No. 2014-172

AN ACT

HB 2234

Amending Titles 15 (Corporations and Unincorporated Associations) and 54 (Names) of the Pennsylvania Consolidated Statutes, modernizing the law on corporations and unincorporated associations by doing the following:

Adding provisions applicable to associations generally on names, mergers, interest exchanges, conversions, divisions, domestications and registration of foreign associations to do business.

Extensively revising preliminary provisions on general provisions, entities generally, entity transactions and foreign associations.

As to business corporations, extensively revising:

preliminary provisions on definitions, equitable relief and applicability;

general incorporation provisions on names, articles of incorporation, applicability and notice to demand payment;

management and ownership provisions on shareholder action;

fundamental change provisions on omissions, termination, de facto transaction, proposals, special treatment of shares, submission of matters to shareholders, liabilities, merger, share exchange, sale of assets, division, conversion, voluntary dissolution and winding up;

nonstock corporation provisions on application;

statutory close corporation provisions on application;

registered corporation provisions on call of special meetings of shareholders, shareholder transactions and management adoption of merger plans;

management corporation provisions on application and bylaw and fundamental change procedures;

professional corporation provisions on application and corporate name;

insurance corporation provisions on application;

benefit corporation provisions on applicability and election of status; and

foreign business corporation provisions on admission, excluded activities, names, commencing business, certificates of authority, termination, address change after withdrawal, name registration, penalties, powers and duties, registered offices and domestication.

As to nonprofit corporations, extensively revising:

general provisions on definitions and applicability;

incorporation provisions on corporate name, changes and reservation;

management and ownership provisions on action;

fundamental change provisions on filed plans, statement of termination, proposal of fundamental transactions, authorization, plans, notice, procedure, foreign corporations, articles, filing, effectiveness, resulting effect, merger, voluntary transfer of assets, division and conversion; and

foreign nonprofit corporate provisions on admission, excluded activities, names, commencing business, certificates of authority, organic change, termination, address change after withdrawal, name registration, penalties, powers and duties, registered offices and domestication.

As to cooperative corporations, extensively revising workers cooperative corporation provisions on definitions, nature and articles and terminating provisions on generation choices for customers of electric cooperatives.

As to partnerships and limited liability companies, extensively revising:

registered limited liability partnership provisions on name and foreign partnerships;

limited partnership provisions on definitions, name, cancellation of certificate, merger and consolidation, nonjudicial dissolution, division and foreign limited partnerships; and

limited liability company provisions on definitions, name, election, merger and consolidation, division and foreign companies.

As to unincorporated associations, extensively revising:

preliminary provisions on definitions; and

professional associations provisions on applicability.

As to business trusts, extensively revising provisions on creation, status and termination, on documentation and on foreign business trusts.

In names:

as to fictitious names, further providing for scope and registration; and

as to corporate and associational names, further providing for a register and for decennial filings.

Making editorial changes.

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 Association Transactions Act.

Section 1.1. The General Assembly finds and declares as follows:

(1) It is necessary to modernize the laws of this Commonwealth on the organization and governance of corporations and other associations in order to make the Commonwealth competitive with other states in attracting business organizations.

(2) This act is designed to amend 15 Pa.C.S. Pt. I to integrate the law on corporations and other associations by enacting provisions applicable to all forms of associations and authorizing transactions involving any form of association.

(3) It is also necessary to modernize the law on those subjects in order to improve the functioning of the Bureau of Corporations and Charitable Organizations, which administers that law.

(4) This act is designed to amend 15 Pa.C.S. Pt. I to integrate the law on entity names, entity transactions and registration of foreign entities into a single coherent body of law that can be efficiently administered by the Bureau of Corporations and Charitable Organizations and easily used and understood by the citizens of this Commonwealth.

Section 1.2. The introductory paragraph, the definitions of "association," "cooperative corporation," "corporation for profit," and "corporation not-for-profit," paragraph (2) of the definition of "court" and the definitions of "domestic savings association" and "savings association" in section 102 of Title 15 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions and a subsection to read:

§ 102. Definitions.

(a) Defined terms.—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:

* * *

"Association." A corporation ***for profit or not-for-profit***, a partnership, a limited liability company, a business ***or statutory*** trust, ***an entity*** or two or more persons associated in a common enterprise or undertaking. The term does not include***:***

(1) a testamentary trust or an inter vivos trust as defined in 20 Pa.C.S. § 711(3) (relating to mandatory exercise of jurisdiction through orphans' court division in general)**[**.**]**;

(2) an association or relationship that:

(i) is not a person that has:

(A) a legal existence separate from any interest holder of the person; or

(B) the power to acquire an interest in real property in its own name; and

(ii) is not a partnership under the rules stated in section 8312 (relating to rules for determining the existence of a partnership) or a similar provision of the laws of another jurisdiction;

(3) a decedent's estate; or

(4) a government or a governmental subdivision, agency or instrumentality.

* * *

"Business corporation." A domestic or foreign business corporation as defined in section 1103 (relating to definitions), whether or not it is a cooperative corporation.

* * *

"Cooperative corporation." A ***domestic*** corporation that is subject to Subpart D of Part II (relating to cooperative corporations), ***or a foreign corporation that is subject to a similar law of a foreign jurisdiction***.

"Corporation for profit." A ***domestic or foreign*** corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, to its shareholders or members, ***whether or not it is a cooperative corporation***.

"Corporation not-for-profit." A ***domestic or foreign*** corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise, ***whether or not it is a cooperative corporation***.

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

* * *

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

* * *

"Dissenters rights." The rights and remedies provided by Subchapter D of Chapter 15 (relating to dissenters rights).

"Distributional interest." The right under the organic law of an entity that is not a corporation for profit or not-for-profit, or under the organic rules of such an entity, to receive distributions from the entity.

"Domestic association." An association, the internal affairs of which are governed by the laws of this Commonwealth.

* * *

"Domestic entity." An entity, the internal affairs of which are governed by the laws of this Commonwealth.

"Domestic filing association." A domestic association, the formation of which requires the filing of a public organic record. The term does not include a general partnership that is also:

(1) a limited liability partnership; or

(2) an electing partnership.

"Domestic filing entity." A domestic entity, the formation of which requires the filing of a public organic record. The term does not include a general partnership that is also:

(1) a limited liability partnership; or

(2) an electing partnership.

* * *

["Domestic savings association." A domestic corporation for profit which is 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.]

* * *

"Electronic." Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

"Entity." A domestic or foreign:

(1) business corporation;

(2) nonprofit corporation;

(3) general partnership;

(4) limited partnership;

(5) limited liability company;

(6) unincorporated nonprofit association;

(7) professional association; or

(8) business trust, common-law business trust or statutory trust.

* * *

"Filing association." A domestic or foreign association, the formation of which requires the filing of a public organic record. The term does not include a general partnership that is also:

(1) a limited liability partnership; or

(2) an electing partnership.

"Filing entity." A domestic or foreign entity, the formation of which requires the filing of a public organic record. The term does not include a general partnership that is also:

(1) a limited liability partnership; or

(2) an electing partnership.

"Foreign association." An association that is not a domestic association.

* * *

"Foreign entity." An entity that is not a domestic entity.

"Foreign filing association." A foreign association, the formation of which requires the filing of a public organic record.

"Fraternal benefit society." A fraternal benefit society as defined in section 2403 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

"General partnership." A domestic or foreign partnership as defined in section 8311 (relating to partnership defined), whether or not it is a limited liability partnership or electing partnership.

"Governance interest." A right under the organic law or organic rules of an association that is not a corporation for profit or not-for-profit, other than as a governor, agent, assignee or proxy, to:

(1) receive or demand access to information concerning, or the books and records of, the association;

(2) vote for the election of the governors of the association; or

(3) receive notice of or vote on an issue involving the internal affairs of the association.

"Governor." A person by or under whose authority the powers of an association are exercised and under whose direction the activities and affairs of the association are managed pursuant to the organic law and organic rules of the association. The term includes:

(1) A director of a corporation for profit or a shareholder of a statutory close corporation that is deemed to be a director under section 2332(a) (relating to management by shareholders).

(2) A director or member of an other body of a corporation not-for-profit.

(3) A partner of a general partnership.

(4) A general partner of a limited partnership.

(5) A general partner of an electing partnership.

(6) A manager of a manager-managed limited liability company or a member that has the right to participate materially in the management of a member-managed limited liability company.

(7) A manager of an unincorporated nonprofit association.

(8) A member of the board of governors of a professional association.

(9) A trustee of a business trust, common-law business trust or statutory trust.

"Health maintenance organization." An entity that is subject to the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

"Hospital plan corporation." A hospital plan corporation as defined in 40 Pa.C.S. § 6101 (relating to definitions).

* * *

"Interest." A share in a corporation for profit, a membership or share in a corporation not-for-profit, a governance interest or a distributional interest. The term includes the following:

(1) A governance interest or transferable interest in a general partnership.

(2) A governance interest or transferable interest in a limited partnership.

(3) A governance interest or transferable interest in a limited liability company.

(4) A membership in an unincorporated nonprofit association.

(5) An ownership interest in a professional association.

(6) A beneficial interest in a business trust, common-law business trust or statutory trust.

"Interest holder." A direct or record holder of an interest. The term includes the following:

(1) A shareholder of a corporation for profit.

(2) A member or shareholder of a corporation not-for-profit.

(3) A partner or transferee in a general partnership.

(4) A general or limited partner or transferee in a limited partnership.

(5) A member or transferee in a limited liability company.

(6) A member of an unincorporated nonprofit association.

(7) An associate in a professional association.

(8) A beneficiary or beneficial owner of record of a business trust, common-law business trust or statutory trust.

* * *

"Jurisdiction." When used to refer to a political entity, the United States, a state, a foreign country or a political subdivision of a foreign country.

"Jurisdiction of formation." The jurisdiction whose law includes the organic law of an association.

* * *

"Limited liability limited partnership." A domestic or foreign limited partnership for which there is in effect:

(1) a statement of registration under Chapter 82 (relating to registered limited liability partnerships);

(2) a provision of its certificate of limited partnership electing to be subject to Chapter 82; or

(3) a similar filing or provision under the organic law of a foreign partnership.

"Limited liability partnership." A domestic or foreign general partnership for which there is in effect:

(1) a statement of registration under Chapter 82; or

(2) a similar filing under the organic law of a foreign general partnership.

"Limited partnership." A domestic or foreign limited partnership as defined in section 8503 (relating to definitions and index of definitions), whether or not it is a limited liability limited partnership or electing partnership.

"Nonfiling association." An association that is not a filing association.

"Nonprofit corporation." A domestic or foreign nonprofit corporation as defined in section 5103 (relating to definitions), whether or not it is a cooperative corporation.

"Nonregistered foreign association." A foreign association that is not registered to do business in this Commonwealth pursuant to a filing with the department.

* * *

"Organic law." The laws of the jurisdiction of formation of an association governing its internal affairs.

"Organic rules." The public organic record and private organic rules of an association.

"Principal office." The principal executive office of an association, whether or not the office is located in this Commonwealth.

"Private organic rules." The rules that govern the internal affairs of an association, are binding on all its interest holders and are not part of its public organic record, if any. The term includes the following:

(1) The bylaws of a corporation for profit.

(2) The bylaws of a corporation not-for-profit.

(3) The partnership agreement of a general partnership.

(4) The partnership agreement of a limited partnership.

(5) The operating agreement of a limited liability company.

(6) The governing principles of an unincorporated nonprofit association.

(7) The bylaws of a professional association.

(8) The bylaws or similar rules, by whatever name they may be referred to, of a business trust, common-law business trust or statutory trust.

* * *

"Professional association." An association as defined in section 9302 (relating to application of chapter).

"Professional health service corporation." A professional health service corporation as defined in 40 Pa.C.S. § 6302 (relating to definitions).

* * *

"Property." All property, whether real, personal or mixed, or tangible or intangible, or any right or interest therein, including rights under contracts and other binding agreements.

"Public organic record." The document the public filing of which by the department or a similar agency in another jurisdiction is required to form an association. The term includes any amendment or restatement of the document and includes the following:

(1) The articles of incorporation of a corporation for profit.

(2) The articles of incorporation of a corporation not-for-profit.

(3) The certificate of limited partnership of a limited partnership.

(4) The certificate of organization of a limited liability company.

(5) The articles of association of a professional association.

(6) The declaration of trust or other instrument of a business trust or statutory trust which has been filed by the department or a similar agency in another jurisdiction.

"Receipt." Actual coming into possession.

"Receive." To actually come into possession.

* * *

"Registered corporation." A corporation defined in section 2502 (relating to registered corporation status).

"Registered foreign association." A foreign association that is registered to do business in this Commonwealth pursuant to a filing in the department.

* * *

["Savings association." 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.]

* * *

"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.

"Type." When used with respect to an association, a generic form:

(1) recognized at common law; or

(2) organized under an organic law, whether or not some associations organized under that organic law are subject to provisions of that law which create different categories of the form of association.

"Unincorporated nonprofit association." A nonprofit association as defined in section 9112 (relating to definitions).

* * *

(b) Application of definitions.—The words and phrases defined in subsection (a) shall have the same meanings when used in 54 Pa.C.S. (relating to names) except to the extent those meanings are inconsistent with the provisions of that title.

Section 1.3. Section 109(b) of Title 15 is amended to read:

§ 109. Name of commercial registered office provider in lieu of registered address.

* * *

(b) Statement of address of commercial registered office.—A domestic **[business corporation or qualified foreign business corporation, partnership or other]** *or registered foreign* association engaged in the business of maintaining registered offices in this Commonwealth for corporations or other associations may file in the department a statement of address of commercial registered office executed by the representing association or a division thereof and setting forth:

(1) The name of the representing association.

(2) The form of organization of the representing association.

(3) A statement that it is in the business of maintaining registered offices in this Commonwealth for corporations or other associations.

(4) The address, including street and number, if any, of a place of business of the representing association in this Commonwealth to which

communications and other matters directed to each person represented by it may be delivered.

* * *

Section 2. Title 15 is amended by adding sections to read:

§ 112. Receipt of electronic communications.

(a) Requirements.—Unless otherwise provided in the organic rules of an entity or otherwise agreed between the sender and the recipient, an electronic communication is received when it:

(1) enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) is in a form capable of being processed by that system.

(b) Awareness not required.—An electronic communication is received under subsection (a) even if no individual is aware of its receipt.

(c) Presumption.—Receipt of an electronic acknowledgment from an information processing system described in subsection (a) establishes that a communication was received but, by itself, does not establish that the content sent corresponds to the content received.

§ 113. Delivery of document.

(a) Permissible means.—Permissible means of delivery of a document in record form include:

(1) personal delivery;

(2) mail;

(3) conventional commercial practice; and

(4) electronic transmission.

(b) Delivery to department.—Delivery to the department of a document in record form is effective only on receipt by the department.

(c) Delivery by department.—Except as provided by law other than this title, the department may deliver a document in record form to a person by delivering it:

(1) in person to the person that submitted it for filing;

(2) to the address of the person's registered office;

(3) to the principal office address of the person; or

(4) to another address the person provides to the department for delivery.

Section 2.1. Section 133(a)(3) of Title 15 is amended by adding a subparagraph to read:

§ 133. Powers of Department of State.

(a) General rule.—The 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:

* * *

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

* * *

(vi) Specify the symbols or characters which:

(A) do not make a name distinguishable on the records of the department; or

(B) may be used in the name of an entity.

* * *

Section 2.2. Section 135(e)(1) of Title 15 is amended to read:

§ 135. Requirements to be met by filed documents.

* * *

(e) Distinguishable names.—A name shall not be considered distinguishable upon the records of the department from another name for purposes of this title and 54 Pa.C.S. (relating to names) solely because the names differ from each other in any or all of the following respects:

(1) Use of punctuation marks ***and of symbols or characters specified by regulation of the department under section 133(a)(3)(vi) (relating to powers of Department of State)***.

* * *

Section 3. Section 136(c) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 136. Processing of documents by Department of State.

* * *

(c) Effective date ***and time***.—Except as otherwise provided in this title ***and subject to sections 138 (relating to statement of correction) and 141 (relating to abandonment of filing before effectiveness)***, a document **[shall become]** ***filed by the department under a provision of this title is*** effective **[upon the filing thereof in the department.]**:

(1) on the date and at the time of its delivery to the department;

(2) on the date of delivery and at the time specified in the document as its effective time, if the time specified is later than the time under paragraph (1); or

(3) at a specified delayed effective date and:

(i) at a specified time; or

(ii) if no time is specified, at 12:01 a.m. on the date specified.

* * *

(e) Redaction of information.—If law other than this title prohibits the disclosure by the department of information contained in a document in record form delivered to the department for filing, the department shall accept the document if it otherwise complies with this title but may redact the information.

Section 3.1. Section 138 of Title 15 is amended to read:

§ 138. Statement of correction.

(a) Filing of statement.—Whenever any document authorized or required to be **[filed in the Department of State]** ***delivered to the department for filing*** by any provision of this title has been so filed and is an inaccurate record of the **[corporate or other]** action therein referred to or was defectively or erroneously executed, the document may be corrected by **[filing in the department]** ***delivering to the department for filing*** a statement of correction **[of the document]**. The statement of correction, except as provided in subsection (c), shall be **[executed]** ***signed*** by the association or other person that **[effected the]** ***delivered the inaccurate,*** defective or erroneous ***document for*** filing and shall set forth:

(1) The name of the association or other person and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the location, including street and number, if any, of its registered or other office.

(2) The statute by or under which the **[corporation was incorporated]** ***association was formed,*** or the preceding filing was made, in the case of a filing that does not constitute a part of the **[articles of incorporation of a corporation]** ***public organic record of an association.***

(3) The inaccuracy or defect to be corrected.

(4) The portion of the document requiring correction in corrected form or, if the document was erroneously executed, a statement that the original document shall be deemed reexecuted or stricken from the records of the department, as the case may be.

(b) Effect of filing.—

(1) The corrected document shall be effective:

(i) Upon filing in the department, as to those persons who are substantially and adversely affected by the correction.

(ii) As of the date the original document was effective, as to all other persons.

(2) A filing under this section shall not have the effect of causing **[original articles of incorporation of a corporation or a similar type of document creating any other form of association]** ***the original public organic record of an association*** to be stricken from the records of the department, but the **[articles or other document]** ***public organic record*** may be corrected under this section.

(c) Filing pursuant to court order.—If the association or other person refuses to **[file]** ***deliver to the department for filing*** an appropriate statement of correction under this section within ten business days after any person adversely affected has made a **[written demand therefor]** ***demand in record form for the correction,*** the affected person may apply to the court for an order to compel the filing. If the court finds that a document on file in the department is inaccurate **[or defective],** ***defective or erroneous,*** it may direct the association or other person who effected the ***inaccurate,*** defective or erroneous filing to **[file]** ***deliver to the department for filing*** an appropriate statement of correction **[in the department]**, or it may order the clerk to execute the statement under the seal of the court and cause the statement to be **[filed in the department]** ***delivered to the department for filing***. In the absence of fraud, an application may not be made to a court

under this subsection with respect to a document more than one year after the date on which it was originally filed in the department.

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

Section 4. Section 139(a) of Title 15 is amended and the section is amended by adding a subsection to read:

§ 139. Tax clearance of certain fundamental transactions.

(a) **[General rule]** ***Requirement.***—Except as provided in subsection (c) ***or (d),*** **[a domestic association shall not file articles or a certificate of merger or consolidation effecting a merger or consolidation into a nonqualified foreign association or articles or a certificate of dissolution or a statement of revival, a qualified foreign association shall not file an application for termination of authority or similar document in the Department of State and a domestic association shall not file articles or a certificate of division dividing solely into nonqualified foreign associations unless the articles, certificate, application or other document are accompanied by]** clearance certificates from the Department of Revenue and the **[Office of Employment Security of the]** Department of Labor and Industry, evidencing the payment by the association of all taxes and charges due the Commonwealth required by law**[.]**, ***must be delivered to the department for filing when any of the following is delivered to the department for filing:***

(1) Articles or a statement or certificate of merger merging a domestic association into a nonregistered foreign association.

(2) Articles or a statement or certificate of conversion or domestication effecting a conversion or domestication of a domestic association into a nonregistered foreign association.

(3) Articles or a certificate of dissolution or a statement of revival of a domestic association.

(4) An application for termination of registration, statement of withdrawal or similar document by a registered foreign association.

(5) Articles or a statement or certificate of division dividing a domestic association solely into foreign associations.

* * *

(d) Registration of foreign associations.—It shall not be necessary to deliver clearance certificates under subsection (a) if, simultaneously with the delivery of the articles, statement or certificate of merger, conversion, division or domestication:

(1) the foreign association that is the surviving, converted or domesticated association registers to do business in this Commonwealth; or

(2) at least one of the new foreign associations resulting from the division registers to do business in this Commonwealth.

Section 5. Title 15 is amended by adding sections to read:

§ 141. Abandonment of filing before effectiveness.

(a) General rule.—A document in record form delivered to the department for filing may be abandoned before it takes effect by delivering to the department for filing a statement of abandonment.

(b) Requirements for statement of abandonment.—A statement of abandonment must:

(1) be signed by a person with the authority to sign the statement;

(2) identify the document to be abandoned; and

(3) state that abandonment of the document has been validly approved.

(c) Effect of statement of abandonment.—Upon filing by the department of a statement of abandonment, the action or transaction evidenced by the original document shall not take effect.

§ 142. Effect of signing filings.

(a) Affirmation of truth.—Signing a document delivered to the department for filing is an affirmation under the penalties provided in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that the facts stated in the document are true in all material respects.

(b) Signature by agent or legal representative.—A document filed under this title may be signed by an agent. If this title requires a particular individual to sign a document and the individual is deceased or incompetent, the document may be signed by a legal representative of the individual on behalf of the individual.

(c) Affirmation of authority.—A person that signs a document delivered to the department for filing affirms as a fact that the person is authorized to sign the document.

§ 143. Liability for inaccurate information in filing.

If a document that is delivered to the department for filing under this title and filed by the department contains inaccurate information at the time of delivery to the department, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the document or caused another to sign it on behalf of the person and knew at the time the document was delivered that the information was inaccurate.

§ 144. Signing and filing pursuant to judicial order.

(a) Petition.—If a person required by this title to sign a document or deliver a document to the department for filing under this title does not do so, another person that is aggrieved may petition the court to order:

(1) the person to sign the document;

(2) the person to deliver the document to the department for filing; or

(3) the department to file the document unsigned.

(b) Association.—If a petitioner under subsection (a) is not the association to which the document pertains, the petitioner shall make the association a party to the action.

(c) Effect.—A record filed under subsection (a)(3) is effective without being signed.

§ 145. Subsistence certificate.

(a) General rule.—On request of a person, the department shall issue:

(1) a subsistence certificate for a domestic filing entity or domestic limited liability partnership; or

(2) a certificate of registration for a registered foreign association.

(b) Contents of certificate.—A certificate under subsection (a) must state:

(1) the name of the domestic filing entity or domestic limited liability partnership or the name under which the registered foreign association is registered in this Commonwealth;

(2) in the case of a domestic filing entity or domestic limited liability partnership, that the entity is currently subsisting on the records of the department; and

(3) in the case of a registered foreign association, that it is registered to do business in this Commonwealth.

(c) Effect of certificate.—Subject to any qualification stated in the certificate, a certificate issued by the department under subsection (a) may be relied on as conclusive evidence of the facts stated in the certificate.

Section 5.1. Paragraph (6) of the definition of "ancillary transaction" in section 152 of Title 15 is amended and the definition is amended by adding a paragraph to read:

§ 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:

* * *

(6) any transaction similar to any item listed in paragraphs (1) through (5); **[or]**

(6.1) withdrawal, abandonment or termination of a document which has been delivered to the department for filing but has not yet become effective; or

* * *

Section 6. Section 153(a) of Title 15 is amended to read:

§ 153. Fee schedule.

(a) General rule.—The 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 company	125
(ix) Each ancillary transaction	70
(4) Unincorporated nonprofit associations:	
(i) Statement appointing an agent to receive service of process	70
(ii) Resignation of appointed agent	40
(iii) Amendment or cancellation of statement appointing an agent	70
(5) Business trusts:	
(i) Deed of trust or other initial instrument for a business trust	125
(ii) Each ancillary transaction	70
(6) Fictitious names:	
(i) Registration	70
(ii) Each ancillary transaction	70
(7) Service of process:	
(i) Each defendant named or served	70

(ii) (Reserved)	
(8) Trademarks, emblems, union labels, description of bottles and similar matters:	
(i) Trademark registration	50
(ii) Each ancillary trademark transaction	50
(iii) Any other registration under this paragraph	70
(iv) Any other ancillary transaction under this paragraph	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) Each page of photocopy furnished	3
(ii) (Reserved)	
(11) Certification fees:	
(i) For certifying copies of any document or paper on file, the fee specified in paragraph (10), if the department furnished the copy, plus	40
(ii) (Reserved)	
(iii) For issuing any other certificate of the Secretary of the Commonwealth or the department (other than an engrossed certificate)	40
(12) Report of record search other than a search under paragraph (9):	
(i) For preparing and providing a report of a record search, the fee specified in paragraph (10), if any, plus	15
(ii) (Reserved)	
(13) Reservation and registration of names:	
(i) Reservation of association name	70
(ii) Registration of foreign or other corporation name	70
(14) Change of registered office or address:	
(i) Each statement of change of registered office by agent	5
(ii) Each statement or certificate of change of registered office	5
(iii) Each statement of change of address	5
(15) Contingent domestication:	
(i) Statement of contingent domestication	125
(ii) Each year, or portion of a year, during which a contingent domestication or temporary domiciliary status is in effect	1,500
(16) Expedited service:	
(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 1,000

(ii) 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 300

(iii) 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 ..... 100]

(1) Domestic corporations:

(i) Articles of incorporation, letters patent or similar instruments incorporating a corporation $125

(ii) Each ancillary transaction 70

(2) Foreign associations:

(i) Registration statement or similar qualifications to do business 250

(ii) Amendment of registration statement or similar change in qualification to do business 250

(iii) Domestication of alien association under section 161 (relating to domestication of certain alien associations) 250

(iv) Statement of merger, division or conversion or similar instrument reporting occurrence of merger, division or conversion not effected by a filing in the department 70

(v) Additional fee for each qualified foreign association which is named in a statement of merger 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 125

(ii) Statement of registration of registered limited liability partnership or statement of election as an electing partnership 125

(iii) Each ancillary transaction 70

(4) Unincorporated nonprofit associations:

(i) Statement appointing an agent to receive service of process 70

(ii) Resignation of appointed agent 40

(iii) Amendment or cancellation of statement appointing an agent 70

(5) Business trusts:

(i) Declaration of trust or other initial instrument for a business trust 125

(ii) Each ancillary transaction 70

(6) Fictitious names:

(i) Registration 70

(ii) Each ancillary transaction 70

(7) Service of process:
(i) Each defendant named or served *70*
(ii) (Reserved).
(8) Trademarks, emblems, union labels, description of bottles and similar matters:
(i) Trademark registration *50*
(ii) Each ancillary trademark transaction *50*
(iii) Another registration under this paragraph *70*
(iv) Another ancillary transaction under this paragraph *70*
(9) Uniform Commercial Code:
(i) As provided in 13 Pa.C.S. § 9525 (relating to fees).
(ii) (Reserved).
(10) Copy fees, including copies furnished under the Uniform Commercial Code:
(i) Each page furnished *3*
(ii) (Reserved).
(11) Certification fees:
(i) For certifying copies of a document or paper on file, the fee specified under paragraph (10), if the department furnished the copy, plus *40*
(ii) (Reserved).
(iii) For issuing any other certificate of the Secretary of the Commonwealth or the department, other than an engrossed certificate *40*
(iv) For preparing and issuing an engrossed certificate *125*
(12) Report of record search other than a search under paragraph (9):
(i) For preparing and providing a report of a record search, the fee specified in paragraph (10), if any, plus *15*
(ii) (Reserved).
(13) Reservation and registration of names:
(i) Reservation of association name *70*
(ii) Registration of foreign association name *70*
(14) Change of registered office or address:
(i) Each statement of change of registered office by agent *5*
(ii) Each statement or certificate of change of registered office *5*
(iii) Each statement of change of address *5*
(15) Expedited service:
(i) For the processing of a 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 .. *1,000*
(ii) For the processing of a 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 *300*

(iii) For processing of a 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 *100*

(16) Entity transactions:

(i) Statement of merger, interest exchange, conversion, division or domestication *70*

(ii) Additional fee for each association that is a party to a merger *40*

(iii) Additional fee for each new association resulting from a division *125*

(iv) Each ancillary transaction *70*

(17) Special processing fees:

(i) Request that multiple documents delivered to the department on the same day be filed in a certain order *70*

(ii) (Reserved).

* * *

Section 7. Subchapter D heading of Chapter 1 of Title 15 is amended to read:

SUBCHAPTER D
[DEFINITIVE AND CONTINGENT] DOMESTICATION
OF ***CERTAIN*** ALIEN ASSOCIATIONS

Section 8. Section 161(b) introductory paragraph, (1) and (5), (e) and (f) of Title 15 are amended to read:

§ 161. Domestication of certain alien associations.

* * *

(b) Statement of domestication.—The statement of domestication shall be **[executed]** ***signed*** by the association and shall set forth in the English language:

(1) The name of the association. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals. If the name is one that is rendered unavailable for use by a **[corporation by any provision of section 1303(b) or (c) (relating to corporate name)]** ***domestic entity by section 202(b) or (c) (relating to requirements for names generally)***, the association shall adopt a new name, in accordance with any procedures for changing the name of the association that are applicable prior to the domestication of the association, and shall set forth the new name in the statement.

* * *

(5) A statement that the filing of the statement of domestication and, if desired, the renunciation of the prior domicile has been authorized (unless its **[charter or other organic documents]** ***organic rules*** require a

greater vote) by a majority in interest of the **[shareholders, members or other proprietors]** ***interest holders*** of the association.

* * *

(e) Exclusion.—An association that can be domesticated under **[any of the following sections shall not be domesticated under this section:**

Section 4161 (relating to domestication).

Section 6161 (relating to domestication).

Section 8590 (relating to domestication).

Section 8982 (relating to domestication).

Section 9501(a)(1)(ii) (relating to application and effect of chapter)] ***Subchapter G of Chapter 3 (relating to domestication) shall not be domesticated under this section.***

(f) Definition.—As used in this section, the term "association," except as restricted by subsection (e), includes any **[alien]** incorporated organization, private law corporation (whether or not organized for business purposes), public law corporation, partnership, proprietorship, joint venture, foundation, trust, association or similar organization or entity existing under the laws of any jurisdiction other than this Commonwealth.

* * *

Section 8.1. Section 162 of Title 15 is repealed:

[§ 162. Contingent domestication of certain alien associations.

(a) General rule.—Any association as defined in subsection (i) may become a contingent domestic association by filing in the Department of State a statement of contingent domestication. The statement of contingent domestication and all papers and information relating thereto shall remain confidential and shall not be available for public inspection until and unless the association files a statement of consummation of domestication as provided in subsection (c).

(b) Statement of contingent domestication.—The statement of contingent domestication shall be executed by the association and shall set forth in the English language:

(1) In the case of:

(i) a corporation subject to section 4161 (relating to domestication), the statements required to be set forth in articles of domestication (except the statement required by section 4161(b)(6));

(ii) a corporation subject to section 6161 (relating to domestication), the statements required to be set forth in articles of domestication (except the statement required by section 6161(b)(6));

(iii) a limited partnership subject to section 8590 (relating to domestication), the statements required to be set forth in a certificate of domestication (except the statement required by section 8590(b)(5));

(iv) a limited liability company subject to section 8982 (relating to domestication), the statements required to be set forth in a certificate of domestication (except the statement required by section 8982(b)(5));or

(v) any other association, the statements required by section 161(b) (relating to statement of domestication) to be set forth in a statement of domestication (except the statement required by section 161(b)(5)).

(2) A statement that the effectiveness of the statement is contingent upon the subsequent filing of a statement of consummation of domestication.

(3) A statement that the filing of the statement of contingent domestication and the delegation of authority to file a statement of consummation of domestication has been authorized (unless its charter or other organic documents require a greater vote):

(i) by a majority vote of the votes cast by all shareholders entitled to vote thereon and, if any class of shares is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a corporation subject to section 4161;

(ii) by a majority vote of the votes cast by all members, if any, entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a corporation subject to section 6161;

(iii) by a majority vote of the votes cast by all partners entitled to vote thereon and, if any class of partners is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a limited partnership subject to section 8590;

(iv) by a majority vote of the votes cast by all members entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote, in the case of a limited liability company subject to section 8982; or

(v) by a majority in interest of the shareholders, members or other proprietors of the association in any other case.

(c) Statement of consummation of domestication.—At any time after the filing of a statement of contingent domestication, the association may file in the department a statement of consummation of domestication which shall be executed by the association and shall set forth:

(1) The name of the association as set forth in its statement of contingent domestication.

(2) A statement that either:

(i) an emergency condition exists in the jurisdiction the law of which governs the internal affairs of the association and that in the judgment of the management of the association a temporary transfer of the domicile of the association to this Commonwealth is warranted by the circumstances; or

(ii) an event has occurred that, under the law of the jurisdiction governing the internal affairs of the association, permits the association to transfer its domicile.

(d) Statement of termination of domestication.—At any time after the filing of a statement of consummation of domestication, the association may file in the department a statement of termination of

domestication which shall be executed by the association and shall set forth:

(1) The name of the association in the form set forth in the prior filings under this section.

(2) If a statement of consummation of domestication has theretofore been filed and is then in effect, a statement that the association elects to terminate its domicile in this Commonwealth.

(3) A statement that either:

(i) the statement of contingent domestication is reinstated pending the filing in the department of a new statement of consummation of domestication; or

(ii) the statement of contingent domestication is withdrawn.

(e) Execution of filings.—All documents filed under this section shall be signed on behalf of the association by any authorized person.

(f) Effect of filing statement of consummation of domestication.—Upon the filing of a statement of consummation of domestication, and until the filing of a statement of termination of domestication, the association shall have the status under the law of this Commonwealth of:

(1) a business corporation domesticated under section 4161, in the case of a corporation subject to that section;

(2) a nonprofit corporation domesticated under section 6161, in the case of a corporation subject to that section;

(3) a limited partnership domesticated under section 8590, in the case of a limited partnership subject to that section;

(4) a limited liability company domesticated under section 8982, in the case of a limited liability company subject to that section; or

(5) an association domesticated under section 161, in any other case.

(g) Effect of filing a statement of termination of domestication.—Upon the filing of a statement of termination of domestication, the association shall under the law of this Commonwealth revert to the status it held prior to the filing of:

(1) the statement of consummation of domestication, if the statement of termination of domestication states that the statement of contingent domestication is reinstated; or

(2) the statement of contingent domestication, if the statement of termination of domestication states that the statement of contingent domestication is withdrawn.

(h) Annual renewal.—A renewal application may be filed between October 1 and December 31 in each year and shall extend the applicability of this section for the following calendar year. Otherwise the association shall not be entitled to any of the benefits of this section. See section 153(a)(14) (relating to contingent domestication).

(i) Definition.—As used in this section, the term "association" includes any incorporated organization, private law corporation (whether or not organized for business purposes), public law corporation, partnership, proprietorship, joint venture, foundation, trust, association or similar organization or entity if such association or

entity immediately prior to effecting an initial filing under this section is an association or entity governed by the law of any jurisdiction other than the United States or any state, Puerto Rico or any possession or territory of the United States.

(j) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).]

Section 9. Title 15 is amended by adding chapters to read:

CHAPTER 2
ENTITIES GENERALLY

Subchapter
A. Names
B. (Reserved)

SUBCHAPTER A
NAMES

Sec.
201. Definitions.
202. Requirements for names generally.
203. Corporation names.
204. Partnership and limited liability company names.
205. Business trust names.
206. Requirements for foreign association names.
207. Required name changes by senior associations.
208. Reservation of name.
209. Registration of name of nonregistered foreign association.

§ 201. 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:

"Covered association." Any of the following:
(1) a domestic filing entity;
(2) a domestic limited liability partnership;
(3) an electing partnership; or
(4) a registered foreign association.

"Proper name." The name set forth in:
(1) the public organic record of a domestic filing association;
(2) the statement of registration of a limited liability partnership;
(3) the statement of election of an electing partnership; or
(4) the statement of registration of a registered foreign association under section 412(a)(1)(i) (relating to foreign registration statement) or, if that name does not comply with this section, the name set forth in the statement under section 412(a)(1)(ii).

§ 202. Requirements for names generally.

(a) General rule.—The proper name of a covered association may be in any language, but it must be expressed in Roman letters or characters,

Arabic or Roman numerals or symbols or characters specified by regulation of the department under section 133(a)(3)(vi) (relating to powers of Department of State).

(b) Duplicate use of names.—Except as provided in subsection (f), the proper name of a covered association must be distinguishable on the records of the department from the following:

(1) The proper name of another covered association or the name of an association registered at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names), unless the covered association or other association has:

(i) stated that it is about to change its name, is about to cease to do business, is being wound up or is a foreign association about to withdraw from doing business in this Commonwealth, and the statement and a consent to the adoption of the name are delivered to the department for filing;

(ii) filed a tax return or certificate with the Department of Revenue indicating that the covered association or other association is out of existence or has failed for a period of three successive years to file with the Department of Revenue a report or return required by law and the fact of the failure has been certified by the Department of Revenue to the Department of State;

(iii) abandoned its name under the laws of its jurisdiction of formation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor, and an official record of that fact, certified as provided under 42 Pa.C.S. § 5328 (relating to proof of official records), is presented by a person to the department; or

(iv) had the registration of its name under 54 Pa.C.S. Ch. 5 terminated.

(2) A name that has been reserved or registered pursuant to section 208 (relating to reservation of name) or 209 (relating to registration of name of nonregistered foreign association). A name shall be rendered unavailable for use under this subchapter by reason of the filing by the department of an assumed or fictitious name registration under 54 Pa.C.S. Ch. 3 (relating to fictitious names) only to the extent expressly provided in 54 Pa.C.S. Ch. 3.

(c) Required approvals or conditions.—

(1) The proper name of a covered association shall not imply that the association is:

(i) A governmental agency of the Commonwealth or of the United States.

(ii) A bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, unless:

(A) The association is a Pennsylvania bank holding company or is otherwise authorized by statute to use its name.

(B) The association is a nonprofit corporation holding property in trust under section 5547 (relating to authority to take and hold trust property) and has been converted from a trust

company under Subchapter E of Chapter 3 (relating to conversion). The preceding sentence controls over section 805(b) of the Banking Code of 1965.

(iii) An insurance company, nor shall it contain any of the words "annuity," "assurance," "beneficial," "bond," "casualty," "endowment," "fidelity," "fraternal," "guaranty," "indemnity," "insurance," "insurer," "reassurance," "reinsurance," "surety" or "title" when used in a manner as to imply that the association is engaged in the business of writing insurance or reinsurance as principal or any other words of like purport unless it is duly licensed as an insurance company by its jurisdiction of formation or the Insurance Department certifies that it has no objection to the use by the association or proposed association of the designation. The proper name of a domestic insurance company shall:

(A) contain the word "mutual" only if it is a mutual insurance company; and

(B) clearly designate the object and purpose of the association.

(iv) A public utility furnishing electric or gas service to the public, unless the association or proposed association has as an express purpose the furnishing of service subject to the jurisdiction of the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission.

(v) A credit union. See 17 Pa.C.S. § 104 (relating to prohibition on use of words "credit union").

(2) The proper name of a covered association shall not contain:

(i) The word "college," "university" or "seminary" when used in a manner as to imply that it is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education, unless there is submitted a certificate from the Department of Education certifying that the association or proposed association is entitled to use that designation.

(ii) Words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name.

(iii) The words "engineer" or "engineering," "surveyor" or "surveying" or any other word implying that any form of the practice of engineering or surveying as defined in the act of May 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor and Geologist Registration Law, is provided unless at least one of the individuals signing the initial public organic record of the association or one of the governors of the existing association has been properly registered with the State Registration Board for Professional Engineers in the practice of engineering or surveying and there is submitted to the department a certificate from the board to that effect.

(iv) The words "architect" or "architecture" or any other word implying that any form of the practice of architecture as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the

individuals signing the initial public organic record of the association or one of the governors of the existing association has been properly registered with the Architects Licensure Board in the practice of architecture and there is submitted to the department a certificate from the board to that effect.

(v) The word "cooperative" or an abbreviation thereof unless the corporation is a cooperative corporation.

(vi) Any other words prohibited by law. See section 103 (relating to subordination of title to regulatory laws).

(d) Other rights unaffected.—This section shall not abrogate or limit the law as to unfair competition or unfair practices nor derogate from the common law, the principles of equity or the provisions of 54 Pa.C.S. (relating to names) with respect to the right to acquire and protect trade names.

(e) Remedies for violation of section.—The use of a name in violation of this section shall not vitiate or otherwise affect the existence or any acts of an association, but a court having jurisdiction may enjoin the association from using or continuing to use a name in violation of this section on the application of:

(1) the Attorney General, acting on his or her own motion or at the instance of an administrative department, board or commission of this Commonwealth; or

(2) a person adversely affected.

(f) Court-ordered use of name.—Subsection (b) shall not apply if an association delivers to the department for filing a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the association to use a name in this Commonwealth.

§ 203. Corporation names.

(a) Business corporations.—The proper name of a domestic or registered foreign business corporation must contain:

(1) the word "corporation," "company," "incorporated" or "limited" or an abbreviation of any of the terms;

(2) the word "association," "fund" or "syndicate"; or

(3) words or abbreviations of like import used in a jurisdiction other than this Commonwealth.

(b) Nonprofit corporations.—The proper name of a domestic nonprofit corporation or registered foreign corporation not-for-profit shall not be required to contain one of the words or abbreviations described under subsection (a).

§ 204. Partnership and limited liability company names.

(a) Limited liability partnerships.—The proper name of a domestic limited liability partnership or registered foreign limited liability partnership must contain the term "company," "limited" or "limited liability partnership," or an abbreviation of one of those terms, or words or abbreviations of like import used in a jurisdiction other than this Commonwealth.

(b) Limited partnerships.—The proper name of a domestic or registered foreign limited partnership:

(1) shall not be required to contain a word or abbreviation indicating that it is a limited partnership;

(2) if it is a limited liability limited partnership, must contain:

(i) the term "company," "limited" or "limited liability limited partnership" or a term of like import; or

(ii) an abbreviation of a term under subparagraph (i); and

(3) may contain the name of a partner.

(c) Limited liability companies.—The proper name of a domestic limited liability company or registered foreign limited liability company must contain the term "company," "limited" or "limited liability company," or an abbreviation of one of those terms, or words or abbreviations of like import used in a jurisdiction other than this Commonwealth.

§ 205. Business trust names.

The proper name of a domestic business trust or registered foreign business trust shall not be required to contain a word or abbreviation indicating that it is a business trust.

§ 206. Requirements for foreign association names.

(a) General rule.—The department shall not file a registration statement pursuant to section 412 (relating to foreign registration statement) for a foreign association that, except as provided under subsection (b), has a name that is rendered unavailable for use by a covered association under section 202(a), (b) or (c)(1)(i), (iii), (iv) or (v) or (2) (relating to requirements for names generally).

(b) Exception.—The provisions of section 202(b) and (c) shall not prevent the filing of a registration statement of a foreign association setting forth a name that is prohibited by section 202(b) and (c) if the foreign association delivers to the department for filing a resolution of its governors adopting a name for use in registering to do business in this Commonwealth that is available for use by a covered association.

§ 207. Required name changes by senior associations.

(a) Loss of rights to name.—A covered association shall cease to have the exclusive right to its proper name if the association:

(1) has failed to file in the Department of Revenue a report or a return required by law;

(2) has filed in the Department of Revenue a tax return or certificate indicating that it is out of existence; or

(3) has failed to file the most recent required decennial filing under 54 Pa.C.S. § 503 (relating to decennial filings required).

(b) Adoption of new name on reactivation.—Upon the removal of the reason why a covered association has lost the exclusive right to its proper name under subsection (a), the association shall make inquiry with the Department of State with regard to the availability of its name and, if the name has been appropriated by another person, the covered association shall adopt a new name in accordance with law before resuming its activities.

(c) Enforcement of undertaking to release name.—If a covered association has used a name that is not distinguishable on the records of the Department of State from the name of another association as permitted

by section 202(b)(1) (relating to requirements for names generally) and the other association continues to use its name in this Commonwealth and does not change its name, cease to do business, be wound up or withdraw as it proposed to do in its consent or change its name as required by subsection (a), any court having jurisdiction may enjoin the other association from continuing to use its name or a name that is not distinguishable therefrom on the application of:

(1) the Attorney General, acting on his or her own motion or at the instance of an administrative department, board or commission of this Commonwealth; or

(2) any person adversely affected.

§ 208. Reservation of name.

(a) General rule.—The exclusive right to the use of a name may be reserved by any person. The reservation shall be made by delivering to the department an application to reserve a specified name, signed by the applicant. If the department finds that the name is available for use, it shall reserve the name for the exclusive use of the applicant for a period of 120 days.

(b) Transfer of reservation.—The right to exclusive use of a name reserved pursuant to subsection (a) may be transferred to any other person by delivering to the department a notice in record form of the transfer, signed by the person who reserved the name, and specifying the name and address of the other person.

(c) Cross references.—See:

Section 134 (relating to docketing statement).

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

Section 209 (relating to registration of name of nonregistered foreign association).

§ 209. Registration of name of nonregistered foreign association.

(a) General rule.—A nonregistered foreign association may register its name under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) if the name is available for use by a registered foreign association pursuant to section 206 (relating to requirements for foreign association names) by delivering to the department for filing an application for registration of name, signed by the association, setting forth:

(1) The name of the association.

(2) The address, including street and number, if any, of the principal office of the association.

(b) Annual renewal.—An association that has in effect a registration of its name may renew the registration from year to year by annually delivering to the department for filing an application for renewal setting forth the facts required to be set forth in an original application for registration. A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.

(c) Use of registered name.—A foreign association whose name registration is effective may register as a foreign association under the registered name or consent in record form to the use of that name by another association.

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

SUBCHAPTER B
(RESERVED)

CHAPTER 3
ENTITY TRANSACTIONS

Subchapter

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

§ 311. Short title of chapter.

This chapter shall be known and may be cited as the Entity Transactions Law.

§ 312. Definitions.

(a) Definitions.—The following words and phrases when used in this chapter shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Acquired association." The domestic entity or foreign association, all of one or more classes or series of interests in which are acquired in an interest exchange.

"Acquiring association." The domestic entity or foreign association that acquires all of one or more classes or series of interests of the acquired association in an interest exchange.

"Conversion." A transaction authorized by Subchapter E (relating to conversion).

"Converted association." The converting association as it continues in existence after a conversion.

"Converting association." The domestic entity or domestic banking institution that approves a plan of conversion pursuant to section 353 (relating to approval of conversion) or the foreign association that approves a conversion pursuant to the laws of its jurisdiction of formation.

"Dividing association." The domestic entity that approves a plan of division pursuant to section 363 (relating to approval of division) or 364 (relating to division without interest holder approval) or the foreign association that approves a division pursuant to the laws of its jurisdiction of formation.

"Division." A transaction authorized by Subchapter F (relating to division).

"Domesticated entity." The domesticating entity as it continues in existence after a domestication.

"Domesticating entity." The domestic entity that approves a plan of domestication pursuant to section 373(a) (relating to approval of domestication) or the foreign entity that approves a domestication pursuant to section 373(b).

"Domestication." A transaction authorized by Subchapter G (relating to domestication).

"Interest exchange." A transaction authorized by Subchapter D (relating to interest exchange).

"Interest holder liability." Either of the following:

(1) Personal liability for a liability of an association that is imposed on a person either:

(i) Solely by reason of the status of the person as an interest holder.

(ii) By the organic rules of the association that make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity.

(2) An obligation of an interest holder under the organic rules of an association to contribute to the association.

"Merger." A transaction in which two or more merging associations are combined into a surviving association pursuant to a document filed by the department or similar office in another jurisdiction.

"Merging association." A domestic entity, domestic banking institution or foreign association that is a party to a merger under Subchapter C (relating to merger) and exists immediately before the merger becomes effective.

"New association." An association that is created by a division.

"Plan." A plan of merger, plan of interest exchange, plan of conversion, plan of division or plan of domestication, as applicable.

"Protected agreement." Either of the following:

(1) A record evidencing indebtedness and any related agreement in effect on July 1, 2015.

(2) A protected governance agreement.

"Protected governance agreement." Either of the following:

(1) The organic rules of a domestic entity or foreign association in effect on {the Legislative Reference Bureau shall insert here on the effective date of this chapter}.

(2) An agreement that is binding on any of the governors or interest holders of a domestic entity or foreign association on July 1, 2015.

"Registered office." In the case of a domestic banking institution that is a corporation, the principal place of business of the corporation set forth in its articles of incorporation as required by section 1004 of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

"Resulting association." A dividing association, if it survives the division, or a new association.

"Special treatment." A provision of a plan permitted by section 329 (relating to special treatment of interest holders).

"Surviving association." The domestic entity, domestic banking institution or foreign association that continues in existence after or is created by a merger under Subchapter C.

(b) Index of definitions.—Following is a nonexclusive list of definitions in section 102 (relating to definitions) that apply to this chapter:

"Act" or "action."
"Banking institution."
"Department."
"Dissenters rights."
"Domestic entity."
"Entity."
"Filing entity."
"Foreign entity."
"Governor."
"Interest."
"Interest holder."
"Obligation."
"Organic law."
"Organic rules."
"Private organic rules."
"Property."
"Public organic record."
"Record form."
"Registered foreign association."
"Representative."
"Sign."
"Transfer."
"Type."

§ 313. Relationship of chapter to other provisions of law.

(a) Antitakeover provisions.—A transaction under this chapter to which a registered corporation is a party may not impair any right or obligation that a person has under, and may not make applicable to the corporation, any provision of section 2538 (relating to approval of transactions with interested shareholders) or Subchapters E (relating to control transactions), F (relating to business combinations), G (relating to

control-share acquisitions), H (relating to disgorgement by certain controlling shareholders following attempts to acquire control), I (relating to severance compensation for employees terminated following certain control-share acquisitions) and J (relating to business combination transactions - labor contracts) of Chapter 25, nor shall it change the standard of care applicable to the directors under Subchapter B of Chapter 17 (relating to fiduciary duty) unless:

(1) If the corporation does not survive the transaction, the transaction satisfies any requirements of the provision.

(2) If the corporation survives the transaction, the approval of the transaction is by a vote of the shareholders or directors which would be sufficient to impair the right or obligation under or make the corporation subject to the provision.

(b) Transitional provision.—

(1) This subsection applies to a transaction of a type authorized by this chapter if:

(i) prior to July 1, 2015, a step has been taken to effectuate the transaction; but

(ii) the transaction does not take effect by July 1, 2015.

(2) Except as set forth in paragraph (3), the transaction shall remain subject to the former provisions of law supplied by this chapter until the transaction:

(i) is abandoned; or

(ii) takes effect.

(3) Notwithstanding paragraph (2), if the plan provides that this chapter applies to the transaction, this chapter shall apply to the transaction after June 30, 2015.

§ 314. Regulatory conditions and required notices and approvals.

(a) Regulatory approvals.—If laws of this Commonwealth other than this chapter requires notice to or the approval of a governmental agency or officer of the Commonwealth in connection with the participation under an organic law that is not part of this title by a domestic or foreign association in a transaction which is a form of transaction authorized by this chapter, the notice must be given or the approval obtained by the association before it may participate in any form of transaction under this chapter.

(b) Certain regulated businesses.—A domestic converted association, domestic domesticated entity, domestic new association, domestic resulting association or domestic surviving association may not acquire as a result of a transaction under this chapter the power to engage in the business of banking, insurance or acting as a trust company unless an association of that type is authorized to have and exercise that power under the laws of this Commonwealth.

(c) Charitable assets.—Property held for a charitable purpose under the laws of this Commonwealth by a domestic or foreign association immediately before a transaction under this chapter becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised or otherwise transferred unless, to the extent required by or pursuant to the laws of this Commonwealth concerning cy

pres or other laws dealing with nondiversion of charitable assets, the domestic or foreign association obtains an appropriate order of a court of competent jurisdiction specifying the disposition of the property.

(d) Preservation of transfers.—A bequest, devise, gift, grant or promise contained in a will or other instrument of donation, subscription or conveyance that is made to a merging association that is not the surviving association and that takes effect or remains payable after the merger inures to the surviving association. A trust obligation that would govern property if transferred to a merging association that is not the surviving association applies to property that is transferred to the surviving association.

(e) Cross reference.—See section 318 (relating to excluded entities and transactions).

§ 315. Nature of transactions.

The fact that a sale or conversion of the interests in or assets of an association or a transaction under a particular subchapter produces a result that could be accomplished in any other manner permitted by a different subchapter or other law shall not be a basis for recharacterizing the sale, conversion or transaction as a different form of sale, conversion or transaction under any other subchapter or other law.

§ 316. Contents of plan.

(a) Omission of certain provisions.—A plan as delivered to the department for filing under any provision of this chapter in lieu of a statement of merger, statement of interest exchange, statement of conversion, statement of division or statement of domestication may omit all provisions of the plan except provisions, if any, that:

(1) are intended to amend or constitute the operative provisions of the public organic record of a domestic association as in effect subsequent to the effectiveness of the plan;

(2) are required by this chapter in the statement in lieu of which the plan is being delivered to the department for filing; or

(3) allocate or specify the respective property and liabilities of the resulting associations, in the case of a plan of division.

(b) Availability of full plan.—If any of the provisions of a plan are omitted from the plan as delivered to the department as permitted under subsection (a), the plan must state that the full text of the plan is on file at the principal office of the surviving, acquiring, converted, new or resulting association or domesticated entity and the address thereof. An association that takes advantage of this section shall furnish a copy of the full text of the plan, on request and without cost, to any interest holder of any domestic or foreign association that was a party to the plan.

(c) Reference to external facts.—A plan may refer to facts ascertainable outside of the plan if the manner in which the facts will operate on the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination or action is within the control of a party to the transaction.

§ 317. Contractual dissenters rights in entity transactions.

(a) General rule.—An interest holder of a domestic entity other than a nonprofit corporation or unincorporated nonprofit association shall be entitled to contractual dissenters rights in connection with a transaction under this chapter, even though the interest holder would not otherwise be entitled to dissenters rights under this title to the extent provided:

(1) in the entity's organic rules; or

(2) in the plan.

(b) Procedures for contractual dissenters rights.—If an interest holder is entitled to contractual dissenters rights pursuant to subsection (a), Subchapter D of Chapter 15 (relating to dissenters rights) applies to the extent practicable except as otherwise provided in the organic rules of the domestic entity or the plan.

(c) Cross references.—See sections 329 (relating to special treatment of interest holders) and 1571(c) (relating to application and effect of subchapter).

§ 318. Excluded entities and transactions.

(a) Excluded entities.—The following entities may not participate in a transaction under this chapter:

(1) A cooperative corporation subject to Chapter 73 (relating to electric cooperative corporations).

(2) A beneficial, benevolent, fraternal or fraternal benefit society:

(i) having a lodge system and a representative form of government; or

(ii) transacting any type of insurance.

(b) Excluded transactions involving certain nonprofit corporations.—The following apply to nonprofit corporations:

(1) Except as provided in paragraph (2), this chapter may not be used to accomplish a transaction that has the effect of converting a domestic nonprofit corporation that is subject to the supervision of the Department of Banking and Securities, the Insurance Department or the Pennsylvania Public Utility Commission to a different type of entity.

(2) Paragraph (1) does not apply to a transaction under this chapter in which a health maintenance organization is converted to a different type of entity if the transaction has received the prior approval of the Insurance Department.

(c) Cross references.—See sections 103 (relating to subordination of title to regulatory laws) and 314 (relating to regulatory conditions and required notices and approvals).

§ 319. Party to plan or transaction.

An association that approves a plan in its capacity as an interest holder or creditor of a domestic or foreign association that is a party to the transaction under the plan, or that furnishes all or a part of the consideration contemplated by a plan, does not thereby become a party to the plan or the transaction under the plan for purposes of this chapter.

§ 320. Submission of matters to interest holders.

(a) General rule.—A domestic association may agree, in record form, to submit a plan to its interest holders whether or not the governors determine, at any time after approving the plan, that the plan is no longer advisable and recommend that the interest holders reject or vote against it,

regardless of whether the governors change their recommendation. If an association so agrees to submit a plan to its interest holders, the plan is deemed to have been validly adopted by the association when it has been approved by the interest holders.

(b) Cross references.—See sections 321(c) (relating to approval by business corporation) and 325(c)(2) (relating to approval by limited liability company).

SUBCHAPTER B
APPROVAL OF ENTITY TRANSACTIONS

Sec.

§ 321. Approval by business corporation.

(a) Proposal of plan.—Except where the approval of the board of directors is unnecessary pursuant to section 330 (relating to alternative means of approval of transactions), a plan shall be proposed in the case of a domestic business corporation by the adoption by the board of directors of a resolution approving the plan. Except where the approval of the shareholders is unnecessary under this chapter, the board of directors shall direct that the plan be submitted to a vote of the shareholders entitled to vote thereon at a regular or special meeting of the shareholders.

(b) Notice of meeting of shareholders.—Notice in record form of the meeting of shareholders that will act on the proposed plan 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 transaction under the plan. There shall be included in or enclosed with the notice a copy of the proposed plan or a summary thereof and any notice required by section 329 (relating to special treatment of interest holders). If the holders of shares of any class or series of shares are entitled to assert dissenters rights, the notice must include or be accompanied by the text of the provision of this chapter granting dissenters rights and the text of Subchapter D of Chapter 15 (relating to dissenters rights). The notice must state that a copy of the organic rules of the surviving, acquired, converted, new or resulting association or domesticated entity as they will be in effect immediately following the transaction will be furnished to any shareholder of the corporation giving the notice on request and without cost.

(c) Shareholder vote required.—Except as provided in section 1757 (relating to action by shareholders) or subsection (d), a plan shall be adopted by a domestic business corporation that is a party to the

transaction under the plan upon receiving the affirmative vote of a majority of the votes cast by all shareholders entitled to vote on the plan and, if any class or series of shares is entitled to vote thereon as a class, the affirmative vote of a majority of the votes cast in each class vote. The holders of any class or series of shares of a domestic business corporation that is a party to a transaction under a plan that would effect any change in the articles of the corporation shall be entitled to vote as a class on the plan if they would have been entitled to a class vote under the provisions of section 1914 (relating to adoption of amendments) had the change been accomplished under Subchapter B of Chapter 19 (relating to amendment of articles). Except as provided in section 330, a proposed plan shall not be deemed to have been adopted by a domestic business corporation unless it has also been approved by the board of directors, regardless of the fact that the board has directed or suffered the submission of the plan to the shareholders for action.

(d) Adoption of plan of merger without shareholder vote.—

(1) Unless otherwise required by the organic rules, a plan of merger shall not require the approval of the shareholders of a domestic business corporation that is a merging association if:

(i) whether or not the corporation is the surviving association:

(A) the surviving association is a domestic business corporation and its articles are identical to the articles of the corporation for which shareholder approval is not required, except for changes that could be made without shareholder approval pursuant to section 1914(c);

(B) each share of the corporation outstanding immediately prior to the effectiveness of the merger is to continue as or be converted into, except as may be otherwise agreed by the holder thereof, an identical share of the surviving association; and

(C) the plan provides that the shareholders of the corporation are to hold in the aggregate shares of the surviving association to be outstanding immediately after the effectiveness of the merger entitled to cast at least a majority of the votes entitled to be cast generally for the election of directors;

(ii) immediately prior to the adoption of the plan and at all times thereafter prior to the effectiveness of the merger, another association owns directly or indirectly 80% or more of the outstanding shares of each class of the corporation; or

(iii) no shares of the corporation have been issued prior to the adoption of the plan by the board of directors pursuant to subsection (a).

(2) If a merger is effected pursuant to paragraph (1)(i) or (iii), the plan shall be deemed adopted by the corporation when it has been adopted by the board of directors pursuant to subsection (a).

(3) If a merger of a subsidiary corporation is effected pursuant to paragraph (1)(ii), the plan shall be deemed adopted by the subsidiary corporation when it has been adopted by the governors of the parent association and neither approval of the plan by the board of directors of

the subsidiary corporation nor signing of the statement of merger by the subsidiary corporation shall be necessary.

(4) Unless otherwise required by the organic rules, a plan of merger providing for the merger of a domestic business corporation (referred to in this paragraph as a "constituent corporation") with or into a single indirect wholly owned subsidiary (referred to in this paragraph as the "subsidiary corporation") of the constituent corporation shall not require the approval of the shareholders of either the constituent corporation or the subsidiary corporation if all of the following provisions are satisfied:

(i) A merger under this paragraph must satisfy the following conditions:

(A) The constituent corporation and the subsidiary corporation are the only parties to the merger, other than a surviving association that is a corporation created in the merger.

(B) Each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effectiveness of the merger is converted in the merger into a share or equal fraction of a share of capital stock of a holding company having the same designations, rights, powers and preferences and the qualifications, limitations and restrictions as the share of capital stock of the constituent corporation being converted in the merger.

(C) The holding company and the surviving association are each domestic business corporations.

(D) Immediately following the effectiveness of the merger, the articles of incorporation and bylaws of the holding company are identical to the articles of incorporation and bylaws of the constituent corporation immediately before the effectiveness of the merger, except for changes that could be made without shareholder approval pursuant to section 1914(c).

(E) Immediately following the effectiveness of the merger, the surviving association is a direct or indirect wholly owned subsidiary of the holding company.

(F) The directors of the constituent corporation become or remain the directors of the holding company on the effectiveness of the merger.

(G) The board of directors of the constituent corporation has made a good faith determination that the shareholders of the constituent corporation will not recognize gain or loss for United States Federal income tax purposes.

(ii) If the holding company is a registered corporation, the shares of the holding company issued in connection with the merger shall be deemed to have been acquired at the time that the shares of the constituent corporation converted in the merger were acquired.

(iii) As used in this paragraph only, the term "holding company" means a corporation that, from its incorporation until consummation of the merger governed by this paragraph, was at all

times a direct wholly owned subsidiary of the constituent corporation and whose capital stock is issued in the merger.

(e) Approval of division by preferred shares.—If a dividing association that is a business corporation has outstanding any shares of a preferred or special class or series of shares, regardless of a limitation stated in the articles or bylaws on the voting rights of the class or series of shares, the holders of outstanding shares of the class or series shall be entitled to vote as a class on a plan of division which:

(1) provides that the dividing association will not survive the division; or

(2) amends the articles or bylaws of the surviving corporation in a manner that would entitle the holders of the preferred or special shares to a class vote on the amendment under the articles, the bylaws or section 1914(b).

(f) Cross references.—See:

Subchapter A of Chapter 17 (relating to notice and meetings generally).

Section 2512 (relating to dissenters rights procedure).

Section 2539 (relating to adoption of plan of merger by board of directors).

Section 3304(b) (relating to election of benefit corporation status).

Section 3305(b) (relating to termination of benefit corporation status).

§ 322. Approval by nonprofit corporation.

(a) Proposal of plan.—A plan shall be proposed in the case of a domestic nonprofit corporation as follows:

(1) by the adoption by the board of directors or other body of a resolution approving the plan;

(2) unless otherwise provided in the articles, by petition of members entitled to cast at least 10% of the votes that all members are entitled to cast thereon, setting forth the proposed plan, which petition shall be directed to the board of directors and filed with the secretary of the corporation; or

(3) by such other method as may be provided in the bylaws.

(b) Submission to members.—Except where the domestic nonprofit corporation has no members entitled to vote thereon, the board of directors or other body shall direct that the plan be submitted to a vote of the members entitled to vote thereon at a regular or special meeting of the members.

(c) Notice of meeting of members.—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 transaction under the plan. A copy of the proposed plan or a summary thereof shall be included in or enclosed with the notice. The notice shall state that a copy of the organic rules of the surviving, acquired, converted, new or resulting association or domesticated entity as they will be in effect immediately following the transaction will be furnished to any member of the corporation giving the notice on request and without cost.

(d) Member vote required.—Except as provided in section 5757 (relating to action by members), a plan shall be adopted upon receiving the affirmative vote of at least a majority of the votes that all members present are entitled to cast thereon of each domestic nonprofit corporation that is a party to the transaction under the plan. If any class of members is entitled to vote on the plan as a class, the plan must be adopted by the affirmative vote of at least a majority of the votes that all members present of such class are entitled to cast thereon.

(e) Adoption in absence of voting members.—If a domestic nonprofit corporation has no members entitled to vote thereon, a plan shall be deemed adopted by the corporation when it has been adopted by the board of directors or other body pursuant to subsection (a).

(f) Cross references.—See Subchapter A of Chapter 57 (relating to notice and meetings generally) and section 3304(b) (relating to election of benefit corporation status).

§ 323. Approval by general partnership.

(a) General rule.—A plan shall be approved in the case of a domestic general partnership as follows:

(1) in the manner provided in its organic rules for the type of plan involved;

(2) if its organic rules do not provide for approval of the type of plan involved, in the manner provided in its organic rules for approval of a plan of merger; or

(3) if its organic rules do not provide for approval of the type of plan involved or a plan of merger, the plan shall be approved by all of the partners.

(b) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 324. Approval by limited partnership.

(a) Proposal of plan.—A plan shall be proposed in the case of a domestic limited partnership by the adoption by a unanimous vote of the general partners of a resolution approving the plan. Except where the approval of the limited partners is unnecessary under this chapter or the organic rules, the general partners shall submit the plan to a vote of the limited partners entitled to vote thereon at a regular or special meeting of the limited partners.

(b) Notice of meeting of limited partners.—Notwithstanding any other provision of the organic rules, notice in record form of the meeting of limited partners called for the purpose of considering the proposed plan shall be given to each limited partner, whether or not entitled to vote thereon, of each domestic limited partnership that is a party to the transaction under the plan. A copy of the proposed plan or a summary thereof shall be included in or enclosed with the notice. The notice shall state that a copy of the organic rules of the surviving, acquired, converted, new or resulting association or domesticated entity as they will be in effect immediately following the transaction will be furnished to any limited partner of the limited partnership giving the notice on request and without cost.

(c) Required vote by limited partners.—The plan shall be adopted upon receiving a majority of the votes cast by all limited partners, if any, entitled to vote thereon of each domestic limited partnership that is a party to the proposed transaction under the plan and, if any class of limited partners is entitled to vote thereon as a class, a majority of the votes cast in each class vote. A proposed plan may not be deemed to have been adopted by the limited partnership unless it has also been approved by the general partners, regardless of the fact that the general partners have directed or suffered the submission of the plan to the limited partners for action.

(d) Merger by action of general partners only.—Except as provided in the organic rules, a plan of merger shall not require the approval of the limited partners of a domestic limited partnership that is a merging association and shall be deemed adopted by the limited partnership when it has been adopted by the general partners pursuant to subsection (a) if:

(1) whether or not the limited partnership is the surviving association, the surviving association is a domestic limited partnership and its organic rules are identical to the organic rules of the merging limited partnership, except for changes that could be made without action by the limited partners; and

(2) each partnership interest outstanding immediately before the effectiveness of the merger is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical partnership interest in the surviving limited partnership after the effectiveness of the merger.

(e) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 325. Approval by limited liability company.

(a) Proposal of plan in manager-managed company.—Except as provided in the organic rules or where the approval of the managers is unnecessary under section 330 (relating to alternative means of approval of transactions), a plan shall be proposed, in the case of a manager-managed, domestic limited liability company, by the adoption by the managers of a resolution approving the plan. Except where the approval of the members of a manager-managed, domestic limited liability company is unnecessary under this chapter or the organic rules, the plan shall be submitted to a vote of the members entitled to vote thereon at a regular or special meeting of the members.

(b) Notice of meeting of members.—Except as provided in the organic rules:

(1) Notice in record form of the meeting of members of a domestic limited liability company 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 limited liability company that is a party to the transaction under the plan.

(2) There shall be included in or enclosed with the notice a copy of the proposed plan or a summary thereof.

(3) The notice shall state that a copy of the organic rules of the surviving, acquired, converted, new or resulting association or domesticated entity as they will be in effect immediately following the

transaction will be furnished to any member of the company giving the notice on request and without cost.

(c) Adoption of plan by members.—A plan:

(1) Except as provided in the organic rules, shall be adopted upon receiving a majority of the votes cast by all members, if any, entitled to vote thereon of each of the domestic limited liability companies that is a party to the transaction under the plan and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(2) Except as provided in the organic rules or section 330, shall not be deemed to have been adopted by a manager-managed company unless it has also been approved by the managers, regardless of the fact that the managers have directed or suffered the submission of the plan to the members for action.

(d) Merger by action of managers only.—Unless otherwise required by a provision of the organic rules in record form, a plan of merger shall not require the approval of the members of a manager-managed, domestic limited liability company and shall be deemed adopted by the company when a resolution approving the plan has been adopted by the managers pursuant to subsection (a) if:

(1) Whether the company is the surviving association:

(i) the surviving association is a domestic limited liability company and its organic rules are identical to the organic rules of the limited liability company that is party to the merger, except for changes that could be made without action by the members; and

(ii) each membership interest outstanding immediately prior to the effectiveness of the merger is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical membership interest in the surviving association after the effectiveness of the merger.

(2) The plan of merger provides for the merger of the company (referred to in this paragraph as the "constituent company") with or into a single indirect wholly owned subsidiary (referred to in this paragraph as the "subsidiary company") of the constituent company if all of the following provisions are satisfied:

(i) The constituent company and the subsidiary company are the only parties to the merger, other than a surviving association that is created in the merger.

(ii) Each interest of the constituent company outstanding immediately prior to the effectiveness of the merger is converted in the merger into an interest of a holding company having the same designations, rights, powers and preferences and the qualifications, limitations and restrictions as the interest of the constituent company being converted in the merger.

(iii) The holding company and the surviving association are each domestic limited liability companies.

(iv) Immediately following the effectiveness of the merger, the certificate of organization and operating agreement of the holding company are identical to the certificate of organization and

operating agreement of the constituent company immediately before the effectiveness of the merger, except for changes that could be made without member approval pursuant to Chapter 89 (relating to limited liability companies).

(v) Immediately following the effectiveness of the merger, the surviving association is a direct or indirect wholly owned subsidiary of the holding company.

(vi) The managers of the constituent company become or remain the managers of the holding company on the effectiveness of the merger.

(vii) The managers of the constituent company have made a good faith determination that the members of the constituent company will not recognize gain or loss for United States Federal income tax purposes.

(viii) As used in this paragraph only, the term "holding company" means a limited liability company that, from its formation until consummation of the merger governed by this paragraph, was at all times a direct wholly owned subsidiary of the constituent company and interests in which are issued in the merger.

(e) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 326. Approval by professional association.

(a) General rule.—A plan shall be approved in the case of a domestic professional association by vote of a majority, or such higher percentage as may be provided in the organic rules, of the associates, voting according to their proportionate shares of ownership.

(b) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 327. Approval by business trust.

(a) General rule.—Except as provided in subsection (b), a plan shall be approved in the case of a domestic business trust as follows:

(1) in the manner provided in its organic rules for the type of plan involved;

(2) if its organic rules do not provide for approval of the type of plan involved, in the manner provided in its organic rules for approval of a plan of merger; or

(3) if its organic rules do not provide for approval of the type of plan involved or a plan of merger, the plan shall be approved by all of the beneficial owners.

(b) Adoption of plan of merger without beneficiary vote.—Unless otherwise required by the organic rules, a plan of merger providing for the merger of a domestic business trust (referred to in this paragraph as the "constituent trust") with or into a single indirect wholly owned subsidiary (referred to in this paragraph as the "subsidiary trust") of the constituent trust shall not require the approval of the beneficiaries of the constituent trust if all of the following provisions are satisfied:

(1) The constituent trust and the subsidiary trust are the only parties to the merger, other than a surviving association created in the merger.

(2) Each interest in the constituent trust outstanding immediately prior to the effectiveness of the merger is converted in the merger into an interest in the holding trust having the same designations, rights, powers and preferences and the qualifications, limitations and restrictions as the interests in the constituent trust being converted in the merger.

(3) The holding trust and the surviving association are each domestic business trusts.

(4) Immediately following the effectiveness of the merger, the instrument and organic rules of the holding trust are identical to the instrument and organic rules of the constituent trust immediately before the effectiveness of the merger, except for changes that could be made without beneficiary approval under Chapter 95 (relating to business trusts).

(5) Immediately following the effectiveness of the merger, the surviving association is a direct or indirect wholly owned subsidiary of the holding trust.

(6) The trustees of the constituent trust become or remain the trustees of the holding trust on the effectiveness of the merger.

(7) The trustees of the constituent trust have made a good faith determination that the beneficiaries of the constituent trust will not recognize gain or loss for United States Federal income tax purposes.

(8) As used in this subsection only, the term "holding trust" means a business trust that, from its formation until consummation of the merger governed by this subsection, was at all times a direct wholly owned subsidiary of the constituent trust and the interests in which are issued in the merger.

(c) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 328. Approval by unincorporated nonprofit association.

(a) General rule.—Except as provided in the governing principles, a plan shall be approved in the case of a domestic unincorporated nonprofit association by the affirmative vote of at least a majority of the votes cast at a meeting of the members.

(b) Cross reference.—See section 3304(b) (relating to election of benefit corporation status).

§ 329. Special treatment of interest holders.

(a) General rule.—Except as otherwise restricted in the organic rules, a plan may contain a provision classifying the interest holders of a class or series of interests into one or more separate groups by reference to any facts or circumstances that are not manifestly unreasonable and providing mandatory treatment for interests of the class or series held by particular interest holders or groups of interest holders that differs materially from the treatment accorded other interest holders or groups of interest holders that hold interests of the same class or series, including a provision

modifying or rescinding rights previously created under this section if either of the following applies:

(1) The plan:

(i) is approved by a majority of the votes cast by the holders of any class or series of interests any of the interests of which are so classified into groups, whether or not such class or series would otherwise be entitled to vote on the plan; and

(ii) specifically enumerates the type and extent of the special treatment authorized.

(2) Under all the facts and circumstances, a court of competent jurisdiction finds such special treatment is undertaken in good faith, after reasonable deliberation and is in the best interest of the association.

(b) Statutory voting rights on special treatment.—Except as provided in subsection (d), if a plan contains a provision for special treatment, each group of holders of any outstanding interests of a class or series who are to receive the same special treatment under the plan shall be entitled to vote as a special class in respect to the plan regardless of any limitations stated in the organic rules on the voting rights of any class or series.

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

(d) Dissenters rights on special treatment.—If a plan contains a provision for special treatment without requiring for the adoption of the plan the statutory class vote required under subsection (b), the holder of any outstanding interests the statutory class voting rights of which are so denied shall be entitled to assert dissenters rights with respect to those interests. A shareholder of a business corporation who wishes to assert dissenters rights shall comply with Subchapter D of Chapter 15 (relating to dissenters rights). An interest holder in any other type of domestic entity shall comply with Subchapter D of Chapter 15 to the extent practicable.

(e) Notice to interest holders.—Any notice to interest holders of a meeting called to act on a plan that provides for special treatment shall state that the plan provides for special treatment. The notice shall identify the interest holders receiving special treatment unless the notice is accompanied by either a summary of the plan that includes that information or the full text of the plan.

(f) Exceptions.—This section shall not apply to any of the following:

(1) A provision of a plan that offers to all holders of interests of a class or series the same option to elect certain treatment.

(2) A plan involving any type of domestic entity that contains an express provision that this section does not apply or that fails to contain an express provision that this section shall apply.

(3) A provision of a plan that treats all of the holders of a particular class or series of interests of any type of domestic entity differently from the holders of another class or series. A provision of a plan that treats the holders of a class or series of shares of a domestic business corporation differently from the holders of another class or series of

shares shall not constitute a violation of section 1521(d) (relating to authorized shares).

§ 330. Alternative means of approval of transactions.

(a) General rule.—Except as provided in subsection (b) or the organic rules of a domestic entity, approval of a transaction under this chapter by the unanimous vote or consent of its interest holders satisfies the requirements of this chapter for approval of the transaction.

(b) Exception.—Subsection (a) shall not apply to a nonprofit corporation.

SUBCHAPTER C
MERGER

Sec.

§ 331. Merger authorized.

(a) General rule.—Except as provided in section 318 (relating to excluded entities and transactions) or this section, by complying with this chapter:

(1) One or more domestic entities may merge with one or more domestic entities or foreign associations into a surviving association.

(2) Two or more foreign associations may merge into a surviving association that is a domestic entity.

(3) A domestic banking institution may be a merging association or surviving association in a merger with one or more domestic or foreign associations if the surviving association or at least one of the merging associations is a domestic entity.

(b) Foreign law authorization required.—By complying with the applicable provisions of this subchapter, a foreign association may be a party to a merger under this subchapter or may be the surviving association in such a merger if the merger is authorized by the laws of the jurisdiction of formation of the foreign association.

(c) Banking institutions.—Subsection (a)(3) controls over any inconsistent provision of the organic law of a domestic banking institution that is a merging association.

(d) Exception.—A health maintenance organization may be a merging association only if the surviving association is a health maintenance organization.

(e) Cross reference.—See section 314 (relating to regulatory conditions and required notices and approvals).

§ 332. Plan of merger.

(a) General rule.—A domestic entity may become a party to a merger by approving a plan of merger. The plan shall be in record form and contain all of the following:

(1) As to each merging association, its name, jurisdiction of formation and type.

(2) If the surviving association is to be created in the merger, a statement to that effect and the association's name, jurisdiction of formation and type.

(3) The manner, if any, of:

(i) converting some or all of the interests in a merging association into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or

(ii) canceling some or all of the interests in a merging association.

(4) If the surviving association exists before the merger, any proposed amendments to:

(i) its public organic record, if any; or

(ii) its private organic rules that are or are proposed to be in record form.

(5) If the surviving association is to be created in the merger:

(i) its proposed public organic record, if any; and

(ii) the full text of its private organic rules that are proposed to be in record form.

(6) Provisions, if any, providing special treatment of interests in a merging association held by any interest holder or group of interest holders as authorized by and subject to section 329 (relating to special treatment of interest holders).

(7) The other terms and conditions of the merger.

(8) Any other provision required by:

(i) the laws of this Commonwealth;

(ii) the laws of the jurisdiction of formation of a foreign merging or surviving association; or

(iii) the organic rules of a merging association.

(b) Optional contents.—In addition to the requirements of subsection (a), a plan of merger may contain any other provision not prohibited by law.

(c) Cross reference.—See section 316 (relating to contents of plan).

§ 333. Approval of merger.

(a) Approval by domestic entities.—A plan of merger shall not be effective unless it has been approved in both of the following ways:

(1) The plan is approved by a domestic entity that is a merging association in accordance with the applicable provisions of Subchapter B (relating to approval of entity transactions).

(2) The plan is approved in record form by each interest holder, if any, of a domestic entity that is a merging association that will have interest holder liability for debts, obligations and other liabilities that arise after the merger becomes effective, unless, as to an interest holder that does not approve the plan, both of the following apply:

(i) The organic rules of the domestic entity provide in record form for the approval of a merger in which some or all of its interest

holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders.

(ii) The interest holder consented in record form to or voted for that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) Approval by foreign associations.—A merger under this subchapter in which a foreign association is a merging association is not effective unless the merger is approved by the foreign association in accordance with the laws of its jurisdiction of formation.

(c) Approval by domestic banking institutions.—A merger under this subchapter in which a domestic banking institution that is not a domestic entity is a merging association is not effective unless the merger is approved by the domestic banking institution in accordance with the requirements in its organic laws and organic rules for approval of a merger.

(d) Dissenters rights.—

(1) Except as provided in paragraph (2), if a shareholder of a domestic business corporation that is to be a merging association objects to the plan of merger and complies with Subchapter D of Chapter 15 (relating to dissenters rights), the shareholder shall be entitled to dissenters rights to the extent provided in that subchapter.

(2) Except as provided under section 317 (relating to contractual dissenters rights in entity transactions), dissenters rights shall not be available to shareholders of a domestic business corporation that is a merging association in a merger described in section 321(d)(1)(i) or (4) (relating to approval by business corporation).

(3) If a shareholder of a domestic banking institution that is to be a merging association objects to the plan of merger and complies with section 1222 of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, the shareholder shall be entitled to the rights provided in that section.

(4) See section 329 (relating to special treatment of interest holders).

§ 334. Amendment or abandonment of plan of merger.

(a) General rule.—A plan of merger may be amended or abandoned only with the consent of each party to the plan, except as otherwise provided in the plan.

(b) Approval of amendment.—A domestic entity that is a merging association may approve an amendment of a plan of merger in one of the following ways:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or

any combination of the foregoing, to be received by the interest holders of any party to the plan.

(ii) The public organic record, if any, or private organic rules of the surviving association that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving association under its organic law or organic rules.

(iii) Any other terms or conditions of the plan, if the change would:

(A) increase the interest holder liability to which the interest holder will be subject; or

(B) otherwise adversely affect the interest holder in any material respect.

(c) Approval of abandonment.—After a plan of merger has been approved by a domestic entity that is a merging association and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic entity that is a merging association may abandon the plan in the same manner as the plan was approved.

(d) Statement of abandonment.—If a plan of merger is abandoned after a statement of merger has been delivered to the department for filing and before the statement becomes effective, a statement of abandonment under section 141 (relating to abandonment of filing before effectiveness), signed by a party to the plan, must be delivered to the department for filing before the statement of merger becomes effective.

§ 335. Statement of merger; effectiveness.

(a) General rule.—A statement of merger shall be signed by each merging association and delivered to the department for filing along with the certificates, if any, required by section 139 (relating to tax clearance of certain fundamental transactions).

(b) Contents.—A statement of merger shall contain all of the following:

(1) With respect to each merging association that is not the surviving association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address);

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(2) With respect to the surviving association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109;

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(3) If the statement of merger is not to be effective on filing, the later date or date and time on which it will become effective.

(4) A statement that the merger was approved in the following ways as applicable:

(i) By a domestic entity that is a merging association, in accordance with this chapter.

(ii) By a foreign merging association, in accordance with the laws of its jurisdiction of formation.

(iii) By a domestic merging association that is not a domestic entity, in the same manner required by its organic law for approving a merger that requires the approval of its interest holders.

(5) If the surviving association exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger.

(6) If the surviving association is created by the merger and is a domestic filing entity, its public organic record, as an attachment. The public organic record does not need to state the name or address of an incorporator of a corporation, organizer of a limited liability company or similar person with respect to any other type of entity.

(7) If the surviving association is created by the merger and is a nonregistered foreign association, one of the following:

(i) The street and mailing addresses of its registered agent and registered office in its jurisdiction of formation if it is a filing entity.

(ii) The street and mailing address of its principal office if it is not a filing entity.

(8) If the surviving association is created by the merger and is a domestic limited liability partnership or a domestic limited liability limited partnership that is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration, as an attachment.

(9) If the surviving association is created by the merger and is a domestic electing partnership, its statement of election.

(c) Other provisions.—In addition to the requirements of subsection (b), a statement of merger may contain any other provision not prohibited by law.

(d) Domestic surviving association.—If the surviving association is a domestic entity, its public organic record, if any, shall satisfy the requirements of the laws of this Commonwealth, except that the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) Filing of plan.—A plan of merger that is signed by all of the merging associations and meets all of the requirements of subsection (b) may be delivered to the department for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this subsection, references in this chapter to a statement of merger refer to the plan of merger filed under this subsection.

(f) Effectiveness of statement of merger.—A statement of merger is effective as provided in section 136(c) (relating to processing of documents by Department of State).

(g) Effectiveness of merger.—If the surviving association is a domestic association, the merger is effective when the statement of merger is effective. If the surviving association is a foreign association, the merger is effective on the later of:

(1) the date and time provided by the organic law of the surviving association; or

(2) when the statement of merger is effective.

(h) Cross references.—See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 316 (relating to contents of plan).

§ 336. Effect of merger.

(a) General rule.—When a merger under this subchapter becomes effective, all of the following apply:

(1) The surviving association continues or comes into existence.

(2) Each merging association that is not the surviving association ceases to exist.

(3) All property of each merging association vests in the surviving association without reversion or impairment, and the merger shall not constitute a transfer of any of that property.

(4) All debts, obligations and other liabilities of each merging association are debts, obligations and other liabilities of the surviving association.

(5) Except as otherwise provided by law, all the rights, privileges, immunities and powers of each merging association vest in the surviving association.

(6) If the surviving association exists before the merger, all of the following apply:

(i) All of its property continues to be vested in it without transfer, reversion or impairment.

(ii) It remains subject to all its debts, obligations and other liabilities.

(iii) All its rights, privileges, immunities and powers continue to be vested without change in it.

(iv) Its public organic record, if any, is amended to the extent provided in the statement of merger.

(v) Its private organic rules that are to be in record form, if any, are amended to the extent provided in the plan of merger.

(7) Liens on the property of the merging association shall not be impaired by the merger.

(8) A claim existing or an action or a proceeding pending by or against any of the merging associations may be prosecuted to judgment as if the merger had not taken place, or the surviving association may be proceeded against or substituted in place of the appropriate merging association.

(9) If the surviving association is created by the merger, its private organic rules are effective and the following apply:

(i) If it is a filing entity, its public organic record is effective.

(ii) If it is a limited liability partnership or a limited liability limited partnership that is not using the alternative procedure under section 8201(f) (relating to scope), its statement of registration is effective.

(iii) If it is an electing partnership, its statement of election is effective.

(10) The interests in each merging association that are to be converted or canceled as provided in the plan of merger are converted or canceled, and the interest holders of those interests are entitled only to the rights provided to them under the plan and to any dissenters rights they have pursuant to section 317 (relating to contractual dissenters rights in entity transactions) or 333(d) (relating to approval of merger).

(b) No dissolution rights.—Except as provided in the organic law or organic rules of a merging association, a merger under this subchapter does not give rise to any rights that an interest holder, governor or third party would have on a dissolution, liquidation or winding up of the merging association.

(c) New interest holder liability.—When a merger under this subchapter becomes effective, a person that becomes subject to interest holder liability with respect to an association as a result of the merger has interest holder liability only to the extent provided by the organic law of that association and only for those debts, obligations and other liabilities that arise after the merger becomes effective.

(d) Prior interest holder liability.—When a merger under this subchapter becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic entity that is a merging association with respect to which the person had interest holder liability shall be as follows:

(1) The merger does not discharge any interest holder liability under the organic law of the domestic entity to the extent the interest holder liability arose before the merger became effective.

(2) The person does not have interest holder liability under the organic law of the domestic entity for any debt, obligation or other liability that arises after the merger becomes effective.

(3) The organic law of the domestic entity continues to apply to the release, collection or discharge of any interest holder liability preserved under paragraph (1) as if the merger had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by law other than this chapter or the organic rules of the domestic entity with respect to any interest holder liability preserved under paragraph (1) as if the merger had not occurred.

(e) Foreign surviving association.—When a merger under this subchapter becomes effective, a foreign association that is the surviving association may be served with process in this Commonwealth for the collection and enforcement of any debts, obligations or other liabilities of a domestic entity that is a merging association in accordance with applicable law.

(f) Registration of foreign association.—When a merger under this subchapter becomes effective, the registration to do business in this Commonwealth of a registered foreign association that is a merging association and is not the surviving association is canceled.

(g) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against any of the merging associations that are settled, assessed or determined prior to or after the merger shall be the liability of the surviving association and, together with interest thereon, shall be a lien against the franchises and property of the surviving association.

SUBCHAPTER D
INTEREST EXCHANGE

Sec.

§ 341. Interest exchange authorized.

(a) General rule.—Except as provided in section 318 (relating to excluded entities and transactions) or this section, by complying with this subchapter:

(1) A domestic or foreign association may acquire all of one or more classes or series of interests of a domestic entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities or any combination of the foregoing.

(2) A domestic entity may acquire all of one or more classes or series of interests of a foreign association in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities or any combination of the foregoing.

(b) Foreign associations.—By complying with the applicable provisions of this subchapter:

(1) A foreign association may be the acquiring association in an interest exchange under this subchapter regardless of whether the laws of its jurisdiction of formation authorizes an interest exchange.

(2) A foreign association may be the acquired association in an interest exchange under this subchapter only if the interest exchange is authorized by the laws of its jurisdiction of formation.

(c) Protected agreements.—If a protected agreement of a domestic entity other than a business corporation contains a provision that applies to a merger of the entity but does not refer to an interest exchange, the provision shall apply to an interest exchange in which the domestic entity is the acquired association as if the interest exchange were a merger until the provision is amended after July 1, 2015.

(d) Excluded entities.—The following domestic entities shall not be the acquired association in an interest exchange:

(1) a health maintenance organization;

(2) a hospital plan corporation; or

(3) a professional health service organization.

(e) Transitional provision.—A reference to a share exchange in a provision of the organic rules of a domestic business corporation which took effect before July 1, 2015, shall be deemed to include an interest exchange.

(f) Cross reference.—See section 314 (relating to regulatory conditions and required notices and approvals).

§ 342. Plan of interest exchange.

(a) General rule.—A domestic entity may be the acquired association in an interest exchange under this chapter by approving a plan of interest exchange. The plan shall be in record form and contain all of the following:

(1) The name and type of the acquired association.

(2) The name, jurisdiction of formation and type of the acquiring association.

(3) The manner of:

(i) exchanging the interests in the acquired association to be acquired in the interest exchange into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; and

(ii) canceling, if desired, some or all other interests in the acquired association.

(4) Any proposed amendments to:

(i) the public organic record, if any, of the acquired association; and

(ii) the private organic rules of the acquired association that are or are proposed to be in record form.

(5) Provisions, if any, providing special treatment of interests in the acquired association held by any interest holder or group of interest holders as authorized by and subject to section 329 (relating to special treatment of interest holders).

(6) The other terms and conditions of the interest exchange.

(7) Any other provision required by:

(i) the laws of this Commonwealth; or

(ii) the organic rules of the acquired association.

(b) Optional contents.—In addition to the requirements of subsection (a), a plan of interest exchange may contain any other provision not prohibited by law.

(c) Cross reference.—See section 316(c) (relating to contents of plan).

§ 343. Approval of interest exchange.

(a) Approval by domestic entities.—A plan of interest exchange in which the acquired association is a domestic entity shall not be effective unless it has been approved in the following ways:

(1) By the acquired domestic entity in accordance with the applicable provisions of Subchapter B (relating to approval of entity transactions).

(2) In record form, by each interest holder of the acquired domestic entity that will have interest holder liability for debts, obligations and other liabilities that arise after the interest exchange becomes effective, unless, as to an interest holder that does not approve the plan, both of the following apply:

(i) The organic rules of the entity provide in record form for the approval of an interest exchange or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders.

(ii) The interest holder voted for or consented in record form to that provision of the organic rules or became an interest holder after the adoption of that provision.

(3) Except as provided in the organic rules of the domestic entity, by the following class votes:

(i) the holders of any class or series of interests of the acquired association to be exchanged or canceled shall be entitled to vote as a class on the plan; and

(ii) the holders of any class or series of interests of the acquired association shall be entitled to vote as a class on the plan if the plan effects any change in the organic rules and those holders would have been entitled to vote as a class if the change had been made in any other manner.

(b) Approval by foreign associations.—An interest exchange in which the acquired association is a foreign association is not effective unless it is approved by the foreign association in accordance with the laws of its jurisdiction of formation.

(c) Acquiring association.—Except as provided in its organic law or organic rules, the interest holders of the acquiring association are not required to approve the interest exchange.

(d) Dissenters rights.—If a shareholder of a domestic business corporation that is to be the acquired association in an interest exchange objects to the plan of exchange and complies with Subchapter D of Chapter 15 (relating to dissenters rights), the shareholder shall be entitled to dissenters rights to the extent provided in that subchapter.

(e) Cross references.—See sections 317 (relating to contractual dissenters rights in entity transactions) and 329(c) (relating to special treatment of interest holders).

§ 344. Amendment or abandonment of plan of interest exchange.

(a) General rule.—A plan of interest exchange may be amended or abandoned only with the consent of each party to the plan, except as otherwise provided in the plan.

(b) Approval of amendment.—A domestic entity that is the acquired association may approve an amendment of a plan of interest exchange in one of the following ways:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the entity under the plan.

(ii) The public organic record, if any, or private organic rules of the entity that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the interest holders of the entity under its organic law or organic rules.

(iii) Any other terms or conditions of the plan, if the change would:

(A) increase the interest holder liability to which the interest holder will be subject; or

(B) otherwise adversely affect the interest holder in any material respect.

(c) Approval of abandonment.—After a plan of interest exchange has been approved by a domestic entity that is the acquired entity and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic entity that is the acquired association may abandon the plan in the same manner as the plan was approved.

(d) Statement of abandonment.—If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the department for filing and before the statement becomes effective, a statement of abandonment under section 141 (relating to abandonment of filing before effectiveness), signed by the acquired association, must be delivered to the department for filing before the time the statement of interest exchange becomes effective.

§ 345. Statement of interest exchange; effectiveness.

(a) General rule.—If the acquired association is a domestic entity, a statement of interest exchange shall be signed by that entity and delivered to the department for filing.

(b) Contents.—A statement of interest exchange shall contain all of the following:

(1) With respect to the acquired association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association or domestic limited liability partnership, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address); and

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office.

(2) With respect to the acquiring association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109;

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(3) If the statement of interest exchange is not to be effective on filing, the later date or date and time on which it will become effective.

(4) A statement that the plan of interest exchange was approved by the acquired association in accordance with this chapter.

(5) Any amendments to the public organic record of the acquired association approved as part of the plan of interest exchange.

(c) Other provisions.—In addition to the requirements of subsection (b), a statement of interest exchange may contain any other provision not prohibited by law.

(d) Filing of plan.—A plan of interest exchange that is signed by the domestic entity that is the acquired association and that meets all of the requirements of subsection (b) may be delivered to the department for filing instead of a statement of interest exchange and on filing shall have the same effect. If a plan of interest exchange is delivered to the

department for filing as provided in this subsection, references in this chapter to a statement of interest exchange shall refer to the plan of interest exchange filed under this subsection.

(e) Effectiveness.—An interest exchange in which the acquired association is a domestic entity is effective when the statement of interest exchange is effective as provided in section 136(c) (relating to processing of documents by Department of State).

(f) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 346. Effect of interest exchange.

(a) General rule.—When an interest exchange in which the acquired association is a domestic entity becomes effective, all of the following apply:

(1) Interests in the acquired association are exchanged or canceled as provided in the plan of exchange, and the interest holders of those interests are entitled only to the rights provided to them under the plan and to any dissenters rights they have pursuant to section 317 (relating to contractual dissenters rights in entity transactions) or 343(d) (relating to approval of interest exchange).

(2) The acquiring association becomes the interest holder of the interests in the acquired association stated in the plan of interest exchange to be acquired by the acquiring entity.

(3) The public organic record, if any, of the acquired association is amended to the extent provided in the statement of interest exchange.

(4) The private organic rules of the acquired association that are to be in record form, if any, are amended to the extent provided in the plan of interest exchange.

(b) No dissolution rights.—Except as provided in the organic rules of the acquired association, the interest exchange shall not give rise to any rights that an interest holder, governor or third party would have upon a dissolution, liquidation or winding up of the acquired association.

(c) New interest holder liability.—When an interest exchange becomes effective, a person that becomes subject to interest holder liability with respect to an association as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the association and only for those debts, obligations and other liabilities that arise after the interest exchange becomes effective.

(d) Prior interest holder liability.—When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired association with respect to which the person had interest holder liability is as follows:

(1) The interest exchange does not discharge any interest holder liability under the organic law of the domestic acquired association to the extent the interest holder liability arose before the interest exchange became effective.

(2) The person does not have interest holder liability under the organic law of the domestic acquired association for any debt, obligation or other liability that arises after the interest exchange becomes effective.

(3) The organic law of the domestic acquired association continues to apply to the release, collection or discharge of any interest holder liability preserved under paragraph (1) as if the interest exchange had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by law other than this title or the organic law or organic rules of the domestic acquired association with respect to any interest holder liability preserved under paragraph (1) as if the interest exchange had not occurred.

SUBCHAPTER E
CONVERSION

Sec.

§ 351. Conversion authorized.

(a) Domestic converting associations.—Except as provided in section 318 (relating to excluded entities and transactions) or this section, by complying with this chapter:

(1) A domestic entity may become a domestic entity of a different type or a domestic banking institution.

(2) A domestic banking institution may become a domestic association of a different type.

(3) A domestic entity may become a foreign association of a different type, if the conversion is authorized by the laws of the foreign jurisdiction.

(b) Foreign converting associations.—By complying with the applicable provisions of this subchapter, a foreign association may become a domestic entity of a different type if the conversion is authorized by the laws of the jurisdiction of formation of the foreign association.

(c) Protected governance agreements.—If a protected governance agreement that is binding on a domestic entity immediately before the effectiveness of a transaction under this chapter contains a provision that applies to a merger of the entity but does not refer to a conversion, the provision shall apply to a conversion of the entity as if the conversion were a merger until the provision is amended after July 1, 2015.

(d) Exceptions.—This subchapter may not be used to accomplish a transaction that has the same effect as a transaction under any of the following provisions:

(1) Section 7104 (relating to election of an existing business corporation to become a cooperative corporation).

(2) Section 7105 (relating to termination of status as a cooperative corporation for profit).

(3) Section 7106 (relating to election of an existing nonprofit corporation to become a cooperative corporation).

(4) Section 7107 (relating to termination of nonprofit cooperative corporation status).

(e) Cross reference.—See section 314 (relating to regulatory conditions and required notices and approvals).

§ 352. Plan of conversion.

(a) General rule.—A domestic entity or domestic banking institution may be a party to a conversion by approving a plan of conversion. The plan shall be in record form and contain all of the following:

(1) The name and type of the converting association.

(2) The name, jurisdiction of formation and type of converted association.

(3) The manner of:

(i) canceling, if desired, some, but less than all, of the interests in the converting association;

(ii) converting at least some of the interests in the converting association into interests in the converted association; and

(iii) converting the interests in the converting association not canceled under subparagraph (i) or converted under subparagraph (ii) into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

(4) The proposed public organic record of the converted association if it will be a filing entity.

(5) The full text of the private organic rules of the converted association that are proposed to be in record form.

(6) Provisions, if any, providing special treatment of interests in the converting association held by any interest holder or group of interest holders as authorized by and subject to section 329 (relating to special treatment of interest holders).

(7) The other terms and conditions of the conversion.

(8) Any other provision required by:

(i) the laws of this Commonwealth;

(ii) the laws of the jurisdiction of formation of the converted association if it is to be a foreign association; or

(iii) the organic rules of the converting association.

(b) Optional contents.—In addition to the requirements of subsection (a), a plan of conversion may contain any other provision not prohibited by law.

(c) Terms of interests.—The ownership, voting and other rights of the interest holders in the converted association shall be substantially the same as they were in the converting association except:

(1) as provided in the plan of conversion pursuant to section 329;

(2) as provided in the express terms of the organic rules of the converted association that are in record form; or

(3) to the extent a difference in those rights is required by a provision of the organic law of the converted association that cannot be varied in its organic rules.

(d) Cross reference.—See section 316(c) (relating to contents of plan).

§ 353. Approval of conversion.

(a) Approval by domestic associations.—A plan of conversion in which the converting association is a domestic entity or domestic banking institution shall not be effective unless it has been approved in the following ways:

(1) In the case of a domestic entity, in accordance with the applicable provisions of Subchapter B (relating to approval of entity transactions).

(2) In the case of a domestic banking institution that is a corporation, by at least:

(i) In the case of a mutual savings bank:

(A) two-thirds of the trustees present at a meeting at which the plan is proposed; and

(B) two-thirds of all the trustees at a subsequent meeting held upon not less than ten days' notice to all the trustees.

(ii) In the case of any other institution:

(A) a majority of the directors; and

(B) the shareholders entitled to cast at least two-thirds of the votes which all shareholders are entitled to cast thereon, and, if any class of shares is entitled to vote thereon as a class, the holders of at least two-thirds of the outstanding shares of such class, at a meeting held upon not less than ten days' notice to all shareholders.

(3) In record form, by each interest holder, if any, of the converting association that will have interest holder liability for debts, obligations and other liabilities that arise after the conversion becomes effective, unless, as to an interest holder that does not approve the plan, both of the following apply:

(i) The organic rules of the converting association provide in record form for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders.

(ii) The interest holder voted for or consented in record form to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) Approval by foreign associations.—A conversion in which the converting association is a foreign association shall not be effective unless it is approved by the foreign association in accordance with the laws of its jurisdiction of formation.

(c) Dissenters rights.—The following apply with respect to the rights of an interest holder of the converting association:

(1) A shareholder of a domestic business corporation that is to be a converting association shall be entitled to dissenters rights if:

(i) the shareholder objects to the plan of conversion and complies with Subchapter D of Chapter 15 (relating to dissenters rights); and

(ii) the conversion involves a change in the rights of the shareholder pursuant to section 352(c)(1) or (2) (relating to plan of conversion).

(2) A shareholder of a domestic banking institution that is to be a converting association shall be entitled to the rights provided in section 1222 of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, if:

(i) the shareholder objects to the plan of conversion and complies with section 1222 of the Banking Code of 1965; and

(ii) the conversion involves a change in the rights of the shareholder pursuant to section 352(c)(1) or (2).

(3) See sections 317 (relating to contractual dissenters rights in entity transactions) and 329 (relating to special treatment of interest holders).

§ 354. Amendment or abandonment of plan of conversion.

(a) Approval of amendment.—A plan of conversion in which the converting association is a domestic association may be amended in one of the following ways:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the converting association under the plan.

(ii) The public organic record, if any, or private organic rules of the converted association that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted association under its organic law or organic rules.

(iii) Any other terms or conditions of the plan, if the change would:

(A) increase the interest holder liability to which the interest holder will be subject; or

(B) otherwise adversely affect the interest holder in any material respect.

(b) Approval of abandonment.—After a plan of conversion has been approved by a converting association that is a domestic association and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting association may abandon the plan in the same manner as the plan was approved.

(c) Statement of abandonment.—If a plan of conversion is abandoned after a statement of conversion has been delivered to the department for filing and before the statement of conversion becomes effective, a statement of abandonment under section 141 (relating to abandonment of

filing before effectiveness), signed by the converting association, must be delivered to the department for filing before the statement of conversion becomes effective.

§ 355. Statement of conversion; effectiveness.

(a) General rule.—A statement of conversion shall be signed by the converting association and delivered to the department for filing along with the certificates, if any, required by section 139 (relating to tax clearance of certain fundamental transactions).

(b) Contents.—A statement of conversion shall contain all of the following:

(1) With respect to the converting association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) the date on which it was first created, incorporated, formed or otherwise came into existence;

(v) if it is a domestic filing association, the statute under which it was first created, incorporated, formed or otherwise came into existence;

(vi) if it is a domestic filing association, domestic limited liability partnership or registered foreign association:

(A) the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address); or

(B) if it is not required to maintain a registered office in this Commonwealth, the address, including street and number, if any, of its principal office;

(vii) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(viii) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(2) With respect to the converted association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association:

(A) the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109; or

(B) if it is not required to maintain a registered office in this Commonwealth, the address, including street and number, if any, of its principal office;

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(3) If the statement of conversion is not to be effective on filing, the later date or date and time on which it will become effective.

(4) If the converting association is a domestic association, a statement that the plan of conversion was approved in accordance with this chapter or, if the converting association is a foreign association, a statement that the conversion was approved by the foreign association in accordance with the laws of its jurisdiction of formation.

(5) If the converted association is a domestic filing entity or domestic banking institution, its public organic record as an attachment. The public organic record does not need to state the name or address of an incorporator of a corporation, organizer of a limited liability company or similar person with respect to any other type of entity.

(6) If the converted association is a domestic limited liability partnership or a domestic limited liability limited partnership that is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration as an attachment.

(7) If the converted association is a domestic electing partnership, its statement of election as an attachment.

(8) If the converted association is a nonregistered foreign association, one of the following:

(i) The street and mailing addresses of its registered agent and registered office in its jurisdiction of formation if it is a filing entity.

(ii) The street and mailing address of its principal office if it is not a filing entity.

(c) Other provisions.—In addition to the requirements of subsection (b), a statement of conversion may contain any other provision not prohibited by law.

(d) Domestic converted association.—If the converted association is a domestic association, its public organic record, if any, must satisfy the requirements of the laws of this Commonwealth, except that the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) Filing of plan.—A plan of conversion that is signed by the converting association and meets all the requirements of subsection (b) may be delivered to the department for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this subsection, references in this chapter to a statement of conversion refer to the plan of conversion filed under this subsection.

(f) Effectiveness of statement of conversion.—A statement of conversion is effective as provided in section 136(c) (relating to processing of documents by Department of State).

(g) Effectiveness of conversion.—If the converted association is a domestic association, the conversion is effective when the statement of conversion is effective. If the converted association is a foreign association, the conversion is effective on the later of:

(1) the date and time provided by the organic law of the converted association; or

(2) when the statement of conversion is effective.

(h) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 356. Effect of conversion.

(a) General rule.—When a conversion becomes effective, all of the following apply:

(1) The converted association is:

(i) Organized under and subject to the organic law of the converted association.

(ii) The same association without interruption as the converting association.

(iii) Deemed to have commenced its existence on the date the converting association commenced its existence in the jurisdiction in which the converting association was first created, incorporated, formed or otherwise came into existence, except for purposes of determining how the converted association is taxed.

(2) All property of the converting association continues to be vested in the converted association without reversion or impairment, and the conversion shall not constitute a transfer of any of that property.

(3) All debts, obligations and other liabilities of the converting association continue as debts, obligations and other liabilities of the converted association.

(4) Except as provided by law, all of the rights, privileges, immunities and powers of the converting association continue to be vested without change in the converted association.

(5) Liens on the property of the converting association shall not be impaired by the conversion.

(6) A claim existing or an action or a proceeding pending by or against the converting association may be prosecuted to judgment as if the conversion had not taken place, and the name of the converted association may be substituted for the name of the converting association in any pending action or proceeding.

(7) If a converted association is a filing association, its public organic record is effective.

(8) If the converted association is a limited liability partnership or a limited liability limited partnership that is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration is effective.

(9) If the converted association is an electing partnership, its statement of election is effective.

(10) Any private organic rules of the converted association that are to be in record form and were approved as part of the plan of conversion are effective.

(11) The interests in the converting association are converted or canceled in accordance with and as provided in the plan of conversion, and the interest holders of the converting association are entitled only to the rights provided to them under the plan and to any dissenters rights they have pursuant to section 317 (relating to contractual dissenters rights in entity transactions) or 353(c) (relating to approval of conversion).

(12) Except as otherwise provided in the plan of conversion or organic rules pursuant to section 352(c) (relating to plan of conversion), the conversion does not constitute and shall not be deemed to result in a change of control of the converting association, and the converted association shall remain under the control of the same persons that controlled the converting association immediately before the conversion.

(b) No other rights.—The conversion does not give rise to any rights:

(1) that a third party would have upon a transfer of assets, merger, dissolution, liquidation or winding up of the converting association, except as provided in subsection (a)(11); or

(2) that an interest holder or governor would have upon a dissolution, liquidation or winding up of the converting association, except as provided in the organic law or organic rules of the converting association.

(c) New interest holder liability.—When a conversion becomes effective, a person that becomes subject to interest holder liability with respect to a domestic association as a result of the conversion has interest holder liability only to the extent provided by the organic law of the association and only for those debts, obligations and other liabilities that arise after the conversion becomes effective.

(d) Prior interest holder liability.—When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic converting association with respect to which the person had interest holder liability is as follows:

(1) The conversion does not discharge any interest holder liability under the organic law of the domestic converting association to the extent the interest holder liability arose before the conversion became effective.

(2) The person does not have interest holder liability under the organic law of the domestic converting association for any debt, obligation or other liability that arises after the conversion becomes effective.

(3) The organic law of the domestic converting association continues to apply to the release, collection or discharge of any interest holder liability preserved under paragraph (1) as if the conversion had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by other law or the organic law or organic rules

of the domestic converting association with respect to any interest holder liability preserved under paragraph (1) as if the conversion had not occurred.

(e) Foreign converted association.—When a conversion becomes effective, a foreign association that is the converted association may be served with process in this Commonwealth for the collection and enforcement of any of its debts, obligations and other liabilities in accordance with applicable law.

(f) Association not dissolved.—A conversion does not require a domestic converting association to liquidate, dissolve or wind up its affairs and does not constitute or cause the liquidation or dissolution of the association.

(g) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the converting association that are settled, assessed or determined prior to or after the conversion shall be the liability of the converted association and, together with interest thereon, shall be a lien against the franchises and property of the converted association.

(h) Cross references.—See sections 416 (relating to withdrawal deemed on certain transactions) and 417 (relating to required withdrawal on certain transactions).

SUBCHAPTER F
DIVISION

Sec.

§ 361. Division authorized.

(a) Domestic entities.—Except as provided in section 318 (relating to excluded entities and transactions) or this section, by complying with this subchapter, a domestic entity may divide into:

(1) the dividing association and one or more new associations that are either domestic entities or foreign associations; or

(2) two or more new associations that are either domestic entities or foreign associations.

(b) Foreign associations.—

(1) A foreign association may be created by the division of a domestic entity only if the division is authorized by the laws of the jurisdiction of formation of the foreign association.

(2) If the division is authorized by the laws of the jurisdiction of formation of the foreign association, one or more of the resulting associations created in a division of a foreign association may be a domestic entity.

(c) Exception.—A domestic banking institution that is a domestic entity may be a dividing association only if all of the resulting associations are domestic banking institutions.

(d) Cross reference.—See section 314 (relating to regulatory conditions and required notices and approvals).

§ 362. Plan of division.

(a) General rule.—A domestic entity may become a dividing association under this chapter by approving a plan of division. The plan shall be in record form and contain all of the following:

(1) The name and type of the dividing association.

(2) A statement as to whether the dividing association will survive the division.

(3) The name, jurisdiction of formation and type of each new association.

(4) The manner of:

(i) If the dividing association survives the division and it is desired:

(A) Canceling some, but less than all, of the interests in the dividing association.

(B) Converting some, but less than all, of the interests in the dividing association into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

(ii) If the dividing association does not survive the division, canceling or converting the interests in the dividing association into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

(iii) Allocating between or among the resulting associations the property of the dividing association that will not be owned by all of the resulting associations as tenants in common pursuant to section 367(a)(4) (relating to effect of division) and those liabilities of the dividing association as to which not all of the resulting associations will be liable jointly and severally pursuant to section 368(a)(3) (relating to allocation of liabilities in division).

(iv) Distributing the interests of the new associations.

(5) For each new association:

(i) its proposed public organic record if it will be a filing association; and

(ii) the full text of its private organic rules that will be in record form.

(6) If the dividing association will survive the division, any proposed amendments to its public organic record or private organic rules that are or will be in record form.

(7) Provisions, if any, providing special treatment of interests in the dividing association held by any interest holder or group of interest holders as authorized by and subject to section 329 (relating to special treatment of interest holders).

(8) The other terms and conditions of the division.

(9) Any other provision required by:

(i) the laws of this Commonwealth;

(ii) the laws of the jurisdiction of formation of any of the resulting associations; or

(iii) the organic rules of the dividing association.

(b) Optional contents.—In addition to the requirements of subsection (a), a plan of division may contain any other provision not prohibited by law.

(c) Description of property and liabilities.—It shall not be necessary for a plan of division to list each individual liability or item of property of the dividing association to be allocated to a resulting association so long as the liabilities and property are described in a reasonable manner.

(d) Cross reference.—See section 316(c) (relating to contents of plan).

§ 363. Approval of division.

(a) Approval by domestic entities.—Except as provided in section 364 (relating to division without interest holder approval) or subsection (d), a plan of division in which the dividing association is a domestic entity is not effective unless it has been approved in both of the following ways:

(1) The plan is approved by the domestic entity in accordance with the applicable provisions of Subchapter B (relating to approval of entity transactions).

(2) The plan is approved in record form by each interest holder, if any, of the domestic entity that will have interest holder liability for debts, obligations and other liabilities that arise after the division becomes effective, unless, as to an interest holder that does not approve the plan, both of the following apply:

(i) The organic rules of the domestic entity provide in record form for the approval of a division in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders.

(ii) The interest holder voted for or consented in record form to that provision of the organic rules or became an interest holder after the adoption of the provision.

(b) Approval by foreign associations.—A division of a foreign association in which one or more of the resulting associations is a domestic entity is not effective unless it is approved by the foreign association in accordance with the laws of its jurisdiction of formation.

(c) Dissenters rights.—If a shareholder of a domestic business corporation that is to be a dividing association objects to the plan of division and complies with Subchapter D of Chapter 15 (relating to dissenters rights), the shareholder shall be entitled to dissenters rights to the extent provided in that subchapter. See sections 317 (relating to contractual dissenters rights in entity transactions) and 329 (relating to special treatment of interest holders).

(d) Transitional approval requirements.—

(1) If a provision of the organic rules of a dividing association that is a domestic entity of the type described was adopted before the date indicated and requires for the proposal or adoption of a plan of merger a specific number or percentage of votes of governors or interest holders or other special procedures, a plan of division shall not be

proposed or adopted by the governors or interest holders without that number or percentage of votes or compliance with the other special procedures:

(i) For a dividing association that is a domestic business corporation, before October 1, 1989.

(ii) For a dividing association that is a general partnership, before July 1, 2015.

(iii) For a dividing association that is a limited partnership, before February 5, 1995.

(iv) For a dividing association that is an unincorporated nonprofit association, before July 1, 2015.

(2) If a provision of any debt securities, notes or similar evidences of indebtedness for money borrowed, whether secured or unsecured, indentures or other contracts that were issued, incurred or executed by a dividing association that is a domestic entity of the type described before the date indicated, and the provision requires the consent of the obligee to a merger of the dividing association or treats such a merger as a default, the provision shall apply to a division of the dividing association as if it were a merger:

(i) For a dividing association that is a domestic business corporation, before August 21, 2001.

(ii) For a dividing association that is a general partnership, before July 1, 2015.

(iii) For a dividing association that is a limited partnership, before July 1, 2015.

(iv) For a dividing association that is an unincorporated nonprofit association, before July 1, 2015.

(3) When a provision described in paragraph (1) or (2) has been amended after the applicable date, the provision shall cease to be subject to the respective paragraph and shall thereafter apply only in accordance with its express terms.

§ 364. Division without interest holder approval.

(a) General rule.—Unless otherwise restricted by its organic rules, a plan of division of a domestic dividing association shall not require the approval of the interest holders of the dividing association if:

(1) The plan does not do any of the following:

(i) alter the jurisdiction of formation of the dividing association;

(ii) provide for special treatment; or

(iii) amend in any respect the provisions of the public organic record of the dividing association, except amendments which may be made without the approval of the interest holders.

(2) Either:

(i) the dividing association survives the division and all the interests and other securities and obligations, if any, of all of the new associations are owned solely by the dividing association; or

(ii) the interests in each new association are distributed as provided in subsection (b).

(b) Distribution of interests.—The requirements for distributing interests in each new association referred to in subsection (a)(2)(ii) are as follows:

(1) if the dividing association is not a limited partnership, the dividing association has only one class of interests outstanding and the interests and other securities and obligations, if any, of each new association are distributed pro rata to the interest holders of the dividing association; or

(2) if the dividing association is a limited partnership:

(i) it has only one class of general partners and one class of limited partners;

(ii) each new association is a limited partnership; and

(iii) all of the following apply:

(A) the general partner interests in each new association are distributed pro rata to the general partners of the dividing limited partnership;

(B) the limited partner interests in each new association are distributed pro rata to the limited partners of the dividing limited partnership; and

(C) no securities of obligations of any of the new associations are distributed to any of the interest holders of the dividing limited partnership.

§ 365. Amendment or abandonment of plan of division.

(a) Approval of amendment.—A plan of division in which the dividing association is a domestic entity may be amended in one of the following ways:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

(2) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the dividing association under the plan.

(ii) The public organic record, if any, or private organic rules of any of the resulting associations that will be in effect immediately after the division becomes effective, except for changes that do not require approval of the interest holders of the resulting association under its organic law or organic rules.

(iii) Any other terms or conditions of the plan, if the change would:

(A) increase the interest holder liability to which the interest holder will be subject; or

(B) otherwise adversely affect the interest holder in any material respect.

(b) Approval of abandonment.—After a plan of division has been approved by a domestic entity that is the dividing association and before a

statement of division becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic entity that is the dividing association may abandon the plan in the same manner as the plan was approved.

(c) Statement of abandonment.—If a plan of division is abandoned after a statement of division has been delivered to the department for filing and before the statement becomes effective, a statement of abandonment under section 141 (relating to abandonment of filing before effectiveness), signed by the dividing association, must be delivered to the department for filing before the time the statement of division becomes effective. The statement of abandonment shall take effect on filing, and the division shall be abandoned and shall not become effective.

§ 366. Statement of division; effectiveness.

(a) General rule.—A statement of division shall be signed by the dividing association and delivered to the department for filing along with the certificates, if any, required by section 139 (relating to tax clearance of certain fundamental transactions).

(b) Contents.—A statement of division shall contain all of the following:

(1) With respect to the dividing association:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address);

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(2) A statement as to whether the dividing association will survive the division.

(3) With respect to each resulting association created by the division:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing association, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109;

(v) if it is a domestic association that is not a domestic filing association or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(4) If the statement of division is not to be effective on filing, the later date or date and time on which it will become effective.

(5) A statement that the division was approved in the following ways:

(i) By a dividing association that is a domestic entity, in accordance with this chapter.

(ii) By a dividing association that is a foreign association, in accordance with the laws of its jurisdiction of formation.

(6) If the dividing association is a domestic filing entity and survives the division, any amendment to its public organic record approved as part of the plan of division.

(7) For each resulting association created by the division that is a domestic entity, its public organic record, if any, as an attachment. The public organic record does not need to state the name or address of an incorporator of a corporation, organizer of a limited liability company or similar person with respect to any other type of entity.

(8) For each new association that is a domestic limited liability partnership or a domestic limited liability limited partnership that is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration as an attachment.

(9) For each new association that is an electing partnership, its statement of election as an attachment.

(10) The property and liabilities of the dividing association that are to be allocated to each resulting association, but it shall not be necessary to list in the statement of division each individual liability or item of property of the dividing association to be allocated to a resulting association so long as the liabilities and property are described in a reasonable manner.

(c) Other provisions.—In addition to the requirements of subsection (b), a statement of division may contain any other provision not prohibited by law.

(d) New domestic entity.—If a new association is a domestic entity, its public organic record, if any, must satisfy the requirements of the laws of this Commonwealth, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) Filing of plan.—A plan of division that is signed by the dividing association and meets all of the requirements of subsection (b) may be delivered to the department for filing instead of a statement of division and on filing has the same effect. If a plan of division is filed as provided in

this subsection, references in this chapter to a statement of division refer to the plan of division filed under this subsection.

(f) Effectiveness of statement of division.—A statement of division is effective as provided in section 136(c) (relating to processing of documents by Department of State).

(g) Effectiveness of division.—A division takes effect as follows:

(1) If the division is one in which all of the resulting associations are domestic associations, the division is effective when the statement of division is effective.

(2) If the division is one in which one or more of the resulting associations is a foreign association, the division is effective on the later of:

(i) the effectiveness of the statement of division; or

(ii) when the division is effective under the laws of each of the jurisdictions of formation of the foreign resulting associations.

(h) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 367. Effect of division.

(a) General rule.—When a division becomes effective, all of the following apply:

(1) If the dividing association is to survive the division:

(i) It continues to exist.

(ii) Its public organic record, if any, is amended as provided in the statement of division.

(iii) Its private organic rules that are to be in record form, if any, are amended to the extent provided in the plan of division.

(2) If the dividing association is not to survive the division, the dividing association ceases to exist.

(3) With respect to each new association, all of the following apply:

(i) It comes into existence.

(ii) It holds any property allocated to it as the successor to the dividing association, and not by transfer, whether directly or indirectly, or by operation of law.

(iii) Its public organic record, if any, and private organic rules are effective.

(iv) If it is a limited liability partnership, its statement of registration is effective.

(v) If it is a limited liability limited partnership and is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration is effective.

(vi) If it is an electing partnership, its statement of election is effective.

(4) Property of the dividing association:

(i) That is allocated by the plan of division either:

(A) vests in the new associations as provided in the plan of division; or

(B) remains vested in the dividing association.

(ii) That is not allocated by the plan of division:

(A) remains vested in the dividing association, if the dividing association survives the division; or

(B) is allocated to and vests equally in the resulting associations as tenants in common, if the dividing association does not survive the division.

(iii) Vests as provided in this paragraph without transfer, reversion or impairment.

(5) A resulting association to which a cause of action is allocated as provided in paragraph (4) may be substituted or added in any pending action or proceeding to which the dividing association is a party at the effective time of the division.

(6) The liabilities of the dividing association are allocated between or among the resulting associations as provided in section 368 (relating to allocation of liabilities in division).

(7) The interests in the dividing association that are to be converted or canceled in the division are converted or canceled, and the interest holders of those interests are entitled only to the rights provided to them under the plan of division and to any dissenters rights they may have pursuant to section 317 (relating to contractual dissenters rights in entity transactions) or 363(c) (relating to approval of division).

(b) Dividing association not dissolved.—Except as provided in the organic law or organic rules of the dividing association, the division does not give rise to any rights that an interest holder, governor or third party would have upon a dissolution, liquidation or winding up of the dividing association.

(c) New interest holder liability.—When a division becomes effective, a person that did not have interest holder liability with respect to the dividing association and that becomes subject to interest holder liability with respect to an association as a result of the division has interest holder liability only to the extent provided by the organic law of the association and only for those liabilities that arise after the division becomes effective.

(d) Prior interest holder liability.—When a division becomes effective, the interest holder liability of a person that ceases to hold an interest in the dividing association that is a domestic entity with respect to which the person had interest holder liability is as follows:

(1) The division does not discharge any interest holder liability under the organic law of the domestic entity to the extent the interest holder liability arose before the division became effective.

(2) The person does not have interest holder liability under the organic law of the domestic entity for any debt, obligation or other liability that arises after the division becomes effective.

(3) The organic law of the domestic entity continues to apply to the release, collection or discharge of any interest holder liability preserved under paragraph (1) as if the division had not occurred.

(4) The person has whatever rights of contribution from any other person as are provided by other law or the organic law or organic rules of the domestic entity with respect to any interest holder liability preserved by paragraph (1) as if the division had not occurred.

(e) Registration of registered foreign association.—When a division of a registered foreign association in which at least one of the resulting associations is a domestic entity becomes effective, the registration to do business of the dividing association is canceled if it does not survive the division.

(f) Real property.—Except with regard to the real property of a dividing association that is a domestic nonprofit corporation, the allocation of any fee or freehold interest or leasehold having a remaining term of 30 years or more in any tract or parcel of real property situate in this Commonwealth owned by a dividing association, including property owned by a foreign association dividing solely under the laws of another jurisdiction, to a new association is not effective until one of the following documents is filed in the office for the recording of deeds of the county, or each of them, in which the tract or parcel is situated:

(1) A deed, lease or other instrument of confirmation describing the tract or parcel.

(2) A duly executed duplicate original copy of the statement of division.

(3) A copy of the statement of division certified by the department.

(4) A declaration of acquisition stating the value of real estate holdings in the county of the new association as an acquired association.

(g) Secured collateral.—The allocation to a new association of property that is collateral covered by an effective financing statement shall not be effective until a new financing statement naming the new association as a debtor is effective under 13 Pa.C.S. Div. 9 (relating to secured transactions) as enacted in the relevant jurisdiction.

(h) Vehicles.—The provisions of 75 Pa.C.S. § 1114 (relating to transfer of vehicle by operation of law) shall not be applicable to an allocation of ownership of any motor vehicle, trailer or semitrailer to a new association under this section or under a similar law of any other jurisdiction, but any such allocation shall be effective only upon compliance with the requirements of 75 Pa.C.S. § 1116 (relating to issuance of new certificate following transfer), unless the dividing association is a domestic nonprofit corporation.

(i) Disposition of interests.—Unless otherwise provided in the plan of division, the interests and any securities or obligations of each new association shall be distributed to:

(1) the dividing association, if it survives the division; or

(2) the holders of the common or other residuary interest of the dividing association that do not assert dissenters rights, pro rata, if the dividing association does not survive the division.

§ 368. Allocation of liabilities in division.

(a) General rule.—Except as provided in this section, when a division becomes effective, a resulting association is responsible:

(1) Individually for the liabilities the resulting association undertakes or incurs in its own name after the division.

(2) Individually for the liabilities of the dividing association that are allocated to or remain the liability of that resulting association to the extent specified in the plan of division.

(3) Jointly and severally with the other resulting associations for the liabilities of the dividing association that are not allocated by the plan of division.

(b) Joint and several liability.—If an allocation of property or liabilities in a division is ineffective or voidable pursuant to fraudulent transfer or similar law, both of the following apply:

(1) The allocations of liabilities in the plan of division are ineffective and the liabilities of the dividing association become liabilities of all of the resulting associations, jointly and severally.

(2) The validity and effectiveness of the division are not affected thereby.

(c) Breach of obligation.—If a division breaches an obligation of the dividing association, all of the resulting associations are liable, jointly and severally, for the breach, but the validity and effectiveness of the division are not affected thereby.

(d) Application of fraudulent transfer law.—In applying the law governing fraudulent transfers to a division:

(1) The law applies to the dividing association as follows:

(i) If it does not survive the division, it is not subject to that law.

(ii) If it survives the division, it is subject to that law only in its capacity as a resulting association.

(2) The law applies to each resulting association as follows:

(i) The association is treated as a debtor.

(ii) The liabilities allocated to the association are treated as an obligation incurred by the debtor.

(iii) The association is treated as not having received a reasonably equivalent value in exchange for incurring the obligation.

(iv) The property allocated to the association is treated as remaining property.

(e) Distribution tests not applicable.—A direct or indirect allocation of property or liabilities in a division is not a distribution for purposes of the organic law of the dividing association or any of the resulting associations.

(f) Liens and other charges.—Liens, security interests and other charges on the property of the dividing association are not impaired by the division, notwithstanding any otherwise enforceable allocation of liabilities of the dividing association.

(g) Security agreements.—If the dividing association is bound by a security agreement governed by 13 Pa.C.S. Div. 9 (relating to secured transactions) as enacted in any jurisdiction and the security agreement provides that the security interest attaches to after-acquired collateral, each resulting association is bound by the security agreement.

(h) Creditors and guarantors.—An allocation of a liability does not:

(1) Affect the rights under other law of a creditor owed payment of the liability or performance of the obligation that creates the liability,

except that those rights are available only against an association responsible for the liability or obligation under this section.

(2) Release or reduce the obligation of a surety or guarantor of the liability or obligation.

(i) Regulatory approvals.—The conditions in this section for freeing one or more of the resulting associations from the liabilities of the dividing association and for allocating some or all of the liabilities of the dividing association shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Department of Banking and Securities, the Insurance Department or the Pennsylvania Public Utility Commission in a final order issued after August 21, 2001, that is not subject to further appeal.

(j) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the dividing association that are settled, assessed or determined prior to or after the division shall be the liability of all of the resulting associations and, together with interest thereon, shall be a lien against the franchises and property of each resulting association. Upon the application of the dividing association, the Department of Revenue, with the concurrence of the Department of Labor and Industry, shall release one or more, but less than all, of the resulting associations from liability and liens for all taxes, interest, penalties and public accounts of the dividing association due the Commonwealth for periods prior to the effective date of the division if those departments are satisfied that the public revenues will be adequately secured.

SUBCHAPTER G
DOMESTICATION

Sec.

§ 371. Domestication authorized.

(a) Domestic entities.—Except as provided in section 318 (relating to excluded entities and transactions), by complying with this chapter, a domestic entity may become a domestic entity of the same type in a foreign jurisdiction if the domestication is authorized by the laws of the foreign jurisdiction.

(b) Foreign entities.—By complying with the applicable provisions of this subchapter, a foreign entity may become a domestic entity of the same type in this Commonwealth if this title provides for the formation of that type of entity.

(c) Cross reference.—See section 314 (relating to regulatory conditions and required notices and approvals).

§ 372. Plan of domestication.

(a) General rule.—A domestic entity may become a foreign entity of the same type by approving a plan of domestication. The plan shall be in record form and contain all of the following:

(1) The name and type of the domesticating entity.

(2) The name and jurisdiction of formation of the domesticated entity.

(3) The manner, if any, of canceling or converting those interests in the domesticating entity, if any, that are to receive special treatment as authorized by and subject to section 329 (relating to special treatment of interest holders).

(4) The proposed public organic record of the domesticated entity if it is a filing entity.

(5) The full text of the private organic rules of the domesticated entity that are proposed to be in record form.

(6) The other terms and conditions of the domestication.

(7) Any other provision required by:

(i) laws of this Commonwealth;

(ii) the laws of the jurisdiction of formation of the foreign domesticated entity; or

(iii) the organic rules of the domesticating entity.

(b) Optional contents.—In addition to the requirements of subsection (a), a plan of domestication may contain any other provision not prohibited by law.

(c) Terms of interests.—Except as provided in the plan of domestication pursuant to section 329, the terms of the interests in the domesticated entity and the rights of the interest holders in the domesticated entity shall be substantially the same as the terms of the interests and the rights of the interest holders in the domesticating entity, except to the extent a different term or right is required by a provision of the organic law of the domesticated entity that cannot be varied in its organic rules.

(d) Cross reference.—See section 316(c) (relating to contents of plan).

§ 373. Approval of domestication.

(a) Approval by domestic entities.—A plan of domestication in which the domesticating entity is a domestic entity is not effective unless it has been approved by the domestic entity in accordance with the applicable provisions of Subchapter B (relating to approval of entity transactions).

(b) Approval by foreign entities.—A plan of domestication in which the domesticating entity is a foreign entity is not effective unless it has been approved in one of the following ways:

(1) In accordance with the laws of the jurisdiction of formation of the foreign entity.

(2) By at least a majority of the votes cast with respect to approval of the domestication by all interest holders of the foreign entity entitled to vote generally on a merger to which the foreign entity is a party if the laws of the foreign entity's jurisdiction of formation does not provide for a domestication of the foreign entity.

(c) Cross references.—See sections 317 (relating to contractual dissenters rights in entity transactions) and 329 (relating to special treatment of interest holders).

§ 374. Amendment or abandonment of plan of domestication.

(a) Approval of amendment.—A plan of domestication in which the domesticating entity is a domestic entity may be amended in one of the following ways:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended.

(2) By the governors or interest holders of the domestic entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change any of the following:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the domesticating entity under the plan.

(ii) The public organic record, if any, or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules.

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(b) Approval of abandonment.—After a plan of domestication has been approved by a domestic entity that is the domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic entity that is the domesticating entity may abandon the plan in the same manner as the plan was approved.

(c) Statement of abandonment.—If a plan of domestication is abandoned after a statement of domestication has been delivered to the department for filing and before the statement becomes effective, a statement of abandonment under section 141 (relating to abandonment of filing before effectiveness), signed by the domesticating entity, must be delivered to the department for filing before the time the statement of domestication becomes effective.

§ 375. Statement of domestication; effectiveness.

(a) General rule.—A statement of domestication shall be signed by the domesticating entity and delivered to the department for filing along with the certificates, if any, required by section 139 (relating to tax clearance of certain fundamental transactions).

(b) Contents.—A statement of domestication shall contain all of the following:

(1) With respect to the domesticating entity:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) the date on which it was first created, incorporated, formed or otherwise came into existence;

(v) if it is a domestic filing entity, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address);

(vi) if it is a domestic entity that is not a domestic filing entity or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vii) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(2) With respect to the domesticated entity:

(i) its name;

(ii) its jurisdiction of formation;

(iii) its type;

(iv) if it is a domestic filing entity, domestic limited liability partnership or registered foreign association, the address of its registered office, including street and number, if any, in this Commonwealth, subject to section 109;

(v) if it is a domestic entity that is not a domestic filing entity or limited liability partnership, the address, including street and number, if any, of its principal office; and

(vi) if it is a nonregistered foreign association, the address, including street and number, if any, of:

(A) its registered or similar office, if any, required to be maintained by the laws of its jurisdiction of formation; or

(B) if it is not required to maintain a registered or similar office, its principal office.

(3) If the statement of domestication is not to be effective on filing, the later date or date and time on which it will become effective.

(4) If the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with Subchapter B (relating to approval of entity transactions) or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with section 373(b) (relating to approval of domestication).

(5) If the domesticated entity is a domestic filing entity, its public organic record as an attachment. The public organic record does not need to state the name or address of an incorporator of a corporation, organizer of a limited liability company or similar person with respect to any other type of entity.

(6) If the domesticated entity is a domestic limited liability partnership or a domestic limited liability limited partnership that is not

using the alternative procedure in section 8201(f) (relating to scope), its statement of registration as an attachment.

(7) If the domesticated entity is an electing partnership, its statement of election as an attachment.

(8) If the domesticating entity is to be a domestic entity in both this Commonwealth and the foreign jurisdiction, a statement to that effect.

(c) Other provisions.—In addition to the requirements of subsection (b), a statement of domestication may contain any other provision not prohibited by law.

(d) Public organic record of new domestic entity.—If the domesticated entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the laws of this Commonwealth, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) Filing of plan.—A plan of domestication that is signed by a domesticating entity that is a domestic entity and meets all of the requirements of subsection (b) may be delivered to the department for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this subsection, references in this chapter to a statement of domestication refer to the plan of domestication filed under this subsection.

(f) Effectiveness of domestication.—A domestication in which the domesticated entity is a domestic entity is effective when the statement of domestication is effective under section 136(c) (relating to processing of documents by Department of State). A domestication in which the domesticated entity is a foreign entity becomes effective on the later of:

(1) the date and time provided by the organic law of the domesticated entity; or

(2) when the statement of domestication is effective.

(g) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 376. Effect of domestication.

(a) General rule.—When a domestication becomes effective, all of the following apply:

(1) The domesticated entity is:

(i) organized under and subject to the organic law of the domesticated entity;

(ii) the same entity without interruption as the domesticating entity;

(iii) deemed to have commenced its existence on the date the domesticating entity commenced its existence in the jurisdiction in which the domesticating entity was first created, formed, incorporated or otherwise came into existence; and

(iv) also organized under and subject to the organic law of the domesticating entity if the statement of domestication includes the statement provided for in section 375(b)(8) (relating to statement of domestication; effectiveness).

(2) All property of the domesticating entity continues to be vested in the domesticated entity without transfer, reversion or impairment.

(3) All debts, obligations and other liabilities of the domesticating entity continue as debts, obligations and other liabilities of the domesticated entity.

(4) Except as provided by law, all of the rights, privileges, immunities and powers of the domesticating entity continue to be vested without change in the domesticated entity.

(5) The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding.

(6) If the domesticated entity is a filing entity, its public organic record is effective and is binding on its interest holders.

(7) If the domesticated entity is a domestic limited liability partnership or a limited liability limited partnership that is not using the alternative procedure in section 8201(f) (relating to scope), its statement of registration is effective.

(8) If the domesticated entity is an electing partnership, its statement of election is effective.

(9) The private organic rules of the domesticated entity that are to be in record form, if any, approved as part of the plan of domestication are effective.

(10) The interest holders in the domesticating entity are interest holders in the domesticated entity except to the extent that an interest holder does not receive interests in the domesticated entity pursuant to a provision in the plan of domestication for special treatment pursuant to section 329 (relating to special treatment of interest holders).

(b) No dissolution rights.—Except as otherwise provided in the organic law or organic rules of a domestic domesticating entity, the domestication does not give rise to any rights that an interest holder, governor or third party would have upon a dissolution, liquidation or winding up of the domesticating entity.

(c) Collection of liabilities.—When a domestication becomes effective, a foreign domesticated entity may be served with process in this Commonwealth for the collection and enforcement of any of its debts, obligations and other liabilities in accordance with applicable law.

(d) New interest holder liability.—When a domestication becomes effective, a person that becomes subject to interest holder liability with respect to a domestic association as a result of the domestication has interest holder liability only to the extent provided by the organic law of the association and only for those debts, obligations and other liabilities that arise after the domestication is effective.

(e) Prior interest holder liability.—When a domestication becomes effective, the following rules apply:

(1) The domestication does not discharge any interest holder liability under the organic law of a domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective.

(2) A person does not have interest holder liability under the organic law of a domestic domesticating entity for any debt, obligation or other liability that arises after the domestication becomes effective.

(3) The organic law of a domestic domesticating entity continues to apply to the release, collection or discharge of any interest holder liability preserved under paragraph (1) as if the domestication had not occurred.

(4) A person has whatever rights of contribution from any other person as are provided by other law or the organic rules of a domestic domesticating entity with respect to any interest holder liability preserved under paragraph (1) as if the domestication had not occurred.

(f) Service of process.—When a domestication becomes effective, a foreign domesticated entity may be served with process in this Commonwealth for the collection and enforcement of any of its debts, obligations and other liabilities in accordance with applicable law.

(g) No dissolution.—A domestication does not require a domestic domesticating entity to liquidate, dissolve or wind up its affairs and does not constitute or cause the liquidation or dissolution of the entity.

(h) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the domesticating entity that are settled, assessed or determined prior to or after the domestication shall be the liability of the domesticated entity and, together with interest thereon, shall be a lien against the franchises and property of the domesticated entity.

(i) Cross references.—See sections 416 (relating to withdrawal deemed on certain transactions) and 417 (relating to required withdrawal on certain transactions).

CHAPTER 4
FOREIGN ASSOCIATIONS

SUBCHAPTER A
GENERAL PROVISIONS

§ 401. Application of chapter.

(a) General rule.—Except as otherwise provided in this section or in subsequent provisions of this chapter, this chapter shall apply to all foreign associations.

(b) Application to foreign banking institutions.—The words "foreign filing association" or "foreign association" in this chapter include an association that, if a domestic association, would be a banking institution or credit union. The term does not include an interstate bank as defined in section 102 of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

(c) Domestic Federal financial association exclusion.—Except as permitted by act of Congress, this chapter shall not apply to:

(1) Any of the following institutions or similar federally chartered institutions engaged in this Commonwealth in activities similar to those conducted by banking institutions or credit unions:

(i) National banking associations organized under The National Bank Act (13 Stat. 99, 12 U.S.C. § 1 et seq.).

(ii) Federal savings and loan associations and Federal mutual savings banks organized under the Home Owners' Loan Act (48 Stat. 128, 12 U.S.C. § 1461 et seq.).

(iii) Federal credit unions organized under the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751 et seq.).

(2) Any other Federal association intended by the Congress to be treated for State law purposes as a domestic association of this Commonwealth.

(d) Foreign insurance corporations.—A foreign insurance corporation shall be subject to this chapter, except as provided in section 402(e) (relating to governing law) or 411(g) (relating to registration to do business in this Commonwealth).

(e) Government entities.—This chapter shall apply to and the words "association" and "foreign association" shall include a government or other sovereign, other than the Commonwealth or any of its political subdivisions, and any governmental corporation, agency or other entity thereof.

(f) Admitted foreign fraternal benefit society exclusion.—This chapter shall not apply to any foreign corporation not-for-profit licensed to transact business in this Commonwealth under section 2455 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

§ 402. Governing law.

(a) General rule.—The laws of the jurisdiction of formation of a foreign association governs the following:

(1) The internal affairs of the association.

(2) The liability that a person has as an interest holder or governor for a debt, obligation or other liability of the association.

(3) The liability of a series or protected cell of a foreign association.

(b) Effect of differences in law.—A foreign association is not precluded from registering to do business in this Commonwealth because of any difference between the laws of the jurisdiction of formation of the foreign association and the laws of this Commonwealth.

(c) Limitations on domestic associations applicable.—Registration of a foreign association to do business in this Commonwealth does not authorize the foreign association to engage in any activities and affairs or exercise any power that a domestic association of the same type may not engage in or exercise in this Commonwealth.

(d) Equal rights and privileges of registered foreign associations.—Except as otherwise provided by law, a registered foreign association, so long as its registration to do business is not terminated or canceled, shall enjoy the same rights and privileges as a domestic entity and shall be

subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed on domestic entities, to the same extent as if it had been formed under this title. A foreign insurance corporation shall be deemed a registered foreign association except as provided in subsection (e).

(e) Foreign insurance corporations.—A foreign insurance corporation shall, insofar as it is engaged in the business of writing insurance or reinsurance as principal, be subject to the laws of this Commonwealth regulating the conduct of the business of insurance by a foreign insurance corporation in lieu of the provisions of subsection (d) regarding its rights, privileges, liabilities, restrictions and duties and the penalties to which it may be subject.

(f) 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.

§ 403. Activities not constituting doing business.

(a) General rule.—Activities of a foreign filing association or foreign limited liability partnership that do not constitute doing business in this Commonwealth under this chapter shall include the following:

(1) Maintaining, defending, mediating, arbitrating or settling an action or proceeding.

(2) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors.

(3) Maintaining accounts in financial institutions.

(4) Maintaining offices or agencies for the transfer, exchange and registration of securities of the association or maintaining trustees or depositories with respect to the securities.

(5) Selling through independent contractors.

(6) Soliciting or obtaining orders by any means if the orders require acceptance outside of this Commonwealth before the orders become contracts.

(7) Creating or acquiring indebtedness, mortgages or security interests in property.

(8) Securing or collecting debts or enforcing mortgages or security interests in property securing the debts and holding, protecting or maintaining property so acquired.

(9) Conducting an isolated transaction that is not in the course of similar transactions.

(10) Owning, without more, property.

(11) Doing business in interstate or foreign commerce.

(b) Participation in other associations.—Being an interest holder or governor of a foreign association that does business in this Commonwealth shall not by itself constitute doing business in this Commonwealth.

(c) Applicability.—This section shall not apply in determining the contacts or activities that may subject a foreign filing association or foreign limited liability partnership to service of process, taxation or regulation under laws of this Commonwealth other than this title.

SUBCHAPTER B
REGISTRATION

Sec.

§ 411. Registration to do business in this Commonwealth.

(a) Registration required.—Except as provided in section 401 (relating to application of chapter) or subsection (g), a foreign filing association or foreign limited liability partnership may not do business in this Commonwealth until it registers with the department under this chapter.

(b) Penalty for failure to register.—A foreign filing association or foreign limited liability partnership doing business in this Commonwealth may not maintain an action or proceeding in this Commonwealth unless it is registered to do business under this chapter.

(c) Contracts and acts not impaired by failure to register.—The failure of a foreign filing association or foreign limited liability partnership to register to do business in this Commonwealth does not impair the validity of a contract or act of the foreign filing association or foreign limited liability partnership or preclude it from defending an action or proceeding in this Commonwealth.

(d) Limitations on liability preserved.—A limitation on the liability of an interest holder or governor of a foreign filing association or of a partner of a foreign limited liability partnership is not waived solely because the foreign filing association or foreign limited liability partnership does business in this Commonwealth without registering.

(e) Governing law not affected.—Section 402 (relating to governing law) applies even if a foreign association fails to register under this chapter.

(f) Registered office.—Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), every registered foreign association shall have, and continuously maintain, in this Commonwealth a registered office, which may but need not be the same as its place of business in this Commonwealth.

(g) Foreign insurance corporations.—A foreign insurance corporation is not required to register under this chapter.

§ 412. Foreign registration statement.

(a) General rule.—To register to do business in this Commonwealth, a foreign filing association or foreign limited liability partnership must deliver a foreign registration statement to the department for filing. The statement must be signed by the association and state all of the following:

(1) Both:

(i) The name of the foreign filing association or foreign limited liability partnership.

(ii) If the name does not comply with section 202 (relating to requirements for names generally), an alternate name adopted pursuant to section 414(a) (relating to noncomplying name of foreign association).

(2) The type of association and, if it is a foreign limited partnership, whether it is a foreign limited liability limited partnership.

(3) The association's jurisdiction of formation.

(4) The street and mailing addresses of the association's principal office and, if the laws of the association's jurisdiction of formation requires the association to maintain an office in that jurisdiction, the street and mailing addresses of the office.

(5) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(6) If the association may have one or more series, a statement to that effect.

(b) Qualification or registration under former statutes.—The effect of a foreign association qualifying or registering to do business under prior provisions of law shall be as follows:

(1) With respect to corporations for profit, the following apply:

(i) If a foreign corporation for profit was admitted to do business in this Commonwealth by the filing of a power of attorney and statement under the former act of June 8, 1911 (P.L.710, No.283), entitled "An act to regulate the doing of business in this Commonwealth by foreign corporations; the registration thereof and service of process thereon; and providing punishment and penalties for the violation of its provisions; and repealing previous legislation on the subject," on July 1, 2015, the power of attorney and statement shall be deemed a filed registration statement under this chapter. The corporation shall include in its first amended registration statement under this chapter the information required by this chapter to be set forth in a registration statement.

(ii) A certificate of authority issued under the former provisions of the act of May 5, 1933 (P.L.364, No.106), known as the Business Corporation Law of 1933, or Subpart B of Part II (relating to business corporations) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter and shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.

(iii) A certificate of authority issued under the former provisions of Subchapter B of Chapter 41 (relating to qualification) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter.

(2) With respect to corporations not-for-profit, the following apply:

(i) If a foreign corporation not-for-profit was admitted to do business in this Commonwealth by the filing of a power of attorney

and statement under the former act of June 8, 1911 (P.L.710, No.283), on July 1, 2015, the power of attorney and statement shall be deemed a filed registration statement under this chapter. The corporation shall include in its first amended registration statement under this chapter the information required by this chapter to be set forth in a registration statement.

(ii) A certificate of authority issued under the former provisions of the act of May 5, 1933 (P.L.289, No.105), known as the Nonprofit Corporation Law of 1933, or the former provisions of Article B of Part III known as the Nonprofit Corporation Law of 1972, as added by the act of November 15, 1972 (P.L.1063, No.271), that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter and shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.

(iii) A certificate of authority issued under the former provisions of Subchapter B of Chapter 61 (relating to qualification) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter.

(3) With respect to limited partnerships, the following apply:

(i) An application for registration filed under the former provisions of 59 Pa.C.S. § 563 (relating to registration) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter and shall be deemed not to contain any reference to:

(A) the general character of the business the limited partnership proposes to transact in this Commonwealth; or

(B) the names and addresses of the limited partners.

(ii) An application for registration filed under the former provisions of section 8582 (relating to registration) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter and shall be deemed not to contain:

(A) any reference to the address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions; or

(B) an undertaking to keep those records until the registration of the limited partnership in this Commonwealth is canceled or withdrawn.

(4) An application for registration filed by a limited liability company under the former provisions of section 8981 (relating to foreign limited liability companies) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter.

(5) A certificate of authority issued to a business trust under the former provisions of section 9507 (relating to foreign business trusts) that is in effect on July 1, 2015, shall be deemed to be a registration statement under this chapter.

(c) Cross references.—See:

Section 134 (relating to docketing statement).

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

Section 4124 (relating to advertisement of registration to do business).

Section 6124 (relating to advertisement of registration to do business).

§ 413. Amendment of foreign registration statement.

(a) General rule.—A registered foreign association shall deliver to the department for filing an amendment to its foreign registration statement if there is a change in any of the following:

(1) The name of the association.

(2) The type of association, including, if it is a foreign limited partnership, whether the association became or ceased to be a foreign limited liability limited partnership.

(3) The association's jurisdiction of formation.

(4) An address required by section 412(a)(4) (relating to foreign registration statement).

(5) Its registered office.

(6) The authority of the association to have one or more series.

(b) Contents of amendment.—An amendment of a foreign registration statement shall be signed by the registered foreign association and state all of the following:

(1) The name under which the registered foreign association is registered to do business in this Commonwealth.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) If the amendment is not to be effective on filing, the later date or date and time on which it will become effective.

(4) The information that is to be changed.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 414. Noncomplying name of foreign association.

(a) General rule.—A foreign filing association or foreign limited liability partnership whose name does not comply with Subchapter A of Chapter 2 (relating to names) may not register to do business in this Commonwealth until it adopts, for the purpose of doing business in this Commonwealth, an alternate name that complies with Subchapter A of Chapter 2. A foreign association that registers under an alternate name under this subsection is not required to comply with 54 Pa.C.S. Ch. 3 (relating to fictitious names) with respect to the alternate name. After registering to do business in this Commonwealth under an alternate name, a foreign association shall do business in this Commonwealth under any of the following:

(1) The alternate name.

(2) Its proper name under the laws of its jurisdiction of formation, with the addition of the name of its jurisdiction of formation.

(3) A name the foreign association is authorized to use under 54 Pa.C.S. Ch. 3.

(b) Change of name.—If a registered foreign association changes its name to one that does not comply with Subchapter A of Chapter 2, it may not do business in this Commonwealth until it complies with subsection (a) by amending its registration to adopt an alternate name that complies with Subchapter A of Chapter 2.

(c) Filed documents.—If a registered foreign association adopts an alternate name under subsection (a), the association shall use the alternate name in response to a requirement in this title that a document delivered to the department for filing state the name of the association.

§ 415. Voluntary withdrawal of registration.

(a) General rule.—A registered foreign association may withdraw its registration by delivering a statement of withdrawal to the department for filing. The statement of withdrawal shall be signed by the association and state all of the following:

(1) The name of the association and its jurisdiction of formation.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) That the association is not doing business in this Commonwealth.

(4) That the association withdraws its registration to do business in this Commonwealth.

(b) Filing.—The statement of withdrawal and the certificates required by section 139 (relating to tax clearance of certain fundamental transactions) shall be delivered to the department for filing and shall take effect on filing.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 416. Withdrawal deemed on certain transactions.

(a) Merger.—A registered foreign association that merges into a domestic filing entity or domestic limited liability partnership shall be deemed to have withdrawn its registration on the effective date of the merger.

(b) Conversion.—A registered foreign association that converts to any type of domestic filing entity or to a domestic limited liability partnership shall be deemed to have withdrawn its registration on the effective date of the conversion.

(c) Domestication.—A registered foreign association that domesticates in this Commonwealth as a domestic filing entity or a domestic limited liability partnership shall be deemed to have withdrawn its registration on the effective date of the domestication.

§ 417. Required withdrawal on certain transactions.

(a) Application of section.—This section shall apply to a registered foreign association that has been:

(1) a nonsurviving party to a merger in which the survivor is a nonregistered foreign association;

(2) a dividing association which did not survive the division;

(3) dissolved and completed winding up;

(4) converted to a domestic or foreign nonfiling association other than a limited liability partnership; or

(5) the domesticating entity in a domestication in which the domesticated entity is a domestic or foreign nonfiling association other than a limited liability partnership.

(b) Statement of withdrawal.—A registered foreign association described in subsection (a) shall deliver a statement of withdrawal and the certificates required by section 139 (relating to tax clearance of certain fundamental transactions) to the department for filing. The statement shall be signed by the dissolved or converted association and state as follows:

(1) In the case of a foreign association that has completed winding up, all of the following:

(i) The name under which the association is registered to do business in this Commonwealth and its jurisdiction of formation.

(ii) That the association withdraws its registration to do business in this Commonwealth.

(2) In the case of a foreign association that has converted to a domestic or foreign nonfiling association other than a limited liability partnership, all of the following:

(i) The name under which the association is registered to do business in this Commonwealth and its jurisdiction of formation.

(ii) The type of nonfiling association to which the association has converted and its jurisdiction of formation.

(iii) That the association withdraws its registration to do business in this Commonwealth.

(3) In the case of a foreign association that has domesticated as a domestic or foreign nonfiling association other than a limited liability partnership in a jurisdiction other than this Commonwealth, all of the following:

(i) The name under which the association is registered to do business in this Commonwealth and its jurisdiction of formation.

(ii) The jurisdiction of formation of the domesticated association.

(iii) That the association withdraws its registration to do business in this Commonwealth.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 418. Transfer of registration.

(a) General rule.—If a registered foreign association merges into a nonregistered foreign association or converts to a foreign association required to register with the department to do business in this Commonwealth, the association shall deliver to the department for filing an application for transfer of registration. The application shall be signed by the surviving or converted association and state all of the following:

(1) The name of the association before the merger or conversion.

(2) The type of association it was before the merger or conversion.

(3) The name of the applicant association and, if the name does not comply with section 202 (relating to requirements for names generally),

an alternate name adopted in accordance with section 414(a) (relating to noncomplying name of foreign association).

(4) The type of association of the applicant association and its jurisdiction of formation.

(5) If different than the information for the foreign association before the merger or conversion, all of the following information regarding the applicant association:

(i) The street and mailing addresses of the principal office of the association and, if the laws of the association's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office.

(ii) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address of its registered office in this Commonwealth.

(b) Effect of application.—When an application for transfer of registration takes effect, the registration of the registered foreign association to do business in this Commonwealth is transferred without interruption to the association into which it has merged or to which it has been converted.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 419. Termination of registration.

(a) General rule.—The department may terminate the registration of a registered foreign association in the manner provided in subsections (b) and (c) if the department finds that the association:

(1) has not amended its registration when required by section 413 (relating to amendment of foreign registration statement); or

(2) has been administratively, voluntarily or involuntarily dissolved under the laws of its jurisdiction of formation.

(b) Notice by department.—The department may terminate the registration of a registered foreign association by taking both of the following actions:

(1) Filing a notice of termination or noting the termination in the records of the department.

(2) Delivering a copy of the notice or the information in the notation to the association's registered office or, if the association does not have a registered office, to the association's principal office.

(c) Contents.—The notice shall state, or the information in the notation under subsection (b) shall include, both of the following:

(1) The effective date of the termination, which shall be no less than 60 days after the date the department delivers the copy.

(2) The grounds for termination under subsection (a).

(d) Effectiveness or cure.—The registration of a registered foreign association to do business in this Commonwealth shall cease on the effective date of the notice of termination or notation under subsection (b), unless before that date the association cures each ground for termination stated in the notice or notation. If the association cures each ground, the department shall file a record stating as such.

Section 10. Section 1103(a) introductory paragraph and the definitions of "articles," "dissenters rights," "distribution," "foreign business corporation," "nonqualified foreign business corporation," "plan," "qualified foreign business corporation" and "registered corporation" of Title 15 are amended 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 ***Part I (relating to preliminary provisions) or in*** this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Articles." The original articles of incorporation, all amendments thereof and any other articles, statements or certificates permitted or required to be filed in the Department of State by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction), ***Chapter 3 (relating to entity transactions)*** or this subpart and including what have heretofore been designated by law as certificates of incorporation or charters. If an amendment of the articles or **[articles of merger or division made in the manner permitted by this subpart]** ***a statement filed under Chapter 3*** restates articles in their entirety **[or if there are articles of consolidation, conversion or domestication]**, thenceforth the "articles" shall not include any prior documents and any certificate issued by the department with respect thereto shall so state.

* * *

["Dissenters rights." The rights and remedies provided by Subchapter D of Chapter 15 (relating to dissenters rights).]

* * *

"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 ***3 (relating to entity transactions) or*** 19 (relating to fundamental changes) with the approval of the shareholders shall constitute a distribution for the purposes of this subpart.

* * *

"Foreign business corporation." A foreign corporation for profit subject to Chapter **[41]** ***4*** (relating to foreign **[business corporations]** ***associations***), whether or not required to qualify thereunder.

* * *

["Nonqualified foreign business corporation." A foreign business corporation that is not a qualified foreign business corporation as defined in this section.]

* * *

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

* * *

["Qualified foreign business corporation." A foreign business corporation that is:

(1) authorized under Chapter 41 (relating to foreign business corporations) to do business in this Commonwealth; or

(2) a foreign insurance corporation.]

* * *

["Registered corporation." A corporation defined in section 2502 (relating to registered corporation status).]

* * *

Section 11. Sections 1105 and 1106 of Title 15 are amended to read:

§ 1105. Restriction on equitable relief.

A shareholder of a business corporation shall not have any right to obtain, in the absence of fraud or fundamental unfairness, an injunction against any proposed plan or amendment of articles authorized under any provision of this **[subpart]** ***title***, nor any right to claim the right to valuation and payment of the fair value of his shares because of the plan or amendment, except that he may dissent and claim such payment if and to the extent provided in Subchapter D of Chapter 15 (relating to dissenters rights) where this **[subpart]** ***title*** expressly provides that dissenting shareholders shall have the rights and remedies provided in that subchapter. Absent fraud or fundamental unfairness, the rights and remedies so provided shall be exclusive. Structuring a plan or transaction for the purpose or with the effect of eliminating or avoiding the application of dissenters rights is not fraud or fundamental unfairness within the meaning of this section.

§ 1106. Uniform application of subpart.

(a) General rule.—Except as provided in subsection (b), ***Part I (relating to preliminary provisions) and*** this subpart **[and its amendments]** are intended to provide uniform rules for the government and regulation of the affairs of business corporations and of their officers, directors and shareholders regardless of the date or manner of incorporation or qualification, or of the issuance of any shares thereof.

(b) Exceptions.—

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

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

(3) Subsection (a) shall not adversely affect the rights specifically provided for or saved in this **[subpart]** ***title***. See:

The provisions of section 341(c) (relating to interest exchange authorized).

The provisions of section 351(c) (relating to conversion authorized).

The transitional approval requirements set forth in section 363(d) (relating to approval of division).

The provisions of section 1524(e) (relating to transitional provision).

The provisions of section 1554(c) (relating to transitional provision).

The cumulative voting rights set forth in section 1758(c)(2) (relating to cumulative voting).

[The special voting requirements specified in section 1931(h) (relating to special requirements).

The provisions of section 1952(g) and (h) (relating to proposal and adoption of plan of division).]

The provisions of section 2301(d) (relating to transitional provisions).

The provisions of section 2541(a)(2) and (3) and (c) (relating to application and effect of subchapter).

The provisions of section 2543(b)(1) and (2) (relating to exceptions generally).

The provisions of section 2551(b)(3)(i), (5) and (6) (relating to exceptions).

The provisions of section 2553(b)(2) (relating to exception).

(4) Except as otherwise expressly provided in the articles, a domestic corporation for profit that, on September 30, 1989, was not subject to the Business Corporation Law of 1933 and that thereafter becomes subject to this subpart by operation of law shall be deemed to have in effect articles that provide that the following provisions of this subpart shall not be applicable to the corporation:

(i) Section 1726(a)(1) (relating to removal by the shareholders) insofar as it provides a statutory right on the part of shareholders to remove directors from office without assigning any cause.

(ii) Section 1755(b)(2) (relating to special meetings).

(iii) Section 1912(a)(2) (relating to proposal of amendments).

Section 12. Sections 1303, 1304 and 1305 of Title 15 are repealed:

[§ 1303. Corporate name.

(a) General rule.—The corporate name may be in any language, but must be expressed in Roman letters or characters or Arabic or Roman numerals, and shall contain:

(1) the word "corporation," "company," "incorporated" or "limited" or an abbreviation of any of them;

(2) the word "association," "fund" or "syndicate"; or

(3) words or abbreviations of like import in languages other than English.

(b) Duplicate use of names.—The corporate name shall be distinguishable upon the records of the department from:

(1) The name of any other domestic corporation for profit or not-for-profit which is either in existence or for which articles of incorporation have been filed but have not yet become effective, or of any foreign corporation for profit or not-for-profit which is either authorized to do business in this Commonwealth or for which an application for a certificate of authority has been filed but has not yet become effective, or the name of any association registered at any

time under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names), unless:

(i) the other association:

(A) has stated that it is about to change its name, or to cease to do business, or is being wound up, or is a foreign association about to withdraw from doing business in this Commonwealth, and the statement and a written consent to the adoption of the name is filed in the Department of State;

(B) has filed with the Department of Revenue a certificate of out of existence, or has failed for a period of three successive years to file with the Department of Revenue a report or return required by law and the fact of such failure has been certified by the Department of Revenue to the Department of State;

(C) has abandoned its name under the laws of its jurisdiction of incorporation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor in a merger, consolidation, division or otherwise, and an official record of that fact, certified as provided by 42 Pa.C.S. § 5328 (relating to proof of official records), is presented by any person to the department; or

(D) has had the registration of its name under 54 Pa.C.S. Ch. 5 terminated.

(2) A name the exclusive right to which is at the time reserved by any other person whatsoever in the manner provided by statute. A name shall be rendered unavailable for corporate use by reason of the filing in the Department of State of any assumed or fictitious name required by 54 Pa.C.S. Ch. 3 (relating to fictitious names) to be filed in the department only if and to the extent expressly so provided in that chapter.

(c) Required approvals or conditions.—

(1) The corporate name shall not imply that the corporation is:

(i) A governmental agency of the Commonwealth or of the United States.

(ii) A bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, unless the corporation or proposed corporation is a Pennsylvania bank holding company or is otherwise authorized by statute to use its proposed name.

(iii) An insurance company nor contain any of the words "annuity," "assurance," "beneficial," "bond," "casualty," "endowment," "fidelity," "fraternal," "guaranty," "indemnity," "insurance," "insurer," "reassurance," "reinsurance," "surety" or "title" when used in such a way as to imply that the corporation is engaged in the business of writing insurance or reinsurance as principal or any other words of like purport unless it is duly licensed as an insurance company by its jurisdiction of

incorporation or the Insurance Department certifies that it has no objection to the use by the corporation or proposed corporation of the designation. The corporate name of a domestic insurance corporation shall:

(A) contain the word "mutual" if, and only if, it is a mutual insurance company; and

(B) clearly designate the object and purpose of the corporation.

(iv) A public utility corporation furnishing electric or gas service to the public, unless the corporation or proposed corporation has as an express corporate purpose the furnishing of service subject to the jurisdiction of the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission.

(v) A credit union. See 17 Pa.C.S. § 104 (relating to prohibition on use of words "credit union," etc.).

(2) The corporate name shall not contain:

(i) The word "college," "university" or "seminary" when used in such a way as to imply that it is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education, unless there is submitted a certificate from the Department of Education certifying that the corporation or proposed corporation is entitled to use that designation.

(ii) Words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name.

(iii) The words "engineer" or "engineering" or "surveyor" or "surveying" or any other word implying that any form of the practice of engineering or surveying as defined in the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the State Registration Board for Professional Engineers in the practice of engineering or surveying and there is submitted to the department a certificate from the board to that effect.

(iv) The words "architect" or "architecture" or any other word implying that any form of the practice of architecture as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the Architects Licensure Board in the practice of architecture and there is submitted to the department a certificate from the board to that effect.

(v) The word "cooperative" or an abbreviation thereof unless the corporation is a cooperative corporation.

(d) Other rights unaffected.—This section shall not abrogate or limit the law as to unfair competition or unfair practices nor derogate from the common law, the principles of equity or the provisions of Title 54

(relating to names) with respect to the right to acquire and protect trade names. Subsection (b) shall not apply if the applicant files in the department a certified copy of a final order of a court of competent jurisdiction establishing the prior right of the applicant to the use of a name in this Commonwealth.

(e) Remedies for violation of section.—The use of a name in violation of this section shall not vitiate or otherwise affect the corporate existence, but any court having jurisdiction may enjoin the corporation from using or continuing to use a name in violation of this section upon the application of:

(1) the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth; or

(2) any person adversely affected.

(f) Cross references.—See sections 135(e) (relating to distinguishable names) and 1106(b)(2) (relating to uniform application of subpart).

§ 1304. Required name changes by senior corporations.

(a) Adoption of new name upon reactivation.—Where a corporate name is made available on the basis that the corporation or other association that formerly registered the name has failed to file in the Department of Revenue a report or a return required by law or where the corporation or other association has filed in the Department of Revenue a certificate of out of existence, the corporation or other association shall cease to have by virtue of its prior registration any right to the use of the name. The corporation or other association, upon withdrawal of the certificate of out of existence or upon the removal of its delinquency in the filing of the required reports or returns, shall make inquiry with the Department of State with regard to the availability of its name and, if the name has been made available to another domestic or foreign corporation for profit or not-for-profit or other association by virtue of these conditions, shall adopt a new name in accordance with law before resuming its activities.

(b) Enforcement of undertaking to release name.—If a corporation has used a name that is not distinguishable upon the records of the Department of State from the name of another corporation or other association as permitted by section 1303(b)(1) (relating to duplicate use of names) and the other corporation or other association continues to use its name in this Commonwealth and does not change its name, cease to do business, be wound up or withdraw as it proposed to do in its consent or change its name as required by subsection (a), any court having jurisdiction may enjoin the other corporation or other association from continuing to use its name or a name that is not distinguishable therefrom upon the application of:

(1) the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth; or

(2) any person adversely affected.

§ 1305. Reservation of corporate name.

(a) General rule.—The exclusive right to the use of a corporate name may be reserved by any person. The reservation shall be made by delivering to the Department of State an application to reserve a specified corporate name, executed by the applicant. If the department finds that the name is available for corporate use, it shall reserve the name for the exclusive use of the applicant for a period of 120 days.

(b) Transfer of reservation.—The right to exclusive use of a specified corporate name reserved under subsection (a) may be transferred to any other person by delivering to the department a notice of the transfer, executed by the person who reserved the name, and specifying the name and address of the transferee.

(c) Cross references.—See sections 134 (relating to docketing statement) and 4131 (relating to registration of name).]

Section 13. Sections 1306(b), 1341(b)(3) and (d), 1571(a), (b), (c) and (h), 1575(a) introductory paragraph and (b) and 1704(b)(1) of Title 15 are amended to read:

§ 1306. Articles of incorporation.

* * *

(b) Other provisions authorized.—A provision of the original articles or a provision of the articles approved by the shareholders, in either case adopted under subsection (a)(8)(ii), may relax or be inconsistent with and supersede any provision of Chapter ***3 (relating to entity transactions),*** 13 (relating to incorporation), 15 (relating to corporate powers, duties and safeguards), 17 (relating to officers, directors and shareholders) or 19 (relating to fundamental changes) concerning the subjects specified in subsection (a)(8)(ii), except where a provision of those chapters expressly provides that the articles shall not relax or be inconsistent with any provision on a specified subject. Notwithstanding the foregoing, the articles may provide greater rights for shareholders than are authorized by any provision of those chapters that otherwise provides that the articles shall not relax or be inconsistent with any provision on a specified subject.

* * *

§ 1341. Statement of revival.

* * *

(b) Contents of statement.—The statement of revival shall be executed in the name of the forfeited or expired corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

* * *

(3) The name that the corporation adopts as its new name if the adoption of a new name is required by section **[1304]** ***207*** (relating to required name changes by senior **[corporations]** ***associations***).

* * *

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

§ 1571. Application and effect of subchapter.

(a) General rule.—Except as otherwise provided in subsection (b), any shareholder (as defined in section 1572 (relating to definitions)) of a business corporation shall have the **[right to dissent from, and to obtain payment of the fair value of his shares in the event of, any corporate action, or to otherwise obtain fair value for his shares,]** ***rights and remedies provided in this subchapter in connection with a transaction under this title*** only where this **[part]** ***title*** expressly provides that a shareholder shall have the rights and remedies provided in this subchapter. See:

Section 329(c) (relating to special treatment of interest holders).

Section 333 (relating to approval of merger).

Section 343 (relating to approval of interest exchange).

Section 353 (relating to approval of conversion).

Section 363 (relating to approval of division).

Section 1906(c) (relating to dissenters rights upon special treatment).

[Section 1930 (relating to dissenters rights).

Section 1931(d) (relating to dissenters rights in share exchanges).]

Section 1932(c) (relating to dissenters rights in asset transfers).

[Section 1952(d) (relating to dissenters rights in division).

Section 1962(c) (relating to dissenters rights in conversion).]

Section 2104(b) (relating to procedure).

Section 2324 (relating to corporation option where a restriction on transfer of a security is held invalid).

Section 2325(b) (relating to minimum vote requirement).

Section 2704(c) (relating to dissenters rights upon election).

Section 2705(d) (relating to dissenters rights upon renewal of election).

Section 2904(b) (relating to procedure).

Section 2907(a) (relating to proceedings to terminate breach of qualifying conditions).

Section 7104(b)(3) (relating to procedure).

(b) Exceptions.—

(1) Except as otherwise provided in paragraph (2), the holders of the shares of any class or series of shares shall not have the right to dissent and obtain payment of the fair value of the shares under this subchapter if, on the record date fixed to determine the shareholders entitled to notice of and to vote at the meeting at which a plan specified in any of section **[1930, 1931(d),]** ***333, 343, 353, 363 or*** 1932(c) **[or 1952(d)]** is to be voted on or on the date of the first public announcement that such a plan has been approved by the shareholders by consent without a meeting, the shares are either:

(i) listed on a national securities exchange **[or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.]** ***registered under section 6 of the Exchange Act***; or

(ii) held beneficially or of record by more than 2,000 persons.

(2) Paragraph (1) shall not apply to and dissenters rights shall be available without regard to the exception provided in that paragraph in the case of:

(ii) Shares of any preferred or special class or series unless the articles, the plan or the terms of the transaction entitle all shareholders of the class or series to vote thereon and require for the adoption of the plan or the effectuation of the transaction the affirmative vote of a majority of the votes cast by all shareholders of the class or series.

(iii) Shares entitled to dissenters rights under section ***329(d) or*** 1906(c) (relating to dissenters rights upon special treatment).

(3) The shareholders of a corporation that acquires by purchase, lease, exchange or other disposition all or substantially all of the shares, property or assets of another corporation by the issuance of shares, obligations or otherwise, with or without assuming the liabilities of the other corporation and with or without the intervention of another corporation or other person, shall not be entitled to the rights and remedies of dissenting shareholders provided in this subchapter regardless of the fact, if it be the case, that the acquisition was accomplished by the issuance of voting shares of the corporation to be outstanding immediately after the acquisition sufficient to elect a majority or more of the directors of the corporation.

(c) Grant of optional dissenters rights.—The bylaws or a resolution of the board of directors may direct that all or a part of the shareholders shall have dissenters rights in connection with any corporate action or other transaction that would otherwise not entitle such shareholders to dissenters rights. ***See section 317 (relating to contractual dissenters rights in entity transactions).***

* * *

(h) Cross references.—**[See sections 1105 (relating to restriction on equitable relief), 1904 (relating to de facto transaction doctrine abolished), 1763(c) (relating to determination of shareholders of record) and 2512 (relating to dissenters rights procedure).]** ***See:***

Section 315 (relating to nature of transactions).

Section 1105 (relating to restriction on equitable relief).

Section 1763(c) (relating to determination of shareholders of record).

Section 2512 (relating to dissenters rights procedure).

§ 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]** ***deliver*** 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 approved by the shareholders by less than unanimous consent without a meeting or is taken without the need for approval by the shareholders, the corporation shall **[send]** ***deliver*** 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:

* * *

(b) Time for receipt of demand for payment.—The time set for receipt of the demand and deposit of certificated shares shall be not less than 30 days from the **[mailing]** ***delivery*** of the notice.

§ 1704. Place and notice of meetings of shareholders.

* * *

(b) 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 ***transaction under Chapter 3 (relating to entity transactions) or a*** fundamental change under Chapter 19 (relating to fundamental changes); or

* * *

Section 14. Section 1757(a) and (b) of Title 15 are amended and the section is amended by adding a subsection to read:

§ 1757. Action by shareholders.

(a) General rule.—Except as otherwise provided in this **[subpart]** ***title*** or in a bylaw adopted by the shareholders, whenever any corporate action is to be taken by vote of the shareholders of a business corporation, it shall be authorized upon receiving the affirmative vote of a majority of the votes cast by all shareholders entitled to vote thereon and, if any shareholders are entitled to vote thereon as a class, upon receiving the affirmative vote of a majority of the votes cast by the shareholders entitled to vote as a class.

(b) Changes in required vote.—Whenever a provision of this **[subpart]** ***title*** requires a specified number or percentage of votes of shareholders or of a class of shareholders for the taking of any action, a business corporation may prescribe in a bylaw adopted by the shareholders that a higher number or percentage of votes shall be required for the action. See sections 1504(d) (relating to amendment of voting provisions) and 1914(e) (relating to amendment of voting provisions).

* * *

(d) Cross reference.—See section 321 (relating to approval by business corporation).

Section 15. Section 1766(c) of Title 15 is amended to read:

§ 1766. Consent of shareholders in lieu of meeting.

* * *

(c) Effectiveness of action by partial consent.—An action taken pursuant to subsection (b) ***to approve a transaction under Chapter 3 (relating to entity transactions)*** shall not become effective until after at least ten days' notice of the action has been given to each shareholder entitled to vote thereon who has not consented thereto. ***Any other action may become effective immediately, but prompt notice that the action has been taken shall be given to each shareholder entitled to vote thereon that has not consented.*** This subsection may not be relaxed by any provision of the articles.

* * *

Section 16. Sections 1901, 1902(a) and 1904 of Title 15 are amended to read:

[§ 1901. Omission of certain provisions from filed plans.

(a) General rule.—A plan as filed in the Department of State under any provision of this chapter may omit all provisions of the plan except provisions, if any:

(1) that are intended to amend or constitute the operative provisions of the articles of a corporation as in effect subsequent to the effective date of the plan; or

(2) that allocate or specify the respective assets and liabilities of the resulting corporations, in the case of a plan of division.

(b) Availability of full plan.—If any of the provisions of a plan are omitted from the plan as filed in the department, the articles of amendment, merger, consolidation, exchange, division or conversion shall state that the full text of the plan is on file at the principal place of business of the reclassifying, surviving or new or a resulting corporation and shall state the address thereof. A corporation that takes advantage of this section shall furnish a copy of the full text of the plan, on request and without cost, to any shareholder of any corporation that was a party to the plan and, unless all parties to the plan were closely held corporations, on request and at cost to any other person.]

§ 1902. Statement of termination.

(a) General rule.—If **[a statement with respect to shares,]** articles of amendment **[or articles of merger, consolidation, exchange, division or conversion of a business corporation or to which it is a party]** have been filed in the **[Department of State]** ***department*** prior to the termination of the amendment **[or plan]** pursuant to provisions therefor set forth in the resolution or petition relating to the amendment **[or in the plan]**, the termination shall not be effective unless the corporation shall, prior to the time the amendment **[or plan]** is to become effective, file in the department a statement of termination. The statement of termination shall be **[executed]** ***signed*** by the corporation that filed the amendment **[or by each corporation that is a party to the plan, unless the plan permits termination by less than all of the corporations, in which case the statement shall be executed on behalf of the corporation or corporations exercising the right to terminate,]** and shall set forth:

(1) A copy of the **[statement with respect to shares,]** articles of amendment **[or articles of merger, consolidation, exchange, division or conversion relating to the amendment or plan that is terminated]**.

(2) A statement that the amendment **[or plan]** has been terminated in accordance with the provisions therefor set forth therein.

* * *

§ 1904. De facto transaction doctrine abolished.

The doctrine of de facto mergers, consolidations and other fundamental transactions is abolished and the rules laid down by Bloch v. Baldwin Locomotive Works, 75 Pa. D. & C. 24 (C.P. Del. Cty. 1950), and Marks v. The Autocar Co., 153 F.Supp. 768 (E.D. Pa. 1954), and similar cases are overruled. A transaction that in form satisfies the requirements of this **[subpart]** ***title*** may be challenged by reason of its substance only to the extent permitted by section 1105 (relating to restriction on equitable relief).

Section 17. Section 1905 of Title 15 is amended to read:

§ 1905. Proposal of fundamental transactions.

Where any provision of this chapter requires that an amendment of the articles**[, a plan]** or the dissolution of a business corporation be proposed or approved by action of the board of directors, that requirement shall be construed to authorize and be satisfied by the written agreement or consent of all of the shareholders of the corporation entitled to vote thereon.

Section 18. Section 1906(a), (d)(1) and (e) of Title 15 are amended and the section is amended by adding a subsection to read:

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

(a) General rule.—Except as otherwise restricted in the articles, a plan may contain a provision classifying the holders of shares of a class or series into one or more separate groups by reference to any facts or circumstances that are not manifestly unreasonable and providing mandatory treatment for shares of the class or series held by particular shareholders or groups of shareholders that differs materially from the treatment accorded other shareholders or groups of shareholders holding shares of the same class or series (including a provision modifying or rescinding rights previously created under this section) if:

(1) (i) **[such provision is specifically authorized by a majority of the votes cast by all shareholders entitled to vote on the plan, as well as]** ***the plan is approved*** by a majority of the votes cast by any class or series of shares any of the shares of which are so classified into groups, whether or not such class or series would otherwise be entitled to vote on the plan; and

(ii) the provision voted on specifically enumerates the type and extent of the special treatment authorized; or

(2) under all the facts and circumstances, a court of competent jurisdiction finds such special treatment is undertaken in good faith, after reasonable deliberation and is in the best interest of the corporation.

* * *

(c.2) Notice to shareholders.—A notice to shareholders of a meeting called to act on a plan that provides for special treatment must state that the plan provides for special treatment. The notice must identify the shareholders receiving special treatment unless the notice is accompanied by either a summary of the plan that includes that information or the full text of the plan.

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

(1) **[The creation or issuance of securities, contracts, warrants or other instruments evidencing any shares, option rights, securities having conversion or option rights or obligations authorized by section 2513 (relating to disparate treatment of certain persons).]** ***(Reserved).***

* * *

(e) Definition.—As used in this section, the term "plan" **[includes]** ***means***:

(1) an amendment of the articles that effects a reclassification of shares, whether or not the amendment is accompanied by a separate plan of reclassification; **[and]**

(1.1) a plan of asset transfer adopted under section 1932(b) (relating to voluntary transfer of corporate assets); or

(2) a resolution recommending that the corporation dissolve voluntarily adopted under section 1972(a) (relating to proposal of voluntary dissolution).

Section 19. Section 1908 of Title 15 is amended to read:

§ 1908. Submission of matters to shareholders.

A business corporation may agree, in record form, to submit an amendment **[or plan]** ***or other matter*** 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 20. Subchapter C heading of Chapter 19 of Title 15 is amended to read:

SUBCHAPTER C
MERGER **[,CONSOLIDATION, SHARE EXCHANGES]** ***LIABILITIES*** AND SALE OF ASSETS

Section 21. Sections 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930 and 1931 of Title 15 are repealed:

[§ 1921. Merger and consolidation authorized.

(a) Domestic surviving or new corporation.—Any two or more domestic business corporations, or any two or more foreign business corporations, or any one or more domestic business corporations and any one or more foreign business corporations, may, in the manner provided in this subchapter, be merged into one of the domestic business corporations, designated in this subchapter as the surviving corporation, or consolidated into a new corporation to be formed under this subpart, if the foreign business corporations are authorized by the laws of the jurisdiction under which they are incorporated to effect a merger or consolidation with a corporation of another jurisdiction.

(b) Foreign surviving or new corporation.—Any one or more domestic business corporations, and any one or more foreign business corporations, may, in the manner provided in this subchapter, be merged into one of the foreign business corporations, designated in this subchapter as the surviving corporation, or consolidated into a new corporation to be incorporated under the laws of the jurisdiction under which one of the foreign business corporations is incorporated, if the laws of that jurisdiction authorize a merger with or consolidation into a corporation of another jurisdiction.

(c) Business trusts, partnerships and other associations.—The provisions of this subchapter applicable to domestic and foreign business corporations shall also be applicable to a merger, consolidation or share exchange to which a domestic business corporation is a party or in which such a corporation is the resulting entity with, into or involving a domestic or foreign partnership, business trust or other association. The surviving, resulting or exchanging entity in such a merger,

consolidation or share exchange may be a corporation, partnership, business trust or other association. Subject to the provisions of Subchapter F of Chapter 85 (relating to merger and consolidation), the powers and duties vested in and imposed upon the board of directors and shareholders in this subchapter shall be exercised and performed by the group of persons under the direction of whom the business and affairs of the partnership, business trust or other association are managed and the holders or owners of beneficial or other interests in the partnership, business trust or other association, respectively, irrespective of the names by which the managing group and the holders or owners of beneficial or other interests are designated. The units into which the beneficial or other interests in the partnership, business trust or other association are divided shall be deemed to be shares for the purposes of applying the provisions of this subchapter to a merger, consolidation or share exchange involving the partnership, business trust or other association. Dissenters rights shall be available to a holder of beneficial or other interests only to the extent, if any, provided by the law under which the partnership, business trust or other association is organized.

§ 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:

(1) The terms and conditions of the merger or consolidation.

(2) If the surviving or new corporation is or is to be a domestic business corporation:

(i) any changes desired to be made in the articles, which may include a restatement of the articles in the case of a merger; or

(ii) in the case of a consolidation, all of the statements required by this subpart to be set forth in restated articles.

(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.

(4) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).

(5) Such other provisions as are deemed desirable.

(b) Post-adoption amendment.—A plan of merger or consolidation may contain a provision that the boards of directors of the constituent corporations may amend the plan at any time prior to its effective date, except that an amendment made subsequent to the adoption of the plan by the shareholders of any constituent domestic business corporation shall not change:

(1) The amount or kind of shares, obligations, cash, property or rights to be received in exchange for or on conversion of all or any of the shares of the constituent domestic business corporation adversely to the holders of those shares.

(2) Any provision of the articles of the surviving or new corporation as it is to be in effect immediately following consummation of the merger or consolidation except provisions that may be amended without the approval of the shareholders under section 1914(c)(2) (relating to adoption of amendments).

(3) Any of the other terms and conditions of the plan if the change would adversely affect the holders of any shares of the constituent domestic business corporation.

(c) Proposal.—Except where the approval of the board of directors is unnecessary under this subchapter, every merger or consolidation shall be proposed in the case of each domestic business corporation by the adoption by the board of directors of a resolution approving the plan of merger or consolidation. Except where the approval of the shareholders is unnecessary under this subchapter, the board of directors shall direct that the plan be submitted to a vote of the shareholders entitled to vote thereon at a regular or special meeting of the shareholders.

(d) Party to plan or transaction.—A corporation, partnership, business trust or other association that approves a plan in its capacity as a shareholder or creditor of a merging or consolidating corporation, or that furnishes all or a part of the consideration contemplated by a plan, does not thereby become a party to the plan or the merger or consolidation for the purposes of this subchapter.

(e) Reference to outside facts.—Any of the terms of a plan of merger or consolidation 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. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

§ 1923. Notice of meeting of shareholders.

(a) General rule.—Notice in record form of the meeting of shareholders that will act on the proposed plan 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. The notice must include or be accompanied by the proposed plan or a summary thereof. If Subchapter D of Chapter 15 (relating to dissenters rights) is applicable to the holders of shares of any class or series, the text of that subchapter and of section 1930 (relating to dissenters rights) 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 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 sections 2512 (relating to dissenters rights procedure) and 2528 (relating to notice of shareholder meetings).

§ 1924. Adoption of plan.

(a) General rule.—The plan of merger or consolidation shall be adopted upon receiving the affirmative vote of a majority of the votes cast by all shareholders entitled to vote thereon of each of the domestic business corporations that is a party to the merger or consolidation and, if any class or series of shares is entitled to vote thereon as a class, the affirmative vote of a majority of the votes cast in each class vote. The holders of any class or series of shares of a domestic corporation that is a party to a merger or consolidation that effects any change in the articles of the corporation shall be entitled to vote as a class on the plan if they would have been entitled to a class vote under the provisions of section 1914 (relating to adoption of amendments) had the change been accomplished under Subchapter B (relating to amendment of articles). A proposed plan of merger or consolidation shall not be deemed to have been adopted by the corporation unless it has also been approved by the board of directors, regardless of the fact that the board has directed or suffered the submission of the plan to the shareholders for action.

(b) Adoption by board of directors.—

(1) Unless otherwise required by its bylaws, a plan of merger or consolidation shall not require the approval of the shareholders of a constituent domestic business corporation if:

(i) whether or not the constituent corporation is the surviving corporation:

(A) the surviving or new corporation is a domestic business corporation and the articles of the surviving or new corporation are identical to the articles of the constituent corporation, except changes that under section 1914(c) (relating to adoption by board of directors) may be made without shareholder action;

(B) each share of the constituent corporation outstanding immediately prior to the effective date of the merger or consolidation is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical share of the surviving or new corporation after the effective date of the merger or consolidation; and

(C) the plan provides that the shareholders of the constituent corporation are to hold in the aggregate shares of the surviving or new corporation to be outstanding immediately after the effectiveness of the plan entitled to cast at least a majority of the votes entitled to be cast generally for the election of directors;

(ii) immediately prior to the adoption of the plan and at all times thereafter prior to its effective date, another corporation that is a party to the plan owns directly or indirectly 80% or more of the outstanding shares of each class of the constituent corporation; or

(iii) no shares of the constituent corporation have been issued prior to the adoption of the plan of merger or consolidation by the board of directors pursuant to section 1922 (relating to plan of merger or consolidation).

(2) If a merger or consolidation is effected pursuant to paragraph (1)(i) or (iii), the plan of merger or consolidation shall be deemed adopted by the constituent corporation when it has been adopted by the board of directors pursuant to section 1922.

(3) If a merger or consolidation of a subsidiary corporation with a parent corporation is effected pursuant to paragraph (1)(ii), the plan of merger or consolidation shall be deemed adopted by the subsidiary corporation when it has been adopted by the board of the parent corporation and neither approval of the plan by the board of directors of the subsidiary corporation nor execution of articles of merger or consolidation by the subsidiary corporation shall be necessary.

(4) (i) Unless otherwise required by its bylaws, a plan of merger or consolidation providing for the merger or consolidation of a domestic business corporation (referred to in this paragraph as the "constituent corporation") with or into a single indirect wholly owned subsidiary (referred to in this paragraph as the "subsidiary corporation") of the constituent corporation shall not require the approval of the shareholders of either the constituent corporation or the subsidiary corporation if all of the provisions of this paragraph are satisfied.

(ii) A merger or consolidation under this paragraph shall satisfy the following conditions:

(A) The constituent corporation and the subsidiary corporation are the only parties to the merger or consolidation, other than the resulting corporation, if any, in a consolidation (the corporation that survives or results from the merger or consolidation is referred to in this paragraph as the "resulting subsidiary").

(B) Each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effective time of the merger or consolidation is converted in the merger or consolidation into a share or equal fraction of a share of capital stock of a holding company having the same designations, rights, powers and preferences and the qualifications, limitations and restrictions as the share of stock of the constituent corporation being converted in the merger or consolidation.

(C) The holding company and the resulting subsidiary are each domestic business corporations.

(D) Immediately following the effective time of the merger or consolidation, the articles of incorporation and bylaws of the holding company are identical to the articles of incorporation and bylaws of the constituent corporation immediately before the effective time of the merger or consolidation except for changes that could be made without shareholder approval under section 1914(c) (relating to adoption by board of directors).

(E) Immediately following the effective time of the merger or consolidation, the resulting subsidiary is a direct or indirect wholly owned subsidiary of the holding company.

(F) The directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger or consolidation.

(G) The board of directors of the constituent corporation has made a good faith determination that the shareholders of the constituent corporation will not recognize gain or loss for United States Federal Income Tax purposes.

(iii) As used in this paragraph only, the term "holding company" means a corporation that, from its incorporation until consummation of the merger or consolidation governed by this paragraph, was at all times a direct wholly owned subsidiary of the constituent corporation and whose capital stock is issued in the merger or consolidation.

(iv) If the holding company is a registered corporation, the shares of the holding company issued in connection with the merger or consolidation shall be deemed to have been acquired at the time that the shares of the constituent corporation converted in the merger or consolidation were acquired.

(5) A plan of merger or consolidation adopted by the board of directors under this subsection without the approval of the shareholders shall not, by itself, create or impair any rights or obligations on the part of any person under section 2538 (relating to approval of transactions with interested shareholders) or under Subchapters E (relating to control transactions), F (relating to business combinations), G (relating to control-share acquisitions), H (relating to disgorgement by certain controlling shareholders following attempts to acquire control), I (relating to severance compensation for employees terminated following certain control-share acquisitions) and J (relating to business combination transactions - labor contracts) of Chapter 25, nor shall it change the standard of care applicable to the directors under Subchapter B of Chapter 17 (relating to fiduciary duty).

(c) Termination of plan.—Prior to the time when a merger or consolidation becomes effective, the merger or consolidation may be terminated pursuant to provisions therefor, if any, set forth in the plan. If articles of merger or consolidation have been filed in the Department of State prior to the termination, a statement under section 1902 (relating to statement of termination) shall be filed in the department.

(d) Cross reference.—See section 2539 (relating to adoption of plan of merger by board of directors).

§ 1925. Authorization by foreign corporations.

The plan of merger or consolidation shall be authorized, adopted or approved by each foreign business corporation that desires to merge or consolidate in accordance with the laws of the jurisdiction in which it is incorporated.

§ 1926. 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, except as provided by section 1924(b)(3) (relating to adoption by board of directors), 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:

(1) The name and the location of the registered office, including street and number, if any, of the domestic surviving or new corporation or, in the case of a foreign surviving or new corporation, the name of the corporation and its jurisdiction of incorporation, together with either:

(i) If a qualified foreign business corporation, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign business corporation, the address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is incorporated.

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

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by each domestic corporation and, if one or more foreign corporations are parties to the 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.

(5) Except as provided in section 1901 (relating to omission of certain provisions from filed plans), the plan of merger or consolidation.

§ 1927. Filing of articles of merger or consolidation.

(a) General rule.—The articles of merger or articles of consolidation, as the case may be, and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 1928. Effective date of merger or consolidation.

Upon the filing of the articles of merger or the articles of consolidation in the Department of State 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 business corporations into a foreign business corporation shall be effective according to the provisions of law of the jurisdiction in which 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.

§ 1929. Effect of merger or consolidation.

(a) Single surviving or new corporation.—Upon the merger or consolidation becoming effective, the several corporations parties to the merger or consolidation shall be a single corporation which, in the case of a merger, shall be the corporation designated in the plan of merger as the surviving corporation and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation. The separate existence of all corporations parties to the merger or consolidation shall cease, except that of the surviving corporation, in the case of a merger. The surviving or new corporation, as the case may be, if it is a domestic business corporation, shall not thereby acquire authority to engage in any business or exercise any right that a corporation may not be incorporated under this subpart to engage in or exercise.

(b) Property rights.—All the property, real, personal and mixed, and franchises of each of the corporations parties to the merger or consolidation, and all debts due on whatever account to any of them, including subscriptions for shares and other choses in action belonging to any of them, shall be deemed to be vested in and shall belong to the surviving or new corporation, as the case may be, without further action, and the title to any real estate, or any interest therein, vested in any of the corporations shall not revert or be in any way impaired by reason of the merger or consolidation. The surviving or new corporation shall thenceforth be responsible for all the liabilities of each of the corporations so merged or consolidated. Liens upon the property of the merging or consolidating corporations shall not be impaired by the merger or consolidation and any claim existing or action or proceeding pending by or against any of the corporations may be prosecuted to judgment as if the merger or consolidation had not taken place or the surviving or new corporation may be proceeded against or substituted in its place.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against any of the merging or consolidating corporations that are settled, assessed or determined prior to or after the merger or consolidation shall be the liability of the surviving or new corporation and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of the surviving or new corporation.

(d) Articles of incorporation.—In the case of a merger, the articles of incorporation of the surviving domestic business corporation, if any, shall be deemed to be amended to the extent, if any, that changes in its

articles are stated in the plan of merger. In the case of a consolidation into a domestic business corporation, the statements that are set forth in the plan of consolidation, or articles of incorporation set forth therein, shall be deemed to be the articles of incorporation of the new corporation.

§ 1930. Dissenters rights.

(a) General rule.—If any shareholder of a domestic business corporation that is to be a party to a merger or consolidation pursuant to a plan of merger or consolidation objects to the plan of merger or consolidation and complies with the provisions of Subchapter D of Chapter 15 (relating to dissenters rights), the shareholder shall be entitled to the rights and remedies of dissenting shareholders therein provided, if any. See also section 1906(c) (relating to dissenters rights upon special treatment).

(b) Plans adopted by directors only.—Except as otherwise provided pursuant to section 1571(c) (relating to grant of optional dissenters rights), Subchapter D of Chapter 15 shall not apply to any of the shares of a corporation that is a party to a merger or consolidation pursuant to section 1924(b)(1)(i) or (4) (relating to adoption by board of directors).

(c) Cross references.—See sections 1571(b) (relating to exceptions) and 1904 (relating to de facto transaction doctrine abolished).

§ 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 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:

(1) The terms and conditions of the exchange.

(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.

(3) Any changes desired to be made in the articles of the exchanging corporation, which may include a restatement of the articles.

(4) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series). Notwithstanding subsection (a), a plan that provides special treatment may affect less than all of the outstanding shares of a class or series.

(5) Such other provisions as are deemed desirable.

(c) Proposal and adoption.—The plan of exchange shall be proposed and adopted and may be amended after its adoption and terminated by the exchanging corporation in the manner provided by this subchapter for the proposal, adoption, amendment and termination of a plan of merger except section 1924(b) (relating to adoption by board of directors). There shall be included in, or enclosed with, the notice of the meeting of shareholders to act on the plan a copy or a summary of the plan and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable, a copy of the subchapter and of subsection (d). The holders of any class of shares to be exchanged or converted pursuant to the plan of exchange shall be entitled to vote as a class on the plan if they would have been entitled to vote on a plan of merger that affects the class in substantially the same manner as the plan of exchange.

(d) Dissenters rights in share exchanges.—Any holder of shares that are to be canceled, 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).

(e) Articles of exchange.—Upon adoption of a plan of exchange, as provided in this section, articles of exchange shall be executed by the exchanging corporation and shall set forth:

(1) The name and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the location of the registered office, including street and number, if any, of the exchanging corporation.

(2) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(3) The manner in which the plan was adopted by the exchanging corporation.

(4) Except as provided in section 1901 (relating to omission of certain provisions from filed plans), the plan of exchange.

The articles of exchange shall be filed in the Department of State. See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

(f) Effective date.—Upon the filing of articles of exchange in the department or upon the effective date specified in the plan of exchange, whichever is later, the plan shall become effective.

(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 canceled, converted or exchanged shall cease to exist or shall be converted 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.

(h) Special requirements.—If any provision of the articles or bylaws of an exchanging domestic business corporation adopted before October 1, 1989, requires for the proposal or adoption of a plan of merger, consolidation or asset transfer a specific number or percentage of votes of directors or shareholders or other special procedures, the plan of exchange shall not be proposed by the directors or adopted by the shareholders without that number or percentage of votes or compliance with the other special procedures.

(i) Reference to outside facts.—Any of the terms of a plan of exchange 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. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.]

Section 22. Section 1932(b)(1), (2) and (4) of Title 15 are amended to read:

§ 1932. Voluntary transfer of corporate assets.

* * *

(b) Shareholder approval required.—

(1) A sale, lease, exchange or other disposition of all, or substantially all, the property and assets, with or without the goodwill, of a business corporation, if not made pursuant to subsection (a) or (d) or to section 1551 (relating to distributions to shareholders) or Subchapter **[D]** ***F of Chapter 3*** (relating to division), may be made only pursuant to a plan of asset transfer in the manner provided in this subsection. A corporation selling, leasing or otherwise disposing of all, or substantially all, its property and assets is referred to in this subsection and in subsection (c) as the "transferring corporation."

(2) 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 the purposes of this subsection and of subsection (c). A merger **[or consolidation]** to which such a subsidiary corporation is a party and in which a third party acquires direct or indirect ownership of the property or assets of the

subsidiary corporation constitutes an "other disposition" of the property or assets of the parent corporation within the meaning of that term as used in this section.

* * *

(4) The plan of asset transfer shall be proposed and adopted, and may be amended after its adoption and terminated, by the transferring corporation in the manner provided in **[this subchapter]** ***Chapter 3 (relating to entity transactions)*** for the proposal, adoption, amendment and termination of a plan of merger, except section **[1924(b) (relating to adoption by board of directors)]** ***321(d) (relating to approval by business corporation)***. The procedures of **[this subchapter]** ***Chapter 3*** shall not be applicable to the person acquiring the property or assets of the transferring corporation. There shall be included in, or enclosed with, the notice of the meeting of the shareholders of the transferring corporation to act on the plan a copy or a summary of the plan and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable, a copy of the subchapter and of subsection (c).

* * *

Section 23. Subchapters D and E and section 1980 of Chapter 19 of Title 15 are repealed:

[SUBCHAPTER D
DIVISION

§ 1951. Division authorized.

(a) Division of domestic corporation.—Any domestic business corporation may, in the manner provided in this subchapter, be divided into two or more domestic business corporations incorporated or to be incorporated under this article, or into one or more domestic business corporations and one or more foreign business corporations to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more foreign business corporations, if the laws of the other jurisdictions authorize the division.

(b) Division of foreign corporation.—Any foreign business corporation may, in the manner provided in this subchapter, be divided into one or more domestic business corporations to be incorporated under this subpart and one or more foreign business corporations incorporated or to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more domestic business corporations, if the foreign business corporation is authorized under the laws of the jurisdiction under which it is incorporated to effect a division.

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

§ 1952. Proposal and adoption of plan of division.

(a) Preparation of plan.—A plan of division shall be prepared, setting forth:

(1) The terms and conditions of the division, including the manner and basis of:

(i) The reclassification of the shares of the surviving corporation, if there be one, and, if any of the shares of the dividing corporation are not to be converted solely into shares or other securities or obligations of one or more of the resulting corporations, 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 shares or other securities or obligations of one or more of the resulting corporations.

(ii) The disposition of the shares and other securities or obligations, if any, of the new corporation or corporations resulting from the division.

(2) A statement that the dividing corporation will, or will not, survive the division.

(3) Any changes desired to be made in the articles of the surviving corporation, if there be one, including a restatement of the articles.

(4) The articles of incorporation required by subsection (b).

(5) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).

(6) Such other provisions as are deemed desirable.

(b) Articles of new corporations.—There shall be included in or annexed to the plan of division:

(1) Articles of incorporation, which shall contain all of the statements required by this subpart to be set forth in restated articles, for each of the new domestic business corporations, if any, resulting from the division.

(2) Articles of incorporation, certificates of incorporation or other charter documents for each of the new foreign business corporations, if any, resulting from the division.

(c) Proposal and adoption.—Except as otherwise provided in section 1953 (relating to division without shareholder approval), the plan of division shall be proposed and adopted, and may be amended after its adoption and terminated, by a domestic business corporation in the manner provided for the proposal, adoption, amendment and termination of a plan of merger in Subchapter C (relating to merger, consolidation, share exchanges and sale of assets), except section 1924(b) (relating to adoption by board of directors), or, if the dividing corporation is a foreign business corporation, in accordance with the

laws of the jurisdiction in which it is incorporated. There shall be included in, or enclosed with, the notice of the meeting of shareholders to act on the plan a copy or a summary of the plan and, if Subchapter D of Chapter 15 (relating to dissenters rights) is applicable, a copy of the subchapter and of subsection (d).

(d) Dissenters rights in division.—

(1) Except as otherwise provided in paragraph (2), any shareholder of a business corporation that adopts a plan of division 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).

(2) Except as otherwise provided pursuant to section 1571(c) (relating to grant of optional dissenters rights), Subchapter D of Chapter 15 shall not apply to any of the shares of a corporation that is a party to a plan of division pursuant to section 1953 (relating to division without shareholder approval).

(f) Action by holders of preferred or special shares.—If the dividing corporation has outstanding any shares of any preferred or special class or series, the holders of the outstanding shares of the class or series shall be entitled to vote as a class on the plan regardless of any limitations stated in the articles or bylaws on the voting rights of the class or series if the plan of division:

(1) provides that the dividing corporation will not survive the division; or

(2) amends the articles or bylaws of the surviving corporation in a manner that would entitle the holders of such preferred or special shares to a class vote thereon under the articles, bylaws or section 1914(b) (relating to statutory voting rights).

(g) Rights of holders of indebtedness.—If any debt securities, notes or similar evidences of indebtedness for money borrowed, whether secured or unsecured, indentures or other contracts were issued, incurred or executed by the dividing corporation before August 21, 2001, and have not been amended subsequent to that date, the liability of the dividing corporation thereunder shall not be affected by the division nor shall the rights of the obligees thereunder be impaired by the division, and each of the resulting corporations may be proceeded against or substituted in place of the dividing corporation as joint and several obligors on such liability, regardless of any provision of the plan of division apportioning the liabilities of the dividing corporation.

(h) Special requirements.—If any provision of the articles or bylaws of a dividing domestic business corporation adopted before October 1, 1989, requires for the proposal or adoption of a plan of merger, consolidation or asset transfer a specific number or percentage of votes of directors or shareholders or other special procedures, the plan of division shall not be proposed or adopted by the directors or (if adoption by the shareholders is otherwise required by this subchapter) adopted by the shareholders without that number or percentage of votes or compliance with the other special procedures.

(i) Reference to outside facts.—Any of the terms of a plan of division 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. Such facts may include, without limitation, actions or events within the control of or determinations made by the dividing corporation or a representative of the dividing corporation.

§ 1953. Division without shareholder approval.

(a) General rule.—Unless otherwise restricted by its bylaws or required by section 1952(f) (relating to action by holders of preferred or special shares), a plan of division that does not alter the state of incorporation of a business corporation, provide for special treatment nor amend in any respect the provisions of its articles (except amendments which under section 1914(c) (relating to adoption by board of directors) may be made without shareholder action) shall not require the approval of the shareholders of the corporation if:

(1) the dividing corporation has only one class of shares outstanding and the shares and other securities, if any, of each corporation resulting from the plan are distributed pro rata to the shareholders of the dividing corporation;

(2) the dividing corporation survives the division and all the shares and other securities and obligations, if any, of all new corporations resulting from the plan are owned solely by the surviving corporation; or

(3) the allocation of assets among the resulting corporations effected by the division, if effected by means of a sale, lease, exchange or other disposition, would not require the approval of shareholders under section 1932(b) (relating to shareholder approval required).

(b) Limitation.—A plan of division adopted by the board of directors under this section without the approval of the shareholders shall not, by itself, create or impair any rights or obligations on the part of any person under section 2538 (relating to approval of transactions with interested shareholders) or under Subchapters E (relating to control transactions), F (relating to business combinations), G (relating to control-share acquisitions), H (relating to disgorgement by certain controlling shareholders following attempts to acquire control), I (relating to severance compensation for employees terminated following certain control-share acquisitions) and J (relating to business combination transactions - labor contracts) of Chapter 25, nor shall it change the standard of care applicable to the directors under Subchapter B of Chapter 17 (relating to fiduciary duty).

§ 1954. Articles of division.

Upon the adoption of a plan of division by the corporation desiring to divide, as provided in this subchapter, articles of division shall be executed by the corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic business corporation or, in the case of a dividing foreign business corporation,

the name of the corporation and the jurisdiction in which it is incorporated, together with either:

(i) If a qualified foreign business corporation, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign business corporation, the address, including street and number, if any, of its principal office under the laws of that jurisdiction.

(2) The statute under which the dividing corporation was incorporated and the date of incorporation.

(3) A statement that the dividing corporation will, or will not, survive the division.

(4) The name and the address, including street and number, if any, of the registered office of each new domestic business corporation or qualified foreign business corporation resulting from the division.

(5) If the plan is to be effective on a specific date, the hour, if any, and the month, day and year of the effective date.

(6) The manner in which the plan was adopted by the corporation.

(7) Except as provided in section 1901 (relating to omission of certain provisions from filed plans), the plan of division.

§ 1955. Filing of articles of division.

(a) General rule.—The articles of division, and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

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

§ 1956. Effective date of division.

Upon the filing of articles of division in the Department of State or upon the effective date specified in the plan of division, whichever is later, the division shall become effective. The division of a domestic business corporation into one or more foreign business corporations or the division of a foreign business corporation shall be effective according to the laws of the jurisdictions where the foreign corporations are or are to be incorporated, but not until articles of division have been adopted and filed as provided in this subchapter.

§ 1957. Effect of division.

(a) Multiple resulting corporations.—Upon the division becoming effective, the dividing corporation shall be subdivided into the distinct and independent resulting corporations named in the plan of division and, if the dividing corporation is not to survive the division, the existence of the dividing corporation shall cease. The resulting corporations, if they are domestic business corporations, shall not thereby acquire authority to engage in any business or exercise any right that a corporation may not be incorporated under this subpart to engage in or exercise. Any resulting foreign business corporation that is

stated in the articles of division to be a qualified foreign business corporation shall be a qualified foreign business corporation under Article D (relating to foreign business corporations), and the articles of division shall be deemed to be the application for a certificate of authority and the certificate of authority issued thereon of the corporation.

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

(1) (i) All the property, real, personal and mixed, and franchises of the dividing corporation, and all debts due on whatever account to it, including subscriptions for shares and other choses in action belonging to it, shall (except as otherwise provided in paragraph (2)), to the extent allocations of assets are contemplated by the plan of division, be deemed without further action to be allocated to and vested in the resulting corporations on such a manner and basis and with such effect as is specified in the plan, or per capita among the resulting corporations, as tenants in common, if no specification is made in the plan, and the title to any real estate, or interest therein, vested in any of the corporations shall not revert or be in any way impaired by reason of the division.

(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 subparagraphs (iv) and (v).

(iii) Liens upon the property of the dividing corporation shall not be impaired by the division.

(iv) 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).

(v) If the conditions in subparagraph (iv) for freeing one or more of the resulting corporations from the liabilities of the dividing corporation or for allocating some or all of the liabilities of the dividing corporation are not satisfied, the liabilities of the dividing corporation as to which those conditions are not satisfied shall not be affected by the division nor shall the rights of

creditors thereunder be impaired by the division and any claim existing or action or proceeding pending by or against the corporation with respect to those liabilities may be prosecuted to judgment as if the division had not taken place, or the resulting corporations may be proceeded against or substituted in place of the dividing corporation as joint and several obligors on those liabilities, regardless of any provision of the plan of division apportioning the liabilities of the dividing corporation.

(vi) The conditions in subparagraph (iv) for freeing one or more of the resulting corporations from the liabilities of the dividing corporation and for allocating some or all of the liabilities of the dividing corporation shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Department of Banking, the Insurance Department or the Pennsylvania Public Utility Commission in a final order issued after August 21, 2001, that has become not subject to further appeal.

(2) (i) The allocation of any fee or freehold interest or leasehold having a remaining term of 30 years or more in any tract or parcel of real property situate in this Commonwealth owned by a dividing corporation (including property owned by a foreign business corporation dividing solely under the law of another jurisdiction) to a new corporation resulting from the division shall not be effective until one of the following documents is filed in the office for the recording of deeds of the county, or each of them, in which the tract or parcel is situated:

(A) A deed, lease or other instrument of confirmation describing the tract or parcel.

(B) A duly executed duplicate original copy of the articles of division.

(C) A copy of the articles of division certified by the Department of State.

(D) A declaration of acquisition setting forth the value of real estate holdings in such county of the corporation as an acquired company.

(ii) The provisions of 75 Pa.C.S. § 1114 (relating to transfer of vehicle by operation of law) shall not be applicable to an allocation of ownership of any motor vehicle, trailer or semitrailer to a new corporation under this section or under a similar law of any other jurisdiction but any such allocation shall be effective only upon compliance with the requirements of 75 Pa.C.S. § 1116 (relating to issuance of new certificate following transfer).

(3) It shall not be necessary for a plan of division to list each individual asset or liability of the dividing corporation to be allocated to a new corporation so long as those assets and liabilities are described in a reasonable manner.

(4) Each new corporation shall hold any assets and liabilities allocated to it as the successor to the dividing corporation, and those

assets and liabilities shall not be deemed to have been assigned to the new corporation in any manner, whether directly or indirectly or by operation of law.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the dividing corporation that are settled, assessed or determined prior to or after the division shall be the liability of any of the resulting corporations and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of all the corporations. Upon the application of the dividing corporation, the Department of Revenue, with the concurrence of the Office of Employment Security of the Department of Labor and Industry, shall release one or more, but less than all, of the resulting corporations from liability and liens for all taxes, interest, penalties and public accounts of the dividing corporation due the Commonwealth for periods prior to the effective date of the division if those departments are satisfied that the public revenues will be adequately secured.

(d) Articles of surviving corporation.—The articles of incorporation of the surviving corporation, if there be one, shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the plan of division.

(e) Articles of new corporations.—The statements that are set forth in the plan of division with respect to each new domestic business corporation and that are required or permitted to be set forth in restated articles of incorporation of corporations incorporated under this subpart, or the articles of incorporation of each new corporation set forth therein, shall be deemed to be the articles of incorporation of each new corporation.

(f) Directors and officers.—Unless otherwise provided in the plan, the directors and officers of the dividing corporation shall be the initial directors and officers of each of the resulting corporations.

(g) Disposition of shares.—Unless otherwise provided in the plan, the shares and other securities or obligations, if any, of each new corporation resulting from the division shall be distributable to:

(1) the surviving corporation, if the dividing corporation survives the division; or

(2) the holders of the common or other residuary shares of the dividing corporation pro rata, in any other case.

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

(1) The effect of a division of a domestic business 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.

(2) The effect of a division on the assets and liabilities of the dividing 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 corporation, regardless of whether

or not any of the new corporations is a foreign business corporation, shall be governed solely by the laws of this Commonwealth.

(4) In addition to the express provisions of this subsection, this subchapter shall otherwise generally be granted the protection of full faith and credit under the Constitution of the United States.

SUBCHAPTER E
CONVERSION

§ 1961. Conversion authorized.

(a) General rule.—Any business corporation may, in the manner provided in this subchapter, be converted into a nonprofit corporation, designated in this subchapter as the resulting corporation.

(b) Exceptions.—This subchapter shall not authorize any conversion involving:

(1) Beneficial, benevolent, fraternal or fraternal benefit societies having a lodge system and a representative form of government, or transacting any type of insurance whatsoever.

(2) Any corporation that by the laws of this Commonwealth is subject to the supervision of the Department of Banking, the Insurance Department or the Pennsylvania Public Utility Commission, unless the agency expressly approves the transaction in writing.

§ 1962. Proposal and adoption of plan of conversion.

(a) Preparation of plan.—A plan of conversion shall be prepared, setting forth:

(1) The terms and conditions of the conversion.

(2) A restatement of the articles of the resulting corporation, which articles shall comply with the requirements of this part relating to nonprofit corporations.

(3) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders as authorized by, and subject to the provisions of, section 1906 (relating to special treatment of holders of shares of same class or series).

(4) Such other provisions as are deemed desirable.

(b) Proposal and adoption.—The plan of conversion shall be proposed and adopted, and may be amended after its adoption and terminated, by the business corporation in the manner provided for the proposal, adoption, amendment and termination of a plan of merger in Subchapter C (relating to merger, consolidation, share exchanges and sale of assets), except section 1924(b) (relating to adoption by board of directors). There shall be included in, or enclosed with, the notice of meeting of shareholders of the business corporation that will act upon the plan a copy or a summary of the plan and of Subchapter D of Chapter 15 (relating to dissenters rights) and of subsection (c).

(c) Dissenters rights in conversion.—Any shareholder of a business corporation that adopts a plan of conversion into a nonprofit corporation who objects to the plan of conversion and complies with the

provisions of Subchapter D of Chapter 15 shall be entitled to the rights and remedies of dissenting shareholders therein provided.

(d) Reference to outside facts.—Any of the terms of a plan of conversion 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. Such facts may include, without limitation, actions or events within the control of or determinations made by the corporation or a representative of the corporation.

§ 1963. Articles of conversion.

Upon the adoption of a plan of conversion by the business corporation desiring to convert, as provided in this subchapter, articles of conversion shall be executed by the corporation and shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(2) The statute under which the corporation was incorporated and the date of incorporation.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by the corporation.

(5) Except as provided in section 1901 (relating to omission of certain provisions from filed plans), the plan of conversion.

§ 1964. Filing of articles of conversion.

(a) General rule.—The articles of conversion shall be filed in the Department of State.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 1965. Effective date of conversion.

Upon the filing of articles of conversion in the Department of State or upon the effective date specified in the plan of conversion, whichever is later, the conversion shall become effective.

§ 1966. Effect of conversion.

Upon the conversion becoming effective, the converting business corporation shall be deemed to be a nonprofit corporation subject to the provisions of this part relating to nonprofit corporations for all purposes, shall cease to be a business corporation and shall not thereafter operate in any manner resulting in pecuniary profit, incidental or otherwise, to its members or shareholders. The corporation shall remain liable for all existing obligations, public or private, and taxes due the Commonwealth or any other taxing authority for periods prior to the effective date of the conversion and, as a nonprofit corporation, it shall continue to be entitled to all assets theretofore pertaining to it as a business corporation.

§ 1980. Dissolution by domestication.

Whenever a domestic business corporation has domesticated itself under the laws of another jurisdiction by action similar to that provided by section 4161 (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 of State articles of dissolution under this subchapter containing the statement specified by section 1977(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 by section 139 (relating to tax clearance of certain fundamental transactions).]

Section 24. Sections 2101(c), 2121, 2301(c), 2501(b) and (c), 2521, 2538(a)(1) and (2) and (b), 2539, 2701(b), 2721, 2901(c), 2921(b), 3101(c), 3301(c) and 3304(b) of Title 15 are amended to read:

§ 2101. Application and effect of chapter.

* * *

(c) Laws applicable to nonstock corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all nonstock corporations. The specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. In the case of a nonstock corporation, references in this part to "shares," "shareholder," "share register," "share ledger," "transfer book for shares," "number of shares entitled to vote" or "class of shares" shall mean memberships, member, membership register, membership ledger, membership transfer book, number of votes entitled to be cast or class of members, respectively. Except as otherwise provided in this article, a nonstock corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

§ 2121. Corporate name of nonstock corporations.

(a) General rule.—The corporate name of a nonstock corporation may contain the word "mutual."

(b) Insurance names.—See section **[1303(c)(1)(iii) (relating to corporate name)]** ***202(c)(1)(iii) (relating to requirements for names generally)***.

§ 2301. Application and effect of chapter.

* * *

(c) Laws applicable to statutory close corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all statutory close corporations. The specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. Except as otherwise provided in this article, a statutory close corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

* * *

§ 2501. Application and effect of chapter.

* * *

(b) Laws applicable to registered corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all registered corporations. The specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. Except as otherwise provided in this article, a registered corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

(c) Effect of a contrary provision of the articles.—

(1) **[The]** ***Except as provided in section 2521 (relating to call of special meetings of shareholders), the*** articles of a registered corporation may provide either expressly or by necessary implication that any one or more of the provisions of Subchapters B (relating to powers, duties and safeguards), C (relating to directors and shareholders) and D (relating to fundamental changes generally) shall not be applicable in whole or in part to the corporation.

(2) The articles of a registered corporation may provide that any one or more of the provisions of Subchapter E (relating to control transactions) and following of this chapter shall not be applicable in whole or in part to the corporation only if, to the extent and in the manner, expressly permitted by the subchapter the applicability of which is so affected. Where any provision of Subchapter E and following of this chapter permits the applicability of a subchapter to be varied by a provision of the articles, the applicability may be varied by an amendment of the articles only if, to the extent and in the manner, expressly permitted by the subchapter the applicability of which is so affected.

* * *

§ 2521. Call of special meetings of shareholders.

(a) General rule.—The shareholders of a registered corporation shall not be entitled by statute to call a special meeting of the shareholders.

(b) Exception.—Subsection (a) shall not apply to the call of a special meeting by an interested shareholder (as defined in section 2553 (relating to interested shareholder)) for the purpose of approving a business combination under section 2555(3) or (4) (relating to requirements relating to certain business combinations).

(c) Contrary articles provision.—A provision of the articles of a registered corporation described in section 2502(1) (relating to registered corporation status) adopted after July 1, 2015, may not provide that a special meeting may be called by less than 25% of the votes that all shareholders would be entitled to cast at the meeting.

§ 2538. Approval of transactions with interested shareholders.

(a) General rule.—The following transactions shall require the affirmative vote of the shareholders entitled to cast at least a majority of the votes that all shareholders other than the interested shareholder are entitled to cast with respect to the transaction, without counting the vote of the interested shareholder:

(1) Any transaction authorized under Subchapter C of Chapter 19 (relating to merger**[,consolidation, share exchanges]** ***liabilities*** and sale of assets) ***or Subchapter C (relating to merger) or D (relating to interest***

exchange) of Chapter 3 between a registered corporation or subsidiary thereof and a shareholder of the registered corporation.

(2) Any transaction authorized under Subchapter **[D]** ***F*** of Chapter **[19]** ***3*** (relating to division) in which the interested shareholder receives a disproportionate amount of any of the shares or other securities of any corporation surviving or resulting from the plan of division.

* * *

(b) Exceptions.—Subsection (a) shall not apply to a transaction:

(1) that has been approved by a majority vote of the board of directors without counting the vote of directors who:

(i) are directors or officers of, or have a material equity interest in, the interested shareholder; or

(ii) were nominated for election as a director by the interested shareholder, and first elected as a director, within 24 months of the date of the vote on the proposed transaction;

(2) in which the consideration to be received by the shareholders for shares of any class of which shares are owned by the interested shareholder is not less than the highest amount paid by the interested shareholder in acquiring shares of the same class; or

(3) effected pursuant to section **[1924(b)(1)(ii) (relating to adoption by board of directors)]** ***321(d)(1)(ii) (relating to approval by business corporation)***.

* * *

§ 2539. Adoption of plan of merger by board of directors.

Section **[1924(b)(1)(ii) (relating to adoption by board of directors)]** ***321(d)(1)(ii) (relating to approval by business corporation)*** shall be applicable to a plan relating to a merger **[or consolidation]** to which a registered corporation described in section 2502(1)(i) (relating to registered corporation status) is a party only if the plan:

(1) has been approved by the board of directors of the registered corporation; and

(2) is consistent with the requirements, if applicable, of Subchapter F (relating to business combinations).

§ 2701. Application and effect of chapter.

* * *

(b) Laws applicable to management corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all management corporations. The specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. Except as otherwise provided in this article, a management corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

* * *

§ 2721. Bylaw and fundamental change procedures.

So long as a business corporation is a management corporation subject to this chapter:

(1) The board of directors shall have the full authority vested by this subpart in the shareholders to amend the articles under section 2704(b)

(relating to procedure) to renew the election of the corporation to be subject to this chapter and to adopt or change the bylaws, and a bylaw adopted by the board of directors pursuant to this section may continue in effect as long as the corporation remains subject to this chapter.

(2) **[An amendment or plan shall not be adopted under Chapter 19 (relating to fundamental changes), and a bylaw shall not be adopted or changed by the shareholders, without the approval of the board of directors.]** ***None of the following shall be adopted or changed by the shareholders without the approval of the board of directors:***

(i) a plan under Chapter 3 (relating to entity transactions);

(ii) an amendment of the articles;

(iii) an amendment, adoption or repeal of a bylaw;

(iv) a plan of asset transfer; or

(v) a resolution recommending dissolution.

(3) In the case of a corporation that in the ordinary course of business redeems all outstanding shares at the option of the shareholder at the net asset value or at another agreed method or amount of value thereof, **[an amendment or plan under Chapter 19]** ***a plan under Chapter 3, an amendment of the articles or a plan of asset transfer under section 1932 (relating to voluntary transfer of corporate assets)*** shall not require the approval of the shareholders of the corporation for adoption by the corporation.

§ 2901. Application and effect of chapter.

* * *

(c) Laws applicable to professional corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all professional corporations. The specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. Except as otherwise provided in this article, a professional corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

§ 2921. Corporate name.

* * *

(b) Additional names permitted.—The provisions of section **[1303(a) (relating to corporate name)]** ***202 (relating to requirements for names generally)*** shall not prohibit the use of a name of a professional corporation if the name contains and is restricted to the name or the last name of one or more of the present, prospective or former shareholders or of individuals who were associated with a predecessor or whose individual name or names appeared in the name of the predecessor. The name may also contain:

(1) the word "and" or any symbol or substitute therefor;

(2) the word "associates";

(3) the term "P.C."; or

(4) any or all of the words or terms in paragraphs (1), (2) and (3).

§ 3101. Application and effect of chapter.

* * *

(c) Laws applicable to insurance corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall be generally applicable to all insurance corporations. The

specific provisions of this chapter shall control over the general provisions of ***Part I and*** this subpart. Except as otherwise provided in this article, an insurance corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

§ 3301. Application and effect of chapter.

* * *

(c) Laws applicable to benefit corporations.—Except as otherwise provided in this chapter, ***Part I (relating to preliminary provisions) and*** this subpart shall apply generally to benefit corporations. The **[specific]** provisions of this chapter shall control over **[the general provisions of this subpart]** ***inconsistent provisions of this title***. A benefit corporation may be simultaneously subject to this chapter and one or more other chapters of this article.

* * *

§ 3304. Election of benefit corporation status.

* * *

(b) Fundamental transactions.—If an association that is not a benefit corporation is a party to a merger**[, consolidation]** or division or is the exchanging association in **[a share]** ***an interest*** exchange, and the surviving, new or any resulting association in the merger, **[consolidation,]** division or **[share]** ***interest*** exchange is to be a benefit corporation, then the plan of merger, **[consolidation,]** division or **[share]** ***interest*** exchange shall not be effective unless it is adopted by the **[corporation]** ***association*** by at least the minimum status vote.

Section 25. Sections 4121, 4122 and 4123 of Title 15 are repealed:

[§ 4121. Admission of foreign corporations.

(a) General rule.—A foreign business corporation, before doing business in this Commonwealth, shall procure a certificate of authority to do so from the Department of State, in the manner provided in this subchapter. A foreign business corporation shall not be denied a certificate of authority by reason of the fact that the laws of the jurisdiction governing its incorporation and internal affairs differ from the laws of this Commonwealth.

(b) Qualification under former statutes.—If a foreign corporation for profit was on March 19, 1966, admitted to do business in this Commonwealth by the filing of a power of attorney and statement under the act of June 8, 1911 (P.L.710, No.283), the power of attorney and statement shall be deemed an approved application for a certificate of authority issued under this subchapter and the corporation shall be deemed a holder of the certificate. The corporation shall include in its initial application, if any, for an amended certificate of authority under this subchapter the information required by this subchapter to be set forth in an application for a certificate of authority. A certificate of authority issued under the former provisions of the Business Corporation Law of 1933 shall be deemed to be issued under this subchapter, and the certificate of authority shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.

(c) Foreign insurance corporations.—A foreign insurance corporation shall not be required to procure a certificate of authority under this subchapter.

§ 4122. Excluded activities.

(a) General rule.—Without excluding other activities that may not constitute doing business in this Commonwealth, a foreign business corporation shall not be considered to be doing business in this Commonwealth for the purposes of this subchapter by reason of carrying on in this Commonwealth any one or more of the following acts:

(1) Maintaining or defending any action or administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its securities or appointing and maintaining trustees or depositaries with relation to its securities.

(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, and maintaining offices therefor, where the orders require acceptance without this Commonwealth before becoming binding contracts.

(7) Creating as borrower or lender, acquiring or incurring, obligations or mortgages or other security interests in real or personal property.

(8) Securing or collecting debts or enforcing any rights in property securing them.

(9) Transacting any business in interstate or foreign commerce.

(10) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

(11) Inspecting, appraising and acquiring real estate and mortgages and other liens thereon and personal property and security interests therein, and holding, leasing, conveying and transferring them, as fiduciary or otherwise.

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

(1) Service of process under any statute or general rule.

(2) Taxation by the Commonwealth or any political subdivision thereof.

§ 4123. Requirements for foreign corporation names.

(a) General rule.—The Department of State shall not issue a certificate of authority to any foreign business corporation that, except as provided in subsection (b), has a name that is rendered unavailable for use by a domestic business corporation by any provision of section

1303(a), (b) or (c) (relating to corporate name), except subsection (c)(1)(ii) thereof (relating to banking names).

(b) Exceptions.—

(1) The provisions of section 1303(b) (relating to duplicate use of names) shall not prevent the issuance of a certificate of authority to a foreign business corporation setting forth a name that is 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 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 business corporation applying for a certificate of authority files in the department a resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth, which fictitious name is distinguishable upon the records of the department from the name of the other corporation or other association or from any name reserved or registered as provided in this part and that is otherwise available for use by a domestic business corporation.

(2) The provisions of section 1303(c) (relating to required approvals or conditions) shall not prevent the issuance of a certificate of authority to a foreign business corporation setting forth a name that is prohibited by that subsection if the foreign business corporation applying for a certificate of authority files in the department a resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth that is available for use by a domestic business corporation.]

Section 26. Section 4124 of Title 15 is amended to read:

§ 4124. **[Application for a certificate of authority.]** ***Advertisement of registration to do business.***

[(a) General rule.—An application for a certificate of authority shall be executed by the foreign business corporation and shall set forth:

(1) The name of the corporation.

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is incorporated.

(4) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its proposed registered office in this Commonwealth.

(5) A statement that it is a corporation incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.]

(b) Advertisement.—A foreign business corporation shall officially publish notice of its intention to **[apply or its application for a certificate of authority]** ***register to do business or its registration to do business in this Commonwealth under Chapter 4 (relating to foreign associations).***

The notice may appear prior to or after the day on which **[application is made to the Department of State]** ***a registration statement is delivered to the department for filing*** and shall set forth briefly:

(1) A statement that the corporation will **[apply or has applied for a certificate of authority under the provisions of the Business Corporation Law of 1988]** ***register or has registered to do business in this Commonwealth under Chapter 4.***

(2) The name of the corporation and **[of the jurisdiction under the laws of which it is incorporated]** ***its jurisdiction of formation.***

(3) The address, including street and number, if any, of its principal office under the laws of **[the jurisdiction in which it is incorporated]** ***its jurisdiction of formation.***

(4) Subject to section 109 ***(relating to name of commercial registered office provider in lieu of registered address)***, the address, including street and number, if any, of its proposed registered office in this Commonwealth.

(c) **[Filing.—The application for a certificate of authority shall be filed in the Department of State.]** ***(Reserved).***

(d) **[Cross reference.—See section 134 (relating to docketing statement).]** ***(Reserved).***

Section 27. Sections 4125, 4126, 4127, 4128 of Title 15 are repealed:

[§ 4125. Issuance of certificate of authority.

Upon the filing of the application for a certificate of authority, the foreign business corporation shall be deemed to hold a certificate of authority to do business in this Commonwealth.

§ 4126. Amended certificate of authority.

(a) General rule.—After receiving a certificate of authority, a qualified foreign business corporation may, subject to the provisions of this subchapter, change or correct any of the information set forth in its application for a certificate of authority or previous filings under this section by filing in the Department of State an application for an amended certificate of authority. The application shall be executed by the corporation and shall state:

(1) The name under which the applicant corporation currently holds a certificate of authority to do business in this Commonwealth.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) The information to be changed or corrected.

(4) If the application reflects a change in the name of the corporation, the application shall include a statement that either:

(i) the change of name reflects a change effected in the jurisdiction of incorporation; or

(ii) documents complying with section 4123(b) (relating to exceptions) accompany the application.

(b) Issuance of amended certificate of authority.—Upon the filing of the application, the applicant corporation shall be deemed to hold an amended certificate of authority.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 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 a statement of merger, consolidation or division, which shall be executed by the surviving or new corporation or other association and shall set forth:

(1) The name of each nonsurviving qualified foreign business corporation.

(2) The name of the jurisdictions under the laws of which each nonsurviving qualified foreign business corporation was incorporated.

(3) The date on which each nonsurviving qualified foreign business corporation received a certificate of authority to do business in this Commonwealth.

(4) A statement that the corporate existence of each nonsurviving qualified foreign business corporation has been terminated by merger, consolidation or division, as the case may be.

(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, new or resulting corporations, under this subchapter. If the surviving, new or resulting corporations do not desire to continue as qualified foreign business corporations, they may thereafter withdraw in the manner provided by section 4129 (relating to application for termination of authority).

(c) Surviving qualified foreign corporations.—It shall not be necessary for a surviving corporation that was a qualified foreign business corporation to effect any filing under this subchapter with respect to a merger or division or to procure an amended certificate of authority to do business in this Commonwealth unless the name of the corporation is changed by the merger or division.

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

§ 4128. Revocation of certificate of authority.

(a) General rule.—Whenever the Department of State finds that a qualified foreign business corporation has failed to secure an amended certificate of authority as required by this subchapter after changing its name, or has failed or refused to appear by its proper representatives, or otherwise to comply with any subpoena issued by any court having jurisdiction of the subject matter, or to produce books, papers, records or documents as required by a subpoena, or is violating any of the laws of this Commonwealth, or that its articles have been revoked or voided by its jurisdiction of incorporation, the department shall give notice and opportunity for hearing by registered or certified mail to the corporation that the default exists and that its certificate of authority, including any amendments thereof, will be revoked unless the default is cured within 30 days after the mailing of the notice. If the default is not cured within the period of 30 days, the department shall revoke the certificate of authority, including any amendments thereof, of the foreign business corporation. Upon revoking the certificate of authority, the department shall mail to the corporation, at its registered office in this Commonwealth, a certificate of revocation.

(b) Effect of revocation.—Upon the issuance of the certificate of revocation, the authority of the corporation to do business in this Commonwealth shall cease, and the corporation shall not thereafter do any business in this Commonwealth unless it applies for and receives a new certificate of authority.

(c) Exception.—Subsections (a) and (b) shall not apply to a foreign insurance corporation.]

Section 28. Section 4129 of Title 15 is amended to read:

§ 4129. **[Application for]** ***Advertisement of*** termination of **[authority]** ***registration to do business.***

[(a) General rule.—Any qualified foreign business corporation may withdraw from doing business in this Commonwealth and surrender its certificate of authority by filing in the Department of State an application for termination of authority, executed by the corporation, which shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its last registered office in this Commonwealth.

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The date on which it received a certificate of authority to do business in this Commonwealth.

(4) A statement that it surrenders its certificate of authority to do business in this Commonwealth.

(5) A statement that notice of its intention to withdraw from doing business in this Commonwealth was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in this

Commonwealth is located, and that the official publication required by subsection (b) has been effected.

(6) The post office address, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before the filing of the application for termination of authority.]

(b) Advertisement.—A **[qualified]** ***registered*** foreign business corporation shall, before filing **[an application for termination of authority]** ***a statement under section 415 (relating to voluntary withdrawal of registration)***, officially publish and mail a notice of its intention to withdraw from doing business in this Commonwealth in a manner similar to that required by section 1975(b) (relating to notice to creditors and taxing authorities). The notice shall set forth **[briefly]**:

(1) The name of the corporation and **[the jurisdiction under the laws of which it is incorporated]** ***its jurisdiction of formation***.

(2) The address, including street and number, if any, of its principal office under the laws of its jurisdiction of **[incorporation]** ***formation***.

(3) Subject to section 109 ***(relating to name of commercial registered office provider in lieu of registered address)***, the address, including street and number, if any, of its last registered office in this Commonwealth.

(c) **[Filing.—The application for termination of authority and the certificates or statement required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the department. See section 134 (relating to docketing statement).]** ***(Reserved).***

(d) **[Effect of filing.—Upon the filing of the application for termination of authority, the authority of the corporation to do business in this Commonwealth shall cease. The termination of authority shall not affect any action or proceeding pending at the time thereof or affect any right of action arising with respect to the corporation before the filing of the application for termination of authority. Process against the corporation in an action upon any liability incurred before the filing of the application for termination of authority may be served as provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate and international procedure) or as otherwise provided or prescribed by law.]** ***(Reserved).***

Section 29. Sections 4130, 4131, 4141, 4142, 4143, 4144 and Subchapter D of Chapter 41 of Title 15 are repealed:

[§ 4130. Change of address after withdrawal.

(a) General rule.—Any foreign business corporation that has withdrawn from doing business in this Commonwealth, or its successor in interest, may, from time to time, change the address to which process may be sent in an action upon any liability incurred before the filing of an application for termination of authority by filing in the Department of State of a statement of change of address by withdrawn corporation executed by the corporation, setting forth:

(1) The name of the withdrawn corporation and, if the statement is filed by a successor in interest, the name and capacity of the successor.

(2) The name of the jurisdiction under the laws of which the corporation filing the statement is incorporated.

(3) The former post office address, including street and number, if any, of the withdrawn corporation as of record in the department.

(4) The new post office address, including street and number, if any, of the withdrawn corporation or its successor.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 4131. Registration of name.

(a) General rule.—A nonqualified foreign business corporation may register its name under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) if the name is available for use by a qualified foreign business corporation under section 4123 (relating to requirements for foreign corporation names), by filing in the Department of State an application for registration of name, executed by the corporation, which shall set forth:

(1) The name of the corporation.

(2) The address, including street and number, if any, of the corporation.

(b) Annual renewal.—A corporation that has in effect a registration of its corporate name may renew the registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration. A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.

(c) Cross reference.—See section 134 (relating to docketing statement).

§ 4141. Penalty for doing business without certificate of authority.

(a) Right to bring actions or proceedings suspended.—A nonqualified foreign business corporation doing business in this Commonwealth within the meaning of Subchapter B (relating to qualification) shall not be permitted to maintain any action or proceeding in any court of this Commonwealth until the corporation has obtained a certificate of authority. Nor, except as provided in subsection (b), shall any action or proceeding be maintained in any court of this Commonwealth by any successor or assignee of the corporation on any right, claim or demand arising out of the doing of business by the corporation in this Commonwealth until a certificate of authority has been obtained by the corporation or by a corporation that has acquired all or substantially all of its assets.

(b) Contracts, property and defense against actions unaffected.—The failure of a foreign business corporation to obtain a certificate of authority to transact business in this Commonwealth shall not impair the validity of any contract or act of the corporation, shall not prevent the corporation from defending any action in any court of this

Commonwealth and shall not render escheatable any of its real or personal property.

§ 4142. General powers and duties of qualified foreign corporations.

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

(c) Foreign insurance corporations.—A foreign insurance corporation shall, insofar as it is engaged in the business of writing insurance or reinsurance as principal, be subject to the laws of this Commonwealth regulating the business of insurance in lieu of the provisions of subsection (a).

§ 4143. General powers and duties of nonqualified foreign corporations.

(a) Acquisition of real and personal property.—Every nonqualified foreign business corporation 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 a qualified foreign business corporation.

(b) Duties.—Except as provided in section 4141(a) (relating to right to bring actions suspended), a nonqualified foreign business corporation doing business in this Commonwealth within the meaning of Subchapter B (relating to qualification) shall be subject to the same liabilities, restrictions, duties and penalties now or hereafter imposed upon a qualified foreign business corporation.

§ 4144. Registered office of qualified foreign corporations.

(a) General rule.—Subject to the provisions of section 1507(c) (relating to alternative procedure), every qualified foreign business corporation shall have, and continuously maintain, in this Commonwealth a registered office, which may but need not be the same as its place of business in this Commonwealth.

(b) Change.—A qualified foreign business corporation may, from time to time, change the address of its registered office in the manner provided by section 1507(b) (relating to statement of change of registered office).

SUBCHAPTER D
DOMESTICATION

Sec.

§ 4161. Domestication.

(a) General rule.—Any qualified foreign business corporation may become a domestic business corporation by filing in the Department of State articles of domestication. The articles of domestication, upon being filed in the department, shall constitute the articles of the domesticated foreign corporation, and it shall thereafter continue as a corporation which shall be a domestic business corporation subject to this subpart.

(b) Articles of domestication.—The articles of domestication shall be executed by the corporation and shall set forth in the English language:

(1) The name of the corporation. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals. If the name is one that is rendered unavailable by any provision of section 1303(b) or (c) (relating to corporate name), the corporation shall adopt, in accordance with any procedures for changing the name of the corporation that are applicable prior to the domestication of the corporation, and shall set forth in the articles of domestication an available name.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) A statement that upon domestication the corporation will be subject to the domestic corporation provisions of the Business Corporation Law of 1988 and, if desired, a brief statement of the purpose or purposes for which it is to be domesticated which shall be a purpose or purposes for which a domestic business corporation may be incorporated under Article B (relating to domestic business corporations generally) and which may consist of or include a statement that the corporation shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law of 1988.

(4) The term for which upon domestication it is to exist, if not perpetual.

(5) Any desired provisions relating to the manner and basis of reclassifying the shares of the corporation.

(6) A statement that the filing of articles of domestication and, if desired, the renunciation of the original charter or articles of the corporation has been authorized (unless its charter or other organic documents require a greater vote) by a majority of the votes cast by all shareholders entitled to vote thereon and, if any class of shares is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(7) Any provisions desired providing special treatment of shares held by any shareholder or group of shareholders if the laws of the jurisdiction under which the corporation was incorporated prior to its domestication permit such special treatment.

(8) Any other provisions authorized by Article B to be set forth in the original articles.

(c) Cross references.—See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

§ 4162. Effect of domestication.

(a) General rule.—As a domestic business corporation, the domesticated corporation shall no longer be a foreign business corporation for the purposes of this subpart and shall, instead, be a domestic business corporation with all the powers and privileges and all the duties and limitations granted and imposed upon domestic business corporations. In all other respects, the domesticated corporation shall be deemed to be the same corporation as it was prior to the domestication without any change in or effect on its existence. Without limiting the generality of the previous sentence, the domestication shall not be deemed to have affected in any way:

(1) the right and title of the corporation in and to its assets, property, franchises, estates and choses in action;

(2) the liability of the corporation for its debts, obligations, penalties and public accounts due the Commonwealth;

(3) any liens or other encumbrances on the property or assets of the corporation; or

(4) any contract, license or other agreement to which the corporation is a party or under which it has any rights or obligations.

(b) Reclassification of shares.—The shares of the domesticated corporation shall be unaffected by the domestication except to the extent, if any, reclassified in the articles of domestication.]

Section 30. Section 5103(a) introductory paragraph and the definitions of "articles," "foreign nonprofit corporation," "nonqualified foreign corporation" or "nonqualified foreign nonprofit corporation" and "qualified foreign corporation" or "qualified foreign nonprofit corporation" of Title 15 are amended 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 ***Part I (relating to preliminary provisions) or in*** this subpart shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Articles." The original articles of incorporation, all amendments thereof, and any other articles, statements or certificates permitted or required to be filed in the Department of State by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction)***, Chapter 3 (relating to entity transactions)*** or this subpart and including what have heretofore been designated by law as certificates of incorporation or charters. If an amendment of the articles or **[articles of merger or division made in the manner permitted by this subpart]** ***a statement filed under Chapter 3*** restates articles in their entirety **[or if there are articles of consolidation, conversion or domestication],**

thenceforth the "articles" shall not include any prior documents and any certificate issued by the department with respect thereto shall so state.

* * *

"Foreign nonprofit corporation." A foreign corporation not-for-profit or other entity subject to Chapter 61 (relating to foreign nonprofit corporations), whether or not required to **[qualify thereunder]** ***register under Chapter 4 (relating to foreign associations)***.

* * *

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

* * *

["Qualified foreign corporation" or "qualified foreign nonprofit corporation." A foreign corporation not-for-profit authorized under Chapter 61 (relating to foreign nonprofit corporations) to do business in this Commonwealth.]

* * *

Section 31. Section 5106 of Title 15 is amended to read:

§ 5106. Uniform application of subpart.

(a) General rule.—Except as provided in subsection (b), this **[subpart]** ***title*** and its amendments are intended to provide uniform rules for the 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 of a nonprofit corporation.

(b) Exceptions.—

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

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

(3) Subsