of directors or other body may appoint judges of election, who need not be members, to act at [such] *the* meeting or any adjournment thereof. If judges of election are not so appointed, the presiding officer of [any such] *the* meeting may, and on the request of any member shall, [make such appointment] *appoint judges of election* at the meeting. The number of judges shall be one or three. [No] *A* person who is a candidate for office *to be filled at the meeting* shall *not* act as a judge.

(2) In case any person appointed as judge fails to appear or fails or refuses to act, the vacancy may be filled by appointment made by the board of directors or other body in advance of the convening of the meeting, or at the meeting by the presiding officer thereof.

(3) The judges of election shall determine the number of members of record and the voting power of each, the members present at the meeting, the existence of a quorum, the authenticity, validity[,] and effect of proxies, if voting by proxy is permitted under the bylaws, receive votes or ballots, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes, determine the result[,] and [do such] *perform the* acts as may be proper to conduct the election or vote with fairness to all members. The judges of election shall perform their duties impartially, in good faith, to the best of their ability[,] and as expeditiously as is practical. If there are three judges of election, the decision, act or certificate of a majority shall be effective in all respects as the decision, act or certificate of all.

(4) On request of the presiding officer of the meeting, or of any member, the judges shall make a report in writing of any challenge or question or matter determined by them, and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated therein.

(b) *Cross reference.*—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ [5763] 5766. Consent of members in lieu of meeting.

(a) *Unanimous consent.*—Unless otherwise restricted in the bylaws, any action [which may] *required or permitted to* be taken at a meeting of the members or of a class of members *of a nonprofit corporation* may be taken without a meeting[,] if a consent or consents [in writing, setting forth the

action so taken, shall be signed] *to the action in record form are signed, before, on or after the effective date of the action* by all of the members who would be entitled to vote at a meeting for [such purpose and shall be filed] *that purpose. The consent or consents must be filed* with the [secretary of the corporation] *minutes of the proceedings of the members.*

(b) *Partial consent.—If the bylaws so provide, any action required or permitted to be taken at a meeting of the members or of a class of members may be taken without a meeting upon the signed consent of members who would have been entitled to cast the minimum number of votes that would be necessary to authorize the action at a meeting at which all members entitled to vote thereon were present and voting. The consents must be filed in record form with the minutes of the proceedings of the members.*

(c) *Effectiveness of action by partial consent.—An action taken pursuant to subsection (b) shall not become effective until after at least ten days' notice of the action has been given to each member entitled to vote thereon who has not consented thereto.*

§ [5764] 5767. Appointment of custodian of corporation on deadlock or other cause.

(a) *General rule.—[The court, upon] Upon* application of any member, *the court* may appoint one or more persons to be custodians of and for any nonprofit corporation when it [is made to appear] *appears that:*

(1) [that] *at any meeting for the election of directors or members of an other body, the members are so divided that they have failed to elect successors to [directors] those whose terms have expired or would have expired upon the qualification of their successors; or*

(2) [that] *any of the conditions specified in section 5981 (relating to proceedings upon [petition of member, etc.] exists) application of member or director), other than that it is beneficial to the interest of the members that the corporation be wound up and dissolved, exist with respect to the corporation.*

(a.1) *Exception.—The court shall not appoint a custodian to resolve a deadlock if the members by agreement or otherwise have provided for the appointment of a provisional director or member of an other body or other means for the resolution of the deadlock, but the court shall enforce the remedy so provided, if appropriate.*

(b) *Power and title of custodian.—A custodian appointed under this section shall have all the power and title of a receiver appointed under Subchapter G of Chapter 59 (relating to involuntary liquidation and dissolution), but the authority of the custodian shall be to continue the business of the corporation and not to liquidate its affairs and distribute its assets[,] except when the court shall otherwise order [and except in cases arising under section 5981(1), (2) and (3) (relating to proceedings upon petition of member, etc.)].*

(c) *Cross reference.—See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ [5765] 5768. Reduction of membership below stated number.

Whenever the membership of a nonprofit corporation having a stated number of members [shall be] *is* reduced below [such] *that* number by death, withdrawal[,] or otherwise, the corporation shall not on that account

be dissolved, but it shall be lawful for the surviving or continuing members to continue the corporate existence[,], unless otherwise restricted in the bylaws.

§ [5766] 5769. Termination and transfer of membership.

(a) General rule.—Membership in a nonprofit corporation shall be terminated in the manner provided in a bylaw adopted by the members. If **[the]** membership in any such corporation is limited to persons who are members in good standing in another corporation, or in any lodge, church, club, society or other entity or organization, the bylaws shall in each case define **[such] the** limitations[,], and may provide that failure on the part of **[any such] a** member to keep himself in good standing in **[such] the** other entity or organization shall be sufficient cause for **[expelling the member from] terminating the membership of the member in** the corporation requiring such eligibility.

(b) Expulsion.—

(1) **[No]** A member shall *not* be expelled from any nonprofit corporation without notice, trial and conviction, the form of which shall be prescribed by the bylaws.

(2) Paragraph (1) **[of this subsection]** shall not apply to termination of membership pursuant to section 5544**[(c)]** (relating to **[enforcement of payment of fees,]** dues and assessments).

(3) *See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

(c) Effect of termination of membership.—Unless otherwise provided in the bylaws, the right of a member of a nonprofit corporation to vote, and his right, title and interest in or to the corporation or its property, shall cease **[on the] upon** termination of **[his]** membership.

(d) Transfer of membership.—Unless otherwise provided in the bylaws, **[no]** a member may *not* transfer his membership or any right arising therefrom. *The adoption of an amendment to the articles or bylaws of a nonprofit corporation that changes the identity of some or all of the members or the criteria for membership does not constitute a transfer for purposes of this subsection.*

§ [5767] 5770. Voting powers and other rights of certain securityholders and other entities.

[Such] *The* power to vote in respect to the corporate affairs and management of a **[nonprofit] membership** corporation and other membership rights as may be provided in a bylaw adopted by the members may be conferred upon:

(1) Registered holders of **[securities evidencing indebtedness] obligations** issued or to be issued by the corporation.

(2) The *United States of America, the Commonwealth, a state,* or any political subdivision **[thereof or other] of any of the foregoing, or any** entity prohibited by law from becoming a member of a corporation.

Section 42. Sections 5791, 5792, 5793, 5911, 5913, 5914, 5921, 5923(a), 5924, 5925, 5926(2) and (4), 5928, 5930, 5951, 5956, 5957(b)(1)(ii) and (iv) and (h)(1) and (3), 5972(b), 5973(a), 5975(c), 5976(a), 5977(a) and 5978(b) of Title 15 are amended to read:

§ 5791. Corporate action subject to subchapter.

(a) General rule.—This subchapter shall apply to, and the term "corporate action" in this subchapter shall mean any of the following actions:

(1) The election, appointment, designation or other selection and the suspension, removal or expulsion of members, directors, members of an other body or officers of a nonprofit corporation.

(2) The taking of any action on any matter **[which] that** is required under this **[article] subpart** or under any other provision of law to be, or **[which] that** under the bylaws may be, submitted for action to the members, directors, members of an other body or officers of a nonprofit corporation.

(b) Cross reference.—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ 5792. Proceedings prior to corporate action.

(a) General rule.—Where under **applicable** law or the bylaws of a nonprofit corporation there has been a failure to hold a meeting to take corporate action and **[such] the** failure has continued for 30 days after the **[date]** designated or appropriate **[therefor] date**, the court may summarily order a meeting to be held upon the application of any person entitled, either alone or in conjunction with other persons similarly seeking relief under this section, to call a meeting to consider the corporate action in issue.

(b) Conduct of meeting.—The court may determine the right to vote at **[such] the** meeting of persons claiming **[such] that** right, may appoint a master to hold **[such] the** meeting under such orders and powers as the court **[may deem proper,] deems proper** and may take **[such action as may be] any action** required to give due notice of the meeting and to convene and conduct the meeting in the interests of justice.

(c) Cross reference.—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ 5793. Review of contested corporate action.

(a) General rule.—Upon **[petition] application** of any person **[whose status as, or whose rights or duties as, a member, director, member of an other body, officer or otherwise of a nonprofit corporation are or may be affected] aggrieved** by any corporate action, the court may hear and determine the validity of **[such] the** corporate action.

(b) Powers and procedures.—**[The court may make such orders in any such case as may be just and proper, with power to] By entering an appropriate order, the court may** enforce the production of any books, papers and records of the corporation and other relevant evidence **[which] that** may relate to the issue. The court shall provide for notice of the pendency of the proceedings under this section to all persons affected thereby. If it is determined that no valid corporate action has been taken, the court may order a meeting to be held in accordance with section 5792 (relating to proceedings prior to corporate action).

(c) Cross reference.—*See section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ 5911. Amendment of articles authorized.

(a) General rule.—A nonprofit corporation, in the manner **[hereinafter]** provided in this subchapter, may **[from time to time]** amend its articles for one or more of the following purposes:

(1) To adopt a new name, subject to the restrictions **[heretofore]** provided in this **[article] subpart**.

(2) To modify any provision of the articles relating to its term of existence.

(3) To change, add to[,], or diminish its purposes[,], or to set forth different or additional purposes.

(4) To restate the articles in their entirety.

(5) **[In] To make** any and as many other **[respects] changes** as desired.

(b) Exceptions.—**[No] An** amendment adopted under this section shall **not** amend articles in such a way that as so amended they would not be authorized by this **[article] subpart** as original articles of incorporation[,], except that:

(1) Restated articles shall, **subject to section 109 (relating to name of commercial registered office provider in lieu of registered address)**, state the address of the current instead of the initial registered office of the corporation in this Commonwealth[,], and need not state the names and addresses **[of the first directors or]** of the incorporators.

(2) The corporation shall not be required to revise any other provision of its articles if **[such] the** provision is valid and operative immediately prior to the filing of **[such] the** amendment in the **[Department of State] department**.

§ 5913. Notice of meeting of members.

[Written notice shall, not less than ten days before the meeting of members called for the purpose of considering the proposed amendment,] (a) General rule.—**Notice in record form of the meeting of members of a nonprofit corporation that will act on the proposed amendment shall** be given to each member of record entitled to vote thereon. **[There shall be included in, or enclosed with, such notice] The notice shall include** a copy of the proposed amendment or a summary of the changes to be effected thereby.

(b) Cross reference.—**See Subchapter A of Chapter 57 (relating to notice and meetings generally).**

§ 5914. Adoption of amendments.

(a) General rule.—**[The] Unless a bylaw adopted by the members or a specific provision of this subpart requires a greater vote, a proposed amendment of the articles of a nonprofit corporation** shall be adopted upon receiving the affirmative vote of the members present entitled to cast at least a majority of the votes **[which] that** all members present are entitled to cast thereon, and if any class of members is entitled to vote thereon as a class, the affirmative vote of the members present of such class entitled to cast at least a majority of the votes **[which] that** all members present of such class are entitled to cast thereon. Any number of amendments may be submitted to the members and voted upon by them at one meeting.

(a.1) Adoption by board of directors or other body.—**Unless otherwise restricted in the bylaws, an amendment of articles shall not require the approval of the members of the corporation if:**

(1) the amendment is to provide for perpetual existence;

(2) to the extent the amendment has not been approved by the members, it restates without change all of the operative provisions of the articles as theretofore amended or as amended thereby; or

(3) the amendment accomplishes any combination of purposes specified in this subsection.

Whenever a provision of this subpart authorizes the board of directors or other body to take any action without the approval of the members and provides that a statement, certificate, plan or other document relating to such action shall be filed in the department and shall operate as an amendment of the articles, the board upon taking such action may, in lieu of filing the statement, certificate, plan or other document, amend the articles under this subsection without the approval of the members to reflect the taking of such action. The amendment shall be deemed adopted by the corporation when it has been adopted by the board of directors or other body in the manner provided by subsection (b).

(b) Adoption in absence of voting members.—If the corporation has no members entitled to vote thereon, *or no members entitled to vote thereon other than persons who also constitute the board of directors or other body*, the amendment shall be deemed adopted by the corporation when it has been adopted by the board of directors or other body pursuant to section 5912 (relating to proposal of amendments).

(c) Termination of proposal.—*[The resolution or petition may contain a provision that at any time prior to the filing of articles of amendment in the Department of State the proposal may be terminated by the board of directors or other body notwithstanding the adoption of the amendment by the corporation.] Prior to the time when an amendment becomes effective, the amendment may be terminated pursuant to provisions for amendment, if any, set forth in the resolution or petition. If articles of amendment have been filed in the department prior to the termination, a statement under section 5902 (relating to statement of termination) shall be filed in the department.*

(d) Amendment of voting provisions.—*[Notwithstanding any contrary provision of the articles or bylaws,] Unless otherwise provided in the articles*, whenever the articles *[shall]* require for the taking of any action by the members or a class of members a specific number or percentage of votes, the provision of the articles setting forth *[such]* *that* requirement shall not be amended or repealed by any lesser number or percentage of votes of the members or of *[such]* *the* class of members.

§ 5921. Merger and consolidation authorized.

(a) Domestic surviving or new corporation.—Any two or more domestic nonprofit corporations, or any two or more foreign *nonprofit* corporations *[not-for-profit]*, or any one or more domestic nonprofit corporations[,], and any one or more foreign *nonprofit* corporations *[not-for-profit]*, may, in the manner provided in this subchapter, be merged into one of *[such]* *the* domestic nonprofit corporations, *[hereinafter]* designated *in this subchapter* as the surviving corporation, or consolidated into a new corporation to be formed under this *[article, if such]* *subpart, if the* foreign corporations *[not-for-profit]* are authorized by the *[law or]* laws of the jurisdiction under

which they are incorporated to effect **[such]** a merger or consolidation *with a corporation of another jurisdiction*.

(b) Foreign surviving or new corporation.—Any one or more domestic nonprofit corporations, and any one or more foreign *nonprofit* corporations **[not-for-profit]**, may, in the manner **[hereinafter]** provided in this subchapter, be merged into one of **[such foreign corporations not-for-profit, hereinafter]** *the foreign nonprofit corporations*, designated *in this subchapter* as the surviving corporation, or consolidated into a new corporation to be incorporated under the **[law or]** laws of the jurisdiction under which one of the foreign *nonprofit* corporations **[not-for-profit]** is incorporated, if the laws of **[such]** *that* jurisdiction authorize **[such]** a merger *with* or consolidation *into a corporation of another jurisdiction*.

§ 5923. Notice of meeting of members.

(a) General rule.—**[Written notice]** *Notice in record form* of the meeting of members that will act on the proposed plan shall be given to each member of record, whether or not entitled to vote thereon, of each domestic nonprofit corporation that is a party to the merger or consolidation. **[There shall be included in, or enclosed with, the notice]** *The notice shall include or be accompanied by* a copy of the proposed plan or a summary thereof. The notice shall **[state]** *provide* that a copy of the bylaws of the surviving or new corporation will be furnished to any member on request and without cost.

* * *

§ 5924. Adoption of plan.

(a) General rule.—The plan of merger or consolidation shall be adopted upon receiving the affirmative vote of the members present entitled to cast at least a majority of the votes **[which]** *that* all members present are entitled to cast thereon of each of the **[merging or consolidating]** domestic *nonprofit* corporations[,], *that is a party to the merger or consolidation* and, if any class of members is entitled to vote thereon as a class, the affirmative vote of the members present of such class entitled to cast at least a majority of the votes **[which]** *that* all members present of such class are entitled to cast thereon.

(b) Adoption in absence of voting members.—If **[the]** a merging or consolidating corporation has no members entitled to vote thereon, *or no members entitled to vote thereon other than persons who also constitute the board of directors or other body*, a plan of merger or consolidation shall be deemed adopted by the corporation when it has been adopted by the board of directors or other body pursuant to section 5922 (relating to plan of merger or consolidation).

(c) Termination of plan.—**[Any plan of merger or consolidation may contain a provision that at any time prior to the filing of articles of merger or consolidation in the Department of State the plan may be terminated by the board of directors or other body of any corporation which is a party to the plan notwithstanding adoption of the plan by all or any of the corporations which are parties to the plan.]** *Prior to the time when a merger or consolidation becomes effective, the merger or consolidation may be terminated pursuant to provisions for termination, if any, set forth in the plan. If articles of merger or consolidation have been*

filed in the department prior to the termination, a statement under section 5902 (relating to statement of termination) shall be filed in the department.

§ 5925. Authorization by foreign corporations.

The plan of merger or consolidation shall be authorized, adopted or approved by each foreign *nonprofit* corporation **[which]** *that* desires to merge or consolidate[,] in accordance with the laws of the jurisdiction in which it is incorporated[,] *and, in the case of a foreign domiciliary corporation, in accordance with the provisions of this subpart to the extent provided by section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations).*

§ 5926. Articles of merger or consolidation.

Upon the adoption of the plan of merger or consolidation by the corporations desiring to merge or consolidate, as provided in this subchapter, articles of merger or articles of consolidation, as the case may be, shall be executed by each corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

* * *

(2) The name and address, including street and number, if any, of the registered office of each other domestic nonprofit corporation and qualified foreign nonprofit corporation that is a party to the **[plan]** *merger or consolidation.*

* * *

(4) The manner in which the plan was adopted by each domestic corporation and, if one or more foreign corporations are parties to the **[plan]** *merger or consolidation*, the fact that the plan was authorized, adopted or approved, as the case may be, by each of the foreign corporations in accordance with the laws of the jurisdiction in which it is incorporated.

* * *

§ 5928. Effective date of merger or consolidation.

Upon the filing of the articles of merger or the articles of consolidation in the **[Department of State,]** *department* or upon the effective date specified in the plan of merger or consolidation, whichever is later, the merger or consolidation shall be effective. The merger or consolidation of one or more domestic *nonprofit* corporations into a foreign *nonprofit* corporation shall be effective according to the provisions of law of the jurisdiction in which **[such]** *the* foreign corporation is incorporated, but not until articles of merger or articles of consolidation have been adopted and filed, as provided in this subchapter.

§ 5930. Voluntary transfer of corporate assets.

(a) General rule.—**[A nonprofit corporation shall not sell, lease away or exchange all, or substantially all, its property and assets, with or without good will, unless and until a plan of sale, lease or exchange of assets with respect thereto shall have been adopted by the corporation in the manner provided in this subchapter with respect to the adoption of a plan of merger.]** *A sale, lease, exchange or other disposition of all, or substantially all, of the property and assets, with or without goodwill, of a nonprofit corporation, if not made pursuant to Subchapter D of Chapter*

19 (relating to division), may be made only pursuant to a plan of asset transfer. The property or assets of a direct or indirect subsidiary corporation that is controlled by a parent corporation shall also be deemed the property or assets of the parent corporation for purposes of this subsection. The plan of asset transfer shall set forth the terms and consideration of the sale, lease, exchange or other disposition or may authorize the board of directors or other body to fix any or all of the terms and conditions, including the consideration to be received by the corporation. Any of the terms of the plan may be made dependent upon facts ascertainable outside of the plan if the manner in which the facts will operate upon the terms of the plan is set forth in the plan. The plan of asset transfer shall be proposed and adopted, and may be amended after its adoption and terminated, by a nonprofit corporation in the manner provided in this subchapter for the proposal, adoption, amendment and termination of a plan of merger. A copy or summary of the plan shall be included in, or enclosed with, the notice of the meeting at which members will act on the plan. In order to make effective any plan [of sale, lease or exchange of assets] so adopted, it shall not be necessary to file any articles or other document in the [Department of State] department, but the corporation shall comply with the requirements of section 5547(b) (relating to nondiversion of certain property).

(b) Exceptions.—Subsection (a) [of this section] shall not apply to a sale, lease [away or], exchange or other disposition of all, or substantially all, the property and assets of a nonprofit corporation [when made in connection with the dissolution or liquidation of the corporation. Such a transaction shall be governed by the provisions of Subchapter F (relating to voluntary dissolution and winding up) or Subchapter G (relating to involuntary liquidation and dissolution), as the case may be.]:

(1) that directly or indirectly owns all of the outstanding shares or other ownership interest of another corporation to the other corporation;

(2) if made in connection with the dissolution or liquidation of the corporation, which transaction shall be governed by the provisions of Subchapter F (relating to voluntary dissolution and winding up) or G of Chapter 19 (relating to involuntary liquidation and dissolution), as appropriate; or

(3) if made in connection with a transaction pursuant to which all the assets sold, leased, exchanged or otherwise disposed of are simultaneously leased back to the corporation.

(c) Mortgage.—A mortgage [or pledge], pledge or grant of a security interest or dedication of property to the repayment of indebtedness, with or without recourse, shall not be deemed a sale, lease [or exchange], exchange or other disposition for the purposes of this section.

(d) Restrictions.—[Nothing in this] This section shall not be construed to authorize the conversion or exchange of property or assets in fraud of corporate creditors or in violation of law.

§ 5951. Division authorized.

(a) Division of domestic corporation.—Any domestic nonprofit corporation may, in the manner provided in this subchapter, be divided into

two or more domestic nonprofit corporations incorporated or to be incorporated under this article, or into one or more **[such]** domestic nonprofit corporations and one or more foreign *nonprofit* corporations **[not-for-profit]** to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more **[of such]** foreign *nonprofit* corporations **[not-for-profit]**, if the **[law or]** laws of **[such]** *the* other jurisdictions **[authorized such]** *authorize the* division.

(b) Division of foreign corporation.—Any foreign *nonprofit* corporation **[not-for-profit]** may, in the manner provided in this subchapter, be divided into one or more domestic nonprofit corporations to be incorporated under this **[article]** *subpart* and one or more foreign *nonprofit* corporations **[not-for-profit]** incorporated or to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more **[of such]** domestic nonprofit corporations, if **[such foreign]** *the foreign nonprofit* corporation **[not-for-profit]** is authorized under the laws of the jurisdiction under which it is incorporated to effect **[such]** *a* division.

(c) Surviving and new corporations.—The corporation effecting a division, if it **[shall survive]** *survives* the division, is **[hereinafter]** designated *in this subchapter* as the surviving corporation. All corporations originally incorporated by a division are **[hereinafter]** designated *in this subchapter* as new corporations. The surviving corporation, if any, and the new corporation or corporations are **[hereinafter]** collectively designated *in this subchapter* as the resulting corporations.

§ 5956. Effective date of division.

Upon the filing of articles of division in the **[Department of State,]** *department* or upon the effective date specified in the plan of division, whichever is later, the division shall become effective. The division of a domestic nonprofit corporation into one or more foreign *nonprofit* corporations **[not-for-profit]** or the division of a foreign *nonprofit* corporation **[not-for-profit]** shall be effective according to the laws of the jurisdictions where **[such]** *the* foreign corporations are or are to be incorporated *and, in the case of a foreign domiciliary corporation, the provisions of this subpart to the extent provided by section 6145 (relating to applicability of certain safeguards to foreign domiciliary corporations)*, but not until articles of division have been adopted and filed[,] as provided in this subchapter.

§ 5957. Effect of division.

* * *

(b) Property rights; allocations of assets and liabilities.—

(1) Except as otherwise provided by order, if any, obtained pursuant to section 5547(b) (relating to nondiversion of certain property):

* * *

(ii) Upon the division becoming effective, the resulting corporations shall each thenceforth be responsible as separate and distinct corporations only for such liabilities as each corporation may undertake or incur in its own name, but shall be liable for the liabilities of the dividing corporation in the manner and on the basis provided in **[paragraphs (4) and (5)] subparagraphs (iv) and (v)**.

* * *

(iv) **[To] Except as provided in section 5952(f) (relating to proposal and adoption of plan of division),** to the extent allocations of liabilities are contemplated by the plan of division, the liabilities of the dividing corporation shall be deemed without further action to be allocated to and become the liabilities of the resulting corporations on such a manner and basis and with such effect as is specified in the plan; and one or more, but less than all, of the resulting corporations shall be free of the liabilities of the dividing corporation to the extent, if any, specified in the plan, if in either case:

(A) no fraud on members without voting rights or violation of law shall be effected thereby; and

(B) the plan does not constitute a fraudulent transfer under 12 Pa.C.S. Ch. 51 (relating to fraudulent transfers).

* * *

(h) Conflict of laws.—It is the intent of the General Assembly that:

(1) The effect of a division of a domestic **[business] nonprofit** corporation shall be governed solely by the laws of this Commonwealth and any other jurisdiction under the laws of which any of the resulting corporations is incorporated.

* * *

(3) The validity of any allocations of assets or liabilities by a plan of division of a domestic **[business] nonprofit** corporation, regardless of whether **[or not]** any of the new corporations is a foreign **[business] nonprofit** corporation, shall be governed solely by the laws of this Commonwealth.

* * *

§ 5972. Proposal of voluntary dissolution.

* * *

(b) Submission to members.—The board of directors or other body or the petitioning members shall direct that the **[question of] resolution recommending** dissolution be submitted to a vote of the members of the corporation entitled to vote thereon at a regular or special meeting of the members.

* * *

§ 5973. Notice of meeting of members.

(a) General rule.—**[Written notice] Notice in record form** of the meeting of members that will consider the **[advisability of voluntarily dissolving a] resolution recommending dissolution of the** nonprofit corporation shall be given to each member of record entitled to vote thereon **[and the purpose shall be included]. The purpose of the meeting shall be stated** in the notice **[of the meeting]**.

* * *

§ 5975. Predissolution provision for liabilities.

* * *

(c) Winding up and distribution.—The corporation shall, as speedily as possible, proceed to collect all sums due it, convert into cash all corporate assets the conversion of which into cash is required to discharge its liabilities

and, out of the assets of the corporation, discharge or make adequate provision for the discharge of all liabilities of the corporation, according to their respective priorities. Except as otherwise provided in a bylaw adopted by the members or in this subpart or by any other provision of law, any surplus remaining after paying or providing for all liabilities of the corporation shall be distributed to the shareholders, if any, pro rata, or if there be no shareholders, among the members per capita. See section [1972(a)] 5972(a) (relating to proposal of voluntary dissolution).

§ 5976. Judicial supervision of proceedings.

(a) General rule.—A nonprofit corporation that has elected to proceed under section [1975] 5975 (relating to predissolution provision for liabilities), at any time during the winding up proceedings, may apply to the court to have the proceedings continued under the supervision of the court and thereafter the proceedings shall continue under the supervision of the court as provided in Subchapter G (relating to involuntary liquidation and dissolution).

* * *

§ 5977. Articles of dissolution.

(a) General rule.—Articles of dissolution and the certificates or statement required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the [Department of State] *department* when:

(1) all liabilities of the nonprofit corporation have been discharged, or adequate provision has been made therefor, in accordance with section 5975 (relating to predissolution provision for liabilities), and all of the remaining assets of the corporation have been distributed as provided in section 5975 or in case its assets are not sufficient to discharge its liabilities, when all the assets have been fairly and equitably applied, as far as they will go, to the payment of such liabilities; or

(2) an election to proceed under Subchapter H (relating to postdissolution provision for liabilities) has been made.

[See section 134 (relating to docketing statement).]

* * *

§ 5978. Winding up of corporation after dissolution.

* * *

(b) Standard of care of directors, members of an other body and officers.—The dissolution of the corporation shall not subject its directors, members of an other body or officers to standards of conduct different from those prescribed by or pursuant to Chapter 57 (relating to officers, directors and members). *Directors and members of an other body of a dissolved corporation who have complied with section 5975 (relating to predissolution provision for liabilities) or Subchapter H (relating to postdissolution provision for liabilities) and governing persons of a successor entity who have complied with Subchapter H shall not be personally liable to the creditors or claimants of the dissolved corporation.*

Section 43. Section 5979(a) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 5979. Survival of remedies and rights after dissolution.

(a) General rule.—The dissolution of a nonprofit corporation, either under this subchapter or under Subchapter G (relating to involuntary

liquidation and dissolution) or by expiration of its period of duration or otherwise, shall not eliminate nor impair any remedy available to or against the corporation or its directors, members of an other body, officers or members for any right or claim existing, or liability incurred, prior to the dissolution, if an action thereon is brought on behalf of:

(1) the corporation within the time otherwise limited by law; or

(2) any other person before or within two years after the date of the dissolution or within the time otherwise limited by this subpart or other provision of law, whichever is less. See sections 5987 (relating to proofs of claims), 5993 (relating to acceptance or rejection of matured claims) and 5994 (relating to disposition of unmatured claims).

[The actions or proceedings may be prosecuted against and defended by the corporation in its corporate name.]

* * *

(e) Conduct of actions.—An action or proceeding may be prosecuted against and defended by a dissolved corporation in its corporate name.

Section 44. Title 15 is amended by adding a section to read:

§ 5980. Dissolution by domestication.

Whenever a domestic nonprofit corporation has domesticated itself under the laws of another jurisdiction by action similar to that provided under section 6161 (relating to domestication) and has authorized that action by the vote required by this subchapter for the approval of a proposal that the corporation dissolve voluntarily, the corporation may surrender its charter under the laws of this Commonwealth by filing in the department articles of dissolution under this subchapter containing the statements specified under section 5977(b)(1) through (4) (relating to articles of dissolution). If the corporation as domesticated in the other jurisdiction qualifies to do business in this Commonwealth either prior to or simultaneously with the filing of the articles of dissolution under this section, the corporation shall not be required to file with the articles of dissolution the tax clearance certificates that would otherwise be required under section 139 (relating to tax clearance of certain fundamental transactions).

Section 45. Sections 5981, 5982, 5983, 5984, 5986, 5987, 5988, 5992(c)(2), 5997(d) and 6101(c) of Title 15 are amended to read:

§ 5981. Proceedings upon [petition] application of member[, etc.] or director.

[The court may, upon petition] Upon application filed by a member or director of a nonprofit corporation, *the court may* entertain proceedings for the involuntary winding up and dissolution of the corporation[,], when any of the following **[are made to appear] occur**:

(1) **[That the] The** objects of the corporation have wholly failed[;], or are entirely abandoned, or **[that]** their accomplishment is impracticable.

(2) **[That the] The** acts of the directors, or those in control of the corporation, are illegal, oppressive[,], or fraudulent[, and that] *and* it is beneficial to the interests of the members that the corporation be wound up and dissolved.

(3) **[That the]** *The* corporate assets are being misapplied or wasted[, **and that]** *and* it is beneficial to the interests of the members that the corporation be wound up and dissolved.

(4) **[That the]** *The* directors or other body are deadlocked in the *direction of the* management of the **[corporate]** *business and* affairs of *the corporation* and the members are unable to break the deadlock[, **and that]** *and* irreparable injury to the corporation is being suffered or is threatened by reason thereof. *The court shall not appoint a receiver or grant other similar relief under this paragraph if the members by agreement or otherwise have provided for appointment of a provisional director or member of an other body or other means for the resolution of a deadlock, but the court shall enforce the remedy provided by the members, if appropriate.*

§ 5982. Proceedings upon **[petition]** *application* of creditor.

[The court may, upon petition] *Upon application* filed by a creditor of a nonprofit corporation whose claim has either been reduced to judgment and an execution thereon returned unsatisfied[,] or whose claim is admitted by the corporation, *the court may* entertain proceedings for the involuntary winding up and dissolution of the corporation when, in either case, it is made to appear that the corporation is unable to **[pay its debts and obligations]** *discharge its liabilities* in the regular course of business, as they mature, or *is unable* to afford reasonable security to those who may deal with it.

§ 5983. Proceedings upon petition of superior religious organization.

The court may, in the case of any *nonprofit* corporation organized for the support of public worship, upon **[petition filed by]** *application of* the diocesan convention, presbytery, synod, conference, council, or other supervising or controlling organization of which the corporation is a member or with which it is in allegiance and to which it is subordinate, entertain proceedings for the involuntary winding up and dissolution of the corporation when it is made to appear that by reason of shifting population, withdrawal of membership[,] or any other cause whatsoever, the corporation has ceased to support public worship within the intent and meaning of its articles[,] and the dissolution of the corporation may be effected without prejudice to the public welfare and the interests of the members of the corporation.

§ 5984. Appointment of receiver pendente lite and other interim powers.

Upon the filing of **[a petition]** *an application* under this subchapter, the court **[shall have all the ordinary powers of a court of equity to]** *may* issue injunctions, **[to]** appoint a receiver **[or receivers,]** pendente lite[,], with such powers and duties as the court from time to time may direct[, **and to take such other proceedings]** *and proceed* as may be requisite to preserve the corporate assets *wherever situated* and carry on the business of the corporation until a full hearing can be had.

§ 5986. Qualifications of receivers.

A receiver shall in all cases be a **[resident of this Commonwealth,]** *natural person of full age* or a corporation authorized to act as receiver, which corporation, *if so authorized,* may be a domestic corporation for profit or not-for-profit or a foreign corporation for profit or not-for-profit authorized to do business in this Commonwealth, and shall give such bond,

if any, as the court may direct, with such sureties, *if any*, as the court may require.

§ 5987. Proofs of claims.

(a) **General rule.**—In a proceeding under this subchapter, the court may require all creditors of the *nonprofit* corporation to file with the [prothonotary] *office of the clerk* of the court of *common pleas*, or with the receiver, *in such form as the court may prescribe, verified proofs*[, *under oath*.] of their respective claims. If the court requires the filing of claims, it shall fix a date, which shall not be less than [four months] *120 days* from the date of the order, as the last day for filing of claims[,] and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to *or after* the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants [failing to] *who do not* file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

(b) **Cross reference.**—*See section 5979 (relating to survival of remedies and rights after dissolution).*

§ 5988. Discontinuance of proceedings; reorganization.

[The proceedings under this subchapter may be discontinued at any time during the winding up proceedings, in the following manner:

(1) If the proceedings shall have been instituted by a member or director and it is made to appear to the court that the deadlock in the corporate affairs has been broken or the management or control of the corporation has been changed, the court, in its discretion, may dismiss the proceeding and direct the receiver to redeliver to the corporation all its remaining assets.

(2) If the proceedings shall have been instituted by a creditor and it is made to appear that the debts of the corporation have been paid or provided for, and that there remain or can be obtained sufficient funds to enable the corporation to resume its business, the court, in its discretion, may dismiss the proceeding and direct the receiver to redeliver to the corporation all its remaining assets.

(3) When a compromise or reorganization of the corporation is proposed, whether the proceedings shall have been instituted by a member or director or by a creditor, the court, upon the summary application of any member, director, creditor, or receiver, may order a meeting of the creditors, or members to be summoned in such manner as the court may direct. If a majority in number, representing 75% in value of the creditors or if 75% of the members present in person, or if a majority in number, representing 75% in value of any class of creditors, or if 75% of the members of any class present in person, as the case may be, agree to any compromise or reorganization of the corporation, such compromise or reorganization, if approved by the court as fair and feasible, shall be binding on all creditors or on all members, or both, or on the class of creditors or class of members, or both, as the case may be, and also on the corporation and its receiver, if any.

(4) If the proceedings shall have been instituted by a superior religious organization and it is made to appear that appropriate

arrangements for the conduct of the affairs of the corporation have been made, the court, in its discretion, may dismiss the proceedings and direct the receiver to redeliver to the corporation its remaining assets.]

The proceedings under this subchapter may be discontinued at any time if it is established that cause for liquidation no longer exists, in which event the court shall dismiss the proceedings and direct the receiver to redeliver to the nonprofit corporation all its remaining property and assets.

§ 5992. Notice to claimants.

* * *

(c) Publication and service of notices.—

* * *

(2) Concurrently with or preceding the publication, the corporation or successor entity shall send a copy of the notice by certified or registered mail, return receipt requested, to each:

- (i) known creditor or claimant;
- (ii) holder of a claim described in subsection (b); and
- (iii) municipal corporation in which **[the registered office or principal]** a place of business of the corporation in this Commonwealth was located at the time of filing the articles of dissolution in the department.

* * *

§ 5997. Payments and distributions.

* * *

[(d) Liability of directors.—Directors or members of an other body of a dissolved corporation or governing persons of a successor entity that has complied with this section shall not be personally liable to the claimants of the dissolved corporation.]

§ 6101. Application of article.

* * *

(c) Admitted foreign fraternal benefit society exclusion.—This article shall not apply to any foreign corporation not-for-profit qualified to do business in this Commonwealth under section **[603 of the act of July 29, 1977 (P.L.105, No.38) known as the Fraternal Benefit Society Code.] 2455 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.**

Section 46. Title 15 is amended by adding sections to read:

§ 6102. *Foreign domiciliary corporations.*

A foreign nonprofit corporation is a foreign domiciliary corporation if it is a corporation:

(1) which derived more than one-half of its revenues for the preceding three fiscal years, or such portion thereof as the corporation was in existence, from sources in this Commonwealth and was at any time during that period doing business in this Commonwealth on the basis of the most minimal contacts with this Commonwealth permitted under the Constitution of the United States; or

(2) at least a majority of the bona fide members of which are residents of this Commonwealth.

§ 6103. Acquisition of foreign domiciliary corporation status.

(a) General rule.—*A foreign nonprofit corporation shall become a foreign domiciliary corporation under section 6102 (relating to foreign domiciliary corporations) on the first day of the month following the month in which the corporation first has knowledge that either test has been met or upon entry of an order by any court of competent jurisdiction declaring that either test has been met.*

(b) Newly incorporated corporations.—*Where the test or tests under section 6102 are met at the time of the admission of the first members of the corporation and continuously thereafter, foreign domiciliary corporation status when established shall be retroactive to the incorporation of the corporation.*

§ 6104. Termination of foreign domiciliary corporation status.

A foreign domiciliary corporation shall cease to have that status on the first day of the month following the month in which the corporation first has knowledge that it no longer meets either test under section 6102 (relating to foreign domiciliary corporations) or upon entry of an order of any court of competent jurisdiction declaring that the corporation no longer meets either test.

Section 47. Sections 6122(b)(3), 6123(b), 6141, 6142, 6143, 6145, 8911(a) introductory paragraph and (1) and 8925(a) of Title 15 are amended to read:

§ 6122. Excluded activities.

* * *

(b) Exceptions.—The specification of activities in subsection (a) does not establish a standard for activities that may subject a foreign corporation to:

* * *

(3) The provisions of section 6145 (relating to applicability of certain safeguards to foreign *domiciliary* corporations).

§ 6123. Requirements for foreign corporation names.

* * *

(b) Exceptions.—

(1) The provisions of section 5303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign nonprofit corporation setting forth a name that is [**confusingly similar to**] *not distinguishable upon the records of the department from the name of any other domestic or foreign corporation for profit or [corporation] not-for-profit, [or of any domestic or foreign limited partnership that has filed a certificate or qualified under Chapter 85 (relating to limited partnerships) or corresponding provisions of prior law,]* or of any corporation or other association then registered under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) or to any name reserved or registered as provided in this part, if the foreign nonprofit corporation applying for a certificate of authority files in the department [**one of the following**]:

(i) A] a resolution of its board of directors or other body adopting a fictitious name for use in transacting business in this Commonwealth, which fictitious name is [**not confusingly similar to**] *distinguishable upon the records of the department from the name of the other corporation or other association [or to] and from*

any name reserved or registered as provided in this part **[and]** that is otherwise available for use by a domestic nonprofit corporation.

[(ii) The written consent of the other corporation or other association or holder of a reserved or registered name to use the same or confusingly similar name and one or more words are added to make the name applied for distinguishable from the other name.]

(2) The provisions of section 5303(c) (relating to required approvals or conditions) shall not prevent the issuance of a certificate of authority to a foreign nonprofit corporation setting forth a name that is prohibited by that subsection if the foreign nonprofit corporation applying for a certificate of authority files in the department a resolution of its board of directors *or other body* adopting a fictitious name for use in transacting business in this Commonwealth that is available for use by a domestic nonprofit corporation.

§ 6141. Penalty for doing business without certificate of authority.

(a) Right to bring actions suspended.—**[No]** A nonqualified foreign *nonprofit* corporation doing business in this Commonwealth within the meaning of Subchapter B **[of this chapter]** (relating to qualification) shall *not* be permitted to maintain any action *or proceeding* in any court of this Commonwealth until **[such]** *the* corporation **[shall have]** *has* obtained a certificate of authority. **[Nor, except]** *Except* as provided in subsection (b) **[of this section, shall any action], an action or proceeding may not** be maintained in any court of this Commonwealth by any successor or assignee of **[such]** *the* corporation on any right, claim or demand arising out of the doing of business by **[such]** *the* corporation in this Commonwealth until a certificate of authority **[shall have]** *has* been obtained by **[such]** *the* corporation or by a corporation **[which]** *that* has acquired all or substantially all of its assets.

(a.1) Contracts, property and defense against actions unaffected.—The failure of a foreign *nonprofit* corporation to obtain a certificate of authority to transact business in this Commonwealth shall not impair the validity of any contract or act of **[such]** *the* corporation **[and]**, shall not prevent **[such]** *the* corporation from defending any action in any court of this Commonwealth *and shall not render escheatable any of its real or personal property.*

[(b) Title to real property.—The title to any real estate situate in this Commonwealth which is derived through any nonqualified foreign corporation not authorized under the laws of this Commonwealth to hold the same, and which has vested or vests in any foreign corporation for profit or not-for-profit authorized to hold such real estate or in any citizen or citizens of the United States or domestic corporation for profit or not-for-profit shall be good and valid and free and clear of any right of escheat by the Commonwealth; and the holder thereof may convey an estate indefeasible as to any right of escheat which the Commonwealth might otherwise have by reason of the unauthorized holding and conveyance by such nonqualified foreign corporation.]

§ 6142. General powers and duties of qualified foreign corporations.

(a) **General rule.**—A qualified foreign *nonprofit* corporation, so long as its certificate of authority [shall] is not [be] revoked, shall enjoy the same rights and privileges as a domestic nonprofit corporation, but no more, and, except as in this [part] *subpart* otherwise provided, shall be subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed upon domestic nonprofit corporations, to the same extent as if it had been incorporated under this [part to transact the business set forth in its certificate of authority] *subpart*.

(b) **Agricultural lands.**—*Interests in agricultural land shall be subject to the restrictions of and escheatable as provided by the act of April 6, 1980 (P.L.102, No.39), referred to as the Agricultural Land Acquisition by Aliens Law.*

§ 6143. General powers and duties of nonqualified foreign corporations.

(a) Acquisition of real *and personal* property.—Every nonqualified foreign *nonprofit* corporation[, the activities of which in this Commonwealth do not constitute doing business in this Commonwealth for the purposes of Subchapter B of this chapter (relating to qualification).] may acquire, hold, mortgage, lease and transfer real *and personal* property in this Commonwealth, in the same manner and subject to the same limitations as [domestic] *a qualified foreign nonprofit [corporations] corporation.*

(b) Duties.—[A] *Except as provided in section 6141(a) (relating to penalty for doing business without certificate of authority), a nonqualified foreign nonprofit corporation doing business in this Commonwealth within the meaning of Subchapter B [of this chapter] (relating to qualification) shall be subject to the same liabilities, restrictions, duties and penalties now or hereafter imposed upon a qualified foreign nonprofit corporation.*

§ 6145. Applicability of certain safeguards to foreign *domiciliary* corporations.

[(a) Application.—This section shall be applicable to any qualified or nonqualified foreign corporation:

(1) **which derived more than one-half of its revenues for the preceding three fiscal years, or such portion thereof as the corporation was in existence, from sources within this Commonwealth and was at any time during such period doing business within this Commonwealth on the basis of the most minimal contacts with this Commonwealth permitted under the Constitution of the United States; or**

(2) **at least a majority of the bona fide members of which are residents of this Commonwealth.]**

(b) Internal affairs doctrine not applicable.—The General Assembly hereby finds and determines that [the] foreign *domiciliary* corporations [to which this section applies] substantially affect this Commonwealth. [No court] *The courts* of this Commonwealth shall [hereafter] *not* dismiss or stay any action or proceeding *brought* by a member[, director, officer or agent of such a] *or representative of a foreign domiciliary* corporation, as such, against [such] *the* corporation or any one or more of the members[, directors, officers or agents] *or representatives* thereof, as such, on the ground that [such] *the* corporation is a foreign corporation *not-for-profit* or

that the cause of action relates to the internal affairs thereof, but every such action shall proceed with like effect as if **[such] the** corporation were a domestic corporation. Except as provided in subsection (c) **[of this section]**, the court having jurisdiction of the action or proceeding shall apply the law of the jurisdiction under which the foreign *domiciliary* corporation was incorporated.

(c) Minimum safeguards.—The following provisions of this subpart shall be applicable to foreign *domiciliary* corporations **[to which this section applies]**, except that nothing in this subsection shall require the filing of any document in the **[Department of State] department** as a prerequisite to the validity of any corporate action or the doing of any corporate action by the foreign *domiciliary* corporation which is impossible under the laws of its domiciliary jurisdiction:

[(1)] Section 5504(b) (relating to adoption and contents of bylaws).

[(2)] Section 5508 (relating to corporate records; inspection *by members*).

[(3)] Section **[5553] 5554** (relating to annual report of directors or other body).

[(4)] Section 5743 (relating to mandatory indemnification).

[(5)] Section 5755 (relating to time of holding meetings of members).

[(6)] Section 5758(e) (relating to **[voting lists] voting rights of members**).

[(7)] Section **[5759(b) (relating to minimum requirements)] 5759(c) (relating to voting and other action by proxy)**.

[(8)] Section **[5762] 5765** (relating to judges of election).

[(9)] Section **[5764] 5767** (relating to appointment of custodian of corporation on deadlock or other cause).

[(10)] Section **[5766(b)] 5769(b)** (relating to **[expulsion] termination and transfer of membership**).

[(11)] **Subchapter G of Chapter 57 (relating to judicial supervision of corporate action).**]

[(12)] Chapter 59 (relating to fundamental changes).

For the purposes of this subsection, corporate action shall not be deemed to be impossible under the laws of the domiciliary jurisdiction of a foreign corporation merely because prohibited or restricted by the terms of the articles, certificate of incorporation, bylaws or other organic law of the corporation, but the court may require the corporation to amend such organic law so as to be consistent with the minimum safeguards prescribed by this subsection.

(d) Section exclusive.—**[No provision of this article] The provisions of this subpart**, other than the provisions of this section, shall *not* be construed to regulate the incorporation or internal affairs of a foreign corporation *not-for-profit*.

§ 8911. Purposes.

(a) General rule.—Limited liability companies may be organized under this chapter for any lawful purpose, except for the purpose of **[banking or] insurance**. Unless otherwise restricted in its certificate of organization, every limited liability company has as its purpose the engaging in all lawful

business for which limited liability companies may be organized under this chapter. Nothing in this section shall prohibit the following:

(1) A ***banking institution organized under this chapter or a*** limited liability company organized by one or more [***banks or a banking organization for the sole purposes of***] ***banking institutions, savings associations or credit unions from engaging in the*** marketing and [***selling***] ***sale of*** title insurance.

* * *

§ 8925. Taxation of limited liability companies.

(a) General rule.—For the purposes of the imposition by the Commonwealth of any tax or license fee on or with respect to any income, property, privilege, transaction, subject or occupation, a domestic or foreign limited liability company that is not a domestic or qualified foreign restricted professional company shall be deemed to be a corporation organized and existing under Part II (relating to corporations), and a member of such a company, as such, shall be deemed to be a shareholder of a corporation. Such a company may elect to be treated as a Pennsylvania S corporation, and its members shall be deemed shareholders of such a corporation, only if the company satisfies the conditions for electing that status. For purposes of the corporate net income tax and the capital stock and franchise tax, such a company shall be considered a "corporation" and an "entity" as defined in Articles IV and VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and, if such a company is not required to file a Federal corporate income tax return, these taxes shall be computed as if such a Federal return had been filed. ***For purposes of the bank shares tax and the mutual thrift institutions tax, a bank, bank and trust company, trust company, savings bank, building and loan association, savings and loan association or savings institution that is a domestic or foreign limited liability company shall be considered an "institution" as defined by Article VII or Article XV of the Tax Reform Code of 1971.*** Nothing in this subsection shall impair or preempt the ability of a political subdivision to levy, assess or collect any applicable taxes or license fees authorized pursuant to the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, on any company which elects limited liability company status in accordance with the provisions of this chapter.

* * *

Section 48. Chapter 91 heading of Title 15 is amended to read:

CHAPTER 91
[UNINCORPORATED ASSOCIATIONS GENERALLY]
***UNINCORPORATED NONPROFIT
ASSOCIATIONS***

Section 49. Sections 9101, 9102 and 9103 of Title 15 are repealed:
[§ 9101. Customary parliamentary law applicable.

Except as otherwise provided by statute or by the organic documents under which an unincorporated association is constituted, each unincorporated association shall be governed by customary usages and principles of parliamentary law and procedure.

§ 9102. Funeral and similar benefits.

Members of unincorporated associations paying periodic or funeral benefits shall not be individually liable for the payment of periodic or funeral benefits or other similar liabilities of the association. The liabilities shall be payable only out of the treasury of the association.

§ 9103. Nontransferable membership interests.

(a) **General rule.**—For the purpose of encouraging lawful associational activity among agricultural and industrial workers through the organization of unincorporated associations for mutual benefit insurance, saving or other lawful objects where the persons so organizing derive benefits from the preservation and continuance of the membership and interest among persons engaged in a common calling, labor or enterprise, the unincorporated association may provide, in its organic documents, that membership in the association or interest in its funds or property shall be nontransferable without the consent of the association.

(b) **Assignments and pledges.**—No attempted assignment, transfer or pledge of a membership or interest made in violation of a transfer restriction adopted pursuant to subsection (a) shall pass any right or interest, legal or equitable, to the person to whom it is attempted to be made if the transfer restriction is brought to the knowledge of that person.

(c) **Knowledge of nontransferability.**—Whenever the interest of a member in the funds or property of any unincorporated association subject to subsection (a) is evidenced by a certificate, an endorsement thereon that the certificate is nontransferable shall be conclusive evidence that the person to whom any attempted assignment, transfer or pledge of the certificate is made has knowledge of the nontransferable character of the interest of the member.]

Section 50. Title 15 is amended by adding sections to read:

§ 9111. Short title and application of chapter.

(a) **Short title.**—*This chapter shall be known and may be cited as the Pennsylvania Uniform Unincorporated Nonprofit Association Law.*

(b) **Transitional provisions concerning property.**—

(1) *If, before September 9, 2013, an interest in property was by the terms of a transfer purportedly transferred to a nonprofit association but under the law of this Commonwealth the interest did not vest in the nonprofit association, or in one or more persons on behalf of the nonprofit association under paragraph (2), on September 9, 2013, the interest vests in the nonprofit association, unless the parties to the transfer have treated the transfer as ineffective.*

(2) *If, before September 9, 2013, an interest in property was by the terms of a transfer purportedly transferred to a nonprofit association but the interest was vested in one or more persons to hold the interest for the nonprofit association, its members or both, on or after September 9, 2013, the persons or their successors in interest may transfer the interest to the nonprofit association in its name, or the nonprofit association may require that the interest be transferred to it in its name.*

(c) Savings provisions.—

(1) This chapter supplements the law of this Commonwealth that applies to nonprofit associations operating in this Commonwealth, but, if a conflict exists between this chapter and another statute, the other statute applies.

(2) Nothing in this chapter shall be deemed to repeal or supersede any provision in section 7 of the act of April 26, 1855 (P.L.328, No.347), entitled "An act relating to Corporations and to Estates held for Corporate, Religious and Charitable uses."

(d) Cross reference.—See section 5331 (relating to incorporation of unincorporated associations).

§ 9112. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Established practices." The practices used by a nonprofit association without material change during:

(1) the most recent five years of its existence; or

(2) if it has existed for less than five years, its entire existence.

"Governing principles." The agreements, whether oral, in record form or implied from its established practices, that govern the purpose or operation of a nonprofit association and the rights and obligations of its members and managers. The term includes any amendment or restatement of the agreements constituting the governing principles.

"Manager." A person that is responsible, alone or in concert with others, for the management of a nonprofit association.

"Member." A person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the nonprofit association or in the development of policies and activities of the nonprofit association.

"Nonprofit association." An unincorporated organization consisting of two or more members joined together under an agreement that is oral, in record form or implied from conduct for one or more common, nonprofit purposes. The term does not include:

(1) a trust;

(2) a marriage, domestic partnership, common law domestic relationship, civil union or other domestic living arrangement;

(3) an organization formed under any other statute that governs the organization and operation of unincorporated associations;

(4) a joint tenancy, tenancy in common or tenancy by the entireties, even if the co-owners share use of the property for a nonprofit purpose; or

(5) a relationship under an agreement in record form that expressly provides that the relationship between the parties does not create a nonprofit association.

"Property." Includes:

(1) real property;

(2) personal property which is tangible or intangible;

(3) mixed real and personal property; and

(4) a right or interest in property.

"Transfer." Includes:

(1) an assignment;

(2) a conveyance;

(3) a sale;

(4) a lease;

(5) an encumbrance, including a mortgage or security interest;

(6) a gift; and

(7) a transfer by operation of law.

§ 9113. Governing law.

(a) Operations.—Except as provided in subsection (b), the law of this Commonwealth governs the operation in this Commonwealth of a nonprofit association formed or operating in this Commonwealth.

(b) Internal affairs.—Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which a nonprofit association has its main place of activities governs the internal affairs of the nonprofit association.

§ 9114. Entity status.

(a) Legal entity.—A nonprofit association is a legal entity distinct from its members and managers.

(b) Perpetual duration.—A nonprofit association has perpetual duration unless the governing principles specify otherwise.

(c) Powers.—A nonprofit association has the same powers as an individual to do all things necessary or convenient to carry on its purposes.

(d) Profits.—A nonprofit association may engage in profit-making activities, but profits from any activities must be used or set aside for the nonprofit purposes of the nonprofit association.

§ 9115. Ownership and transfer of property.

(a) General rule.—A nonprofit association may acquire, hold or transfer, in its name, an interest in property.

(b) Testamentary and fiduciary dispositions.—A nonprofit association may be a beneficiary of a trust or contract, a legatee or a devisee.

§ 9116. Statement of authority as to real property.

(a) General rule.—An interest in real property held in the name of a nonprofit association may be transferred by a person authorized to do so in a statement of authority recorded by the nonprofit association in the office of the recorder of deeds for the county in which a transfer of the property would be recorded.

(b) Contents of statement.—The statement of authority must set forth:

(1) the name of the nonprofit association;

(2) the address in this Commonwealth, including the street and number, if any, of the nonprofit association or, if the nonprofit association does not have an address in this Commonwealth, its address outside of this Commonwealth;

(3) that the association is a nonprofit association; and

(4) the name, title or position of a person authorized to transfer an estate or interest in real property held in the name of the nonprofit association.

(c) *Execution.*—A statement of authority must be executed in the same manner as a deed by a person other than the person authorized in the statement to transfer the interest.

(d) *Recording fee.*—The recorder of deeds may collect a fee for recording a statement of authority in the amount authorized for recording a transfer of real property, but the mere recording of a statement of authority does not constitute a transfer of an interest in the real property for the purpose of the taxation of real property transfers.

(e) *Changes.*—A document amending, revoking or canceling a statement of authority or stating that the statement is unauthorized or erroneous must meet the requirements for executing and recording an original statement.

(f) *Cancellation by operation of law.*—Unless canceled earlier, a recorded statement of authority and its most recent amendment expire five years after the date of the most recent recording.

(g) *Effect of filing.*—If the record title to real property is in the name of a nonprofit association and a statement of authority is recorded in the office of the recorder of deeds for the county in which a transfer of the property would be recorded, the authority of the person named in the statement to transfer is conclusive in favor of a person that gives value without notice that the person lacks authority.

§ 9117. Liability.

(a) *Scope.*—

(1) A debt, obligation or other liability of a nonprofit association, whether arising in contract, tort or otherwise, is solely the debt, obligation or other liability of the nonprofit association.

(2) A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation or other liability of the nonprofit association solely by reason of being or acting as a member or manager.

(3) This subsection applies regardless of the dissolution of the nonprofit association.

(b) *Liability for conduct.*—A person's status as a member or manager does not prevent or restrict law other than this chapter from imposing liability on the person or the nonprofit association because of the person's conduct.

(c) *Agents.*—A person that makes a contract or incurs an obligation on behalf of a nonprofit association after September 9, 2013, is not liable for performance or breach of the contract or other obligation if the fact that the person was acting for the nonprofit association was disclosed to, was known by or reasonably should have been known by the other party to the contract or to the party owed performance.

(d) *Observation of formalities.*—The failure of a nonprofit association to observe formalities relating to the exercise of its powers or the management of its activities and affairs is not a ground for imposing liability on a member or manager of the nonprofit association for a debt, obligation or other liability of the nonprofit association.

§ 9118. Assertion and defense of claims.

(a) General rule.—A nonprofit association may sue or be sued in its own name.

(b) Permissible claims.—A member or manager may assert a claim the member or manager has against the nonprofit association. A nonprofit association may assert a claim it has against a member or manager.

(c) Representational status.—A nonprofit association may assert a claim in its name on behalf of its members if one or more members of the nonprofit association have standing to assert a claim in their own right, the interests the nonprofit association seeks to protect are germane to its purposes and neither the claim asserted nor the relief requested requires the participation of a member.

§ 9119. Effect of judgment or order.

A judgment or order against a nonprofit association is not by itself a judgment or order against a member or manager.

§ 9120. Appointment of agent to receive service of process.

(a) Statement.—A nonprofit association may deliver to the department for filing a statement appointing an agent to receive service of process.

(b) Contents.—A statement appointing an agent to receive service of process must state:

(1) the name of the nonprofit association;

(2) the address, if any, in this Commonwealth; and

(3) the name of the person in this Commonwealth authorized to receive service of process and the person's address, including street and number, in this Commonwealth.

(c) Signature and effect.—

(1) A statement appointing an agent to receive service of process must be signed by:

(i) a person authorized to manage the affairs of the nonprofit association; and

(ii) the person appointed as the agent.

(2) The signing of the statement is an affirmation:

(i) by the person authorized to manage the affairs of the nonprofit association that the person has that authority; and

(ii) by the person appointed as agent that the person consents to act as agent.

(d) Amendment or cancellation.—An amendment to or cancellation of a statement appointing an agent to receive service of process must meet the requirements for signature of an original statement. An agent may resign by delivering a resignation to the department for filing and giving notice to the nonprofit association.

(e) Rejection of statement.—A statement appointing an agent to receive service of process may not be rejected for filing because the name of the nonprofit association signing the statement is not distinguishable on the records of the department from the name of another association appearing in those records. The filing of such a statement does not make the name of the nonprofit association signing the statement unavailable for use by another association.

(f) Effectiveness.—A statement appointing an agent to receive service of process:

(1) takes effect on filing by the department; and

(2) is effective for five years after the date of filing unless canceled or terminated earlier.

(g) *Duty of agent.*—The only duty under this chapter of an agent to receive service of process is to forward to the nonprofit association at the address most recently supplied to the agent by the nonprofit association any process, notice or demand pertaining to the nonprofit association which is served or received by the agent.

(h) *Cross reference.*—See section 135 (relating to requirements to be met by filed documents).

§ 9121. *Action or proceeding not abated by change of members or managers.*

An action or proceeding against a nonprofit association does not abate merely because of a change in its members or managers.

§ 9122. *Member not agent.*

A member is not an agent of the nonprofit association solely by reason of being a member.

§ 9123. *Approval by members.*

(a) *General rule.*—Except as provided in the governing principles, a nonprofit association must have the approval of its members to:

(1) admit, suspend, dismiss or expel a member;

(2) select or dismiss a manager;

(3) adopt, amend or repeal the governing principles;

(4) transfer all, or substantially all, of the property of the nonprofit association, with or without its goodwill, outside the ordinary course of its activities;

(5) dissolve under section 9134 (relating to dissolution);

(6) undertake any other act outside the ordinary course of the activities of the nonprofit association; or

(7) determine the policy and purposes of the nonprofit association.

(b) *Other actions.*—A nonprofit association must have the approval of the members to do any other act or exercise a right that the governing principles require to be approved by members.

§ 9124. *Action by members.*

(a) *General rule.*—Except as provided in the governing principles:

(1) approval of a matter by the members requires the affirmative vote of at least a majority of the votes cast at a meeting of members; and

(2) each member is entitled to one vote on each matter that is submitted for approval by the members.

(b) *Procedural matters.*—The governing principles may provide for the:

(1) calling, location and timing of member meetings;

(2) notice and quorum requirements for member meetings;

(3) conduct of member meetings;

(4) taking of action by the members by consent without a meeting or by ballot;

(5) participation by members in a meeting of the members by telephone or other means of electronic communication; and

(6) taking of action by members by proxy.

(c) Absence of governing principles.—If the governing principles do not provide for a matter described in subsection (b), customary usages and principles of parliamentary law and procedure apply.

§ 9125. Duties of member.

(a) No fiduciary duties generally.—A member does not have a fiduciary duty to a nonprofit association or to another member solely by being a member.

(b) Discharge of duties and exercise of rights.—A member shall, consistent with the governing principles and the contractual obligation of good faith and fair dealing:

(1) discharge duties under the governing principles to the nonprofit association and the other members; and

(2) exercise any rights under the governing principles and this chapter.

§ 9126. Membership.

(a) Admission, suspension, dismissal and expulsion of member.—

(1) A person becomes a member and may be suspended, dismissed or expelled in accordance with the governing principles. If there are no applicable governing principles, a person may become a member or be suspended, dismissed or expelled only with the approval of the members. A person may not be admitted as a member without the person's consent.

(2) Except as provided in the governing principles, the suspension, dismissal or expulsion of a member does not relieve the member from any unpaid capital contribution, dues, assessments, fees or other obligation incurred or commitment made by the member before the suspension, dismissal or expulsion.

(b) Resignation of member.—

(1) A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.

(2) Except as provided in the governing principles, resignation of a member does not relieve the member from any unpaid capital contribution, dues, assessments, fees or other obligation incurred or commitment made by the member before resignation.

§ 9127. Member's interest not transferable.

(a) General rule.—Except as set forth in subsection (b) or the governing principles, a member's interest or any right under the governing principles is not transferable.

(b) Certain nonprofit associations formed prior to effective date.—

(1) This subsection applies to a nonprofit association:

(i) which was formed before September 9, 2013;

(ii) which was formed for the purpose of encouraging lawful associational activity among agricultural and industrial workers through the organization of a nonprofit association for mutual benefit insurance, saving or other lawful objects; and

(iii) in which the persons that organized the nonprofit association derive benefits from the preservation and continuance of the

membership and interest among persons engaged in a common calling, labor or enterprise.

(2) For a nonprofit association subject to paragraph (1), the following apply:

(i) Except as set forth in subparagraph (ii), a member's interest or any right under the governing principles is transferable.

(ii) A member's interest or any right under the governing principles is nontransferable if the governing principles so provide.

(c) Assignments and pledges.—No legal or equitable right or interest shall pass as a result of an attempted transfer in violation of:

(1) subsection (a); or

(2) a transfer restriction under subsection (b)(2)(ii).

(d) Knowledge of nontransferability.—Whenever the interest of a member in a nonprofit association is evidenced by a certificate, an endorsement on the certificate that the certificate is nontransferable shall be conclusive evidence that the person to whom any attempted transfer of the certificate is made has knowledge of the nontransferable character of the interest of the member.

§ 9128. Selection and management rights of managers.

Except as provided in this chapter or the governing principles:

(1) if there is no manager selected and serving, all members are managers;

(2) only the members may select a manager;

(3) a manager may be a member or a nonmember;

(4) each manager has equal rights in the management and conduct of the activities of the nonprofit association;

(5) all matters relating to the activities of the nonprofit association are decided by its managers except for matters reserved for approval by the members in section 9123 (relating to approval by members); and

(6) a difference among the managers is decided by a majority of the managers.

§ 9129. Duties of managers.

(a) Duty of care.—

(1) A manager shall manage the nonprofit association:

(i) in good faith;

(ii) in a manner the manager reasonably believes to be in the best interests of the nonprofit association; and

(iii) with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances.

(2) A manager may rely in good faith on any opinion, report, statement or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.

(b) Conflicts of interest.—

(1) A manager owes a fiduciary duty of loyalty to the nonprofit association with respect to the responsibilities of the manager.

(2) After full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a

manager may be authorized or ratified by a majority of the members that are not interested directly or indirectly in the act or transaction.

(c) Presumption.—A manager that makes a judgment in good faith satisfies the duties specified in subsection (a) if the manager:

(1) is not interested, directly or indirectly, in the subject of the judgment and is otherwise able to exercise independent judgment;

(2) is informed with respect to the subject of the judgment to the extent the manager reasonably believes to be appropriate under the circumstances; and

(3) believes that the judgment is in or not opposed to the best interests of the nonprofit association.

(d) Limitation of liability.—

(1) Except as set forth in paragraph (2), the governing principles in record form may provide that a manager shall not be personally liable, as a manager, for monetary damages for any action taken unless:

(i) the manager has breached or failed to perform the manager's duties under this chapter; and

(ii) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

(2) Paragraph (1) shall not apply to:

(i) the responsibility or liability of a manager under a criminal statute; or

(ii) the liability of the manager for the payment of taxes under Federal, State or local law.

§ 9130. Action by managers.

(a) General rule.—Except as provided in the governing principles:

(1) approval of a matter by the managers requires the affirmative vote of at least a majority of the votes cast at a meeting of managers; and

(2) each manager is entitled to one vote on each matter that is submitted for approval by the managers.

(b) Procedural matters.—The governing principles may provide for the:

(1) delegation to a manager of authority to act without a meeting of the managers;

(2) creation and authority of committees of the managers;

(3) calling, location and timing of meetings of the managers or a committee of the managers;

(4) notice and quorum requirements for meetings of the managers or a committee of the managers;

(5) conduct of meetings of the managers or a committee of the managers;

(6) taking of action by the managers or a committee of the managers by consent without a meeting or by ballot;

(7) participation by managers in a meeting of the managers or a committee of the managers by telephone or other means of electronic communication; and

(8) taking of action by a manager by proxy.

(c) Absence of governing principles.—If the governing principles do not provide for a matter described in subsection (b), customary usages and principles of parliamentary law and procedure apply.

§ 9131. Right of member or manager to information.

(a) Inspection.—On reasonable notice, a member or manager of a nonprofit association may inspect and copy, at a reasonable time and location specified by the nonprofit association, any record maintained by the nonprofit association regarding its activities, financial condition and other circumstances, to the extent the information is material to the rights and duties of the member or manager under the governing principles.

(b) Restrictions.—A nonprofit association may impose reasonable restrictions on access to and use of information to be furnished under this section, including designating the information confidential and imposing on the recipient obligations of nondisclosure and safeguarding.

(c) Costs.—A nonprofit association may charge a person that makes a demand under this section reasonable copying costs.

(d) Former member or manager.—A former member or manager is entitled to information to which the member or manager was entitled while a member or manager if:

(1) the information pertains to the period during which the person was a member or manager;

(2) the former member or manager seeks the information in good faith; and

(3) the former member or manager satisfies subsections (a), (b) and (c).

§ 9132. Distributions prohibited; compensation and other permitted payments.

(a) General rule.—Except as provided in subsection (b), a nonprofit association may not pay dividends or make distributions to a member or manager.

(b) Permitted payments.—A nonprofit association may:

(1) pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered;

(2) confer benefits on or make contributions to a member or manager in conformity with its nonprofit purposes;

(3) repurchase a membership and repay a capital contribution made by a member to the extent authorized by its governing principles;

(4) repay indebtedness to a member or manager; and

(5) make distributions of property to members upon winding up and termination to the extent permitted by section 9135 (relating to winding up).

§ 9133. Reimbursement, indemnification and advancement of expenses.

(a) Reimbursement.—Except as provided in the governing principles, a nonprofit association shall reimburse a member or manager for authorized expenses reasonably incurred in the course of the activities of the member or manager on behalf of the nonprofit association.

(b) Indemnification and advancement of expenses.—

(1) A nonprofit association is subject to Ch. 57 Subch. D (relating to indemnification).

(2) For purposes of applying Ch. 57 Subch. D, references to the "articles" or "bylaws," "directors" and "members" shall mean the "governing principles," "managers" and "members," respectively.

§ 9134. Dissolution.

(a) General rule.—A nonprofit association may be dissolved as follows:

(1) if the governing principles provide a time or method for dissolution, at that time or by that method;

(2) if the governing principles do not provide a time or method for dissolution, upon approval by the members;

(3) if no member can be located and the operations of the nonprofit association have been discontinued for at least three years, by:

(i) the managers; or

(ii) if the nonprofit association has no current manager, its last manager;

(4) by court order; or

(5) under law other than this chapter.

(b) Continuation during winding up.—After dissolution, a nonprofit association continues in existence until its activities have been wound up under section 9135 (relating to winding up).

§ 9135. Winding up.

Winding up of a nonprofit association must proceed in accordance with the following rules:

(1) All known debts and liabilities shall be paid or adequately provided for.

(2) Any property subject to a condition requiring return to the person designated by the donor shall be transferred to that person.

(3) Any property subject to a trust shall be distributed in accordance with the trust agreement.

(4) Any property committed to a charitable purpose shall be distributed in accordance with that purpose unless the nonprofit association obtains a court order under 20 Pa.C.S. Ch. 77 (relating to trusts) specifying the disposition of the property.

(5) Any remaining property shall be distributed as follows:

(i) Distribution shall be made:

(A) in accordance with the governing principles of the nonprofit association; or

(B) in the absence of applicable governing principles, to the members of the nonprofit association:

(I) per capita; or

(II) as the members direct.

(ii) If subparagraph (i) does not apply, distribution shall be made under Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 9136. Subordination of chapter to canon law.

If and to the extent canon law or similar principles applicable to a nonprofit association organized for religious purposes sets forth provisions relating to the government and regulation of the affairs of the nonprofit association that are inconsistent with the provisions of this chapter on the same subject, the provisions of canon law or similar principles shall

control except to the extent prohibited by the Constitution of the United States or the Constitution of Pennsylvania.

Section 51. Section 9503(e) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 9503. Documentation of trust.

* * *

(d.1) Bearer certificates prohibited.—A business trust may not issue a certificate of beneficial interest in bearer form. This subsection may not be varied by the instrument or other documentation of the business trust.

(e) Cross [reference] references.—See [section] sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

Section 52. The definition of "domestic corporation not-for-profit" in section 101 of Title 54 is amended to read:

§ 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Domestic corporation not-for-profit." A domestic corporation [**not-for-profit as defined in 15 Pa.C.S. § 1103 (relating to definitions).**] *not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.*

* * *

Section 53. Section 501(a)(5) and (7) of Title 54 are amended to read:

§ 501. Register established.

(a) General rule.—A register is established by this chapter which shall consist of such of the following names as are not deleted therefrom by operation of section 504 (relating to effect of failure to make filings) or 506 (relating to voluntary termination of registration by corporations and other associations):

* * *

(5) In the case of a business trust which exists subject to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name of the trust as set forth in the:

(i) instrument filed in the department under 15 Pa.C.S. § 9503 (relating to documentation of trust); *or*

(ii) *application for registration filed under 15 Pa.C.S. § 9507 (relating to foreign business trusts).*

* * *

[(7) In the case of a business trust which exists subject to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name of the trust as set forth in the instrument filed in the department under 15 Pa.C.S. § 9503 (relating to documentation of trust), or in the application for registration filed pursuant to 15 Pa.C.S. § 9507 (relating to foreign business trusts).]

* * *

Section 54. Repeals are as follows:

(1) The General Assembly declares as follows:

(i) The repeal under paragraph (2)(i) is necessary because the material is supplied by 15 Pa.C.S. § 1511.

(ii) The repeal under paragraph (2)(ii) is necessary to effectuate the addition of 15 Pa.C.S. §§ 153(a) and 155(a).

(iii) The repeal under paragraph (2)(iii) is necessary because the material is supplied by 40 Pa.C.S. § 6322(f).

(iv) The repeal under paragraph (2)(iv) is necessary because the material is supplied by 40 Pa.C.S. § 6301.

(v) The repeal under paragraph (2)(v) is necessary because the material is supplied by 15 Pa.C.S. § 1106(b)(2).

(vi) The repeal under paragraph (2)(vi) is necessary because the material is supplied by 40 Pa.C.S. § 6322(f).

(vii) The repeal under paragraph (2)(vii) is necessary because the material is supplied by 1 Pa.C.S. § 1978.

(2) The following acts and parts of acts are repealed:

(i) Act of April 27, 1855 (P.L.365, No.383), entitled "An act extending the right of Trial by Jury to certain cases."

(ii) Sections 618-A(2) and 814 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iii) Act of April 18, 1949 (P.L.583, No.123), entitled "An act to further amend the act, approved the fifth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 289), entitled 'An act relating to nonprofit corporations; defining and providing for the organization, merger, consolidation, and dissolution of such corporations; 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 of the first class within the provisions of this act; prescribing the terms and conditions upon which foreign nonprofit 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,' by making further provisions relating to nonprofit medical service corporations; by extending the provisions of said act relating to the furnishing of medical services by nonprofit medical service corporations so as to include the furnishing of osteopathic services by doctors of osteopathy to subscribers and their dependents, and by providing that the articles of incorporation of existing nonprofit medical service corporations are amended by the provisions of this act so as to authorize the furnishing of such osteopathic services by doctors of osteopathy."

(iv) Act of December 9, 1955 (P.L.818, No.238), entitled "An act amending the act of May five, one thousand nine hundred thirty-three (Pamphlet Laws 289), entitled 'An act relating to nonprofit corporations; defining and providing for the organization, merger, consolidation, and dissolution of such corporations; 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 of the first class within the provisions of this act; prescribing the terms and conditions upon which foreign nonprofit 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,' providing for the incorporation and regulation of nonprofit dental service corporations furnishing dental services only to certain subscribers and their dependents."

(v) Act of September 30, 1965 (P.L.570, No.294), entitled "An act amending the act of May 5, 1933 (P.L.289), entitled 'An act relating to nonprofit corporations; defining and providing for the organization, merger, consolidation, and dissolution of such corporations; 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 of the first class within the provisions of this act; prescribing the terms and conditions upon which foreign nonprofit 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,' requiring approval by the State Registration Board for Professional Engineers prior to the use of certain words in corporate names."

(vi) Act of December 27, 1965 (P.L.1250, No.507), entitled "An act amending the act of May 5, 1933 (P.L.289), entitled 'An act relating to nonprofit corporations; defining and providing for the organization, merger, consolidation, and dissolution of such corporations; 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 of the first class within the provisions of this act; prescribing the terms and conditions upon which foreign nonprofit 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,' making further provisions relating to nonprofit medical, dental and osteopathic service corporations; extending the provisions of said act relating to the furnishing of medical, dental and osteopathic services by nonprofit medical, dental and osteopathic service corporations so as to include the furnishing of optometric services to subscribers and their dependents, and providing that the articles of incorporation of existing nonprofit medical, dental and osteopathic service corporations are amended by the provisions of this act so as to authorize the furnishing of optometric services by doctors of optometry."

(vii) Section 2 of the act of November 15, 1972 (P.L.1063, No.271), entitled "An act amending the act of November 25, 1970 (No.230), entitled 'An act codifying and compiling a part of the law of the Commonwealth,' adding provisions relating to burial grounds, corporations, including corporations not-for-profit, educational institutions, private police, certain charitable or eleemosynary institutions, certain nonprofit insurers, service of process on certain nonresident persons, names, prescribing penalties and making repeals."

Section 55. When the Department of State is ready to provide expedited services under the addition of 15 Pa.C.S. § 153(a)(16), it shall transmit notice of that fact to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.

Section 56. Notwithstanding 1 Pa.C.S. § 1957, it is declared to be the intent of the act¹ of December 21, 1988 (P.L.1444, No.177), known as the General Association Act of 1988, the act of December 19, 1990 (P.L.834, No.198), known as the GAA Amendments Act of 1990, the act of December 18, 1992 (P.L.1333, No.169), known as the GAA Amendments Act of 1992, the act of June 22, 2001 (P.L.418, No.34), known as the GAA Amendments Act of 2001, and this act cumulatively to restore all provisions of 15 Pa.C.S. added by the act of November 15, 1972 (P.L.1063, No.271), entitled "An act amending the act of November 25, 1970 (No.230), entitled 'An act codifying and compiling a part of the law of the Commonwealth,' adding provisions relating to burial grounds, corporations, including corporations not-for-profit, educational institutions, private police, certain charitable or eleemosynary institutions, certain nonprofit insurers, service of process on certain nonresident persons, names, prescribing penalties and making repeals," to their status prior to the partial repeal effected by section 905 of the former act of July 29, 1977 (P.L.105, No.38), known as the Fraternal Benefit Society Code, except as otherwise expressly provided by such provisions as reenacted and amended by the General² Association Act of

¹"the former act" in enrolled bill.

²"the former General" in enrolled bill.

1988, the GAA Amendments Act of 1990, the GAA Amendments Act of 1992, the GAA Amendments Act of 2001 and this act.

Section 57. Section 56 of this act shall apply retroactively to January 30, 1978.

Section 58. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) Section 55 of this act.

(ii) This section.

(2) The addition of 15 Pa.C.S. § 153(a)(16) shall take effect upon publication of the notice under section 55 of this act.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 9th day of July, A.D. 2013

TOM CORBETT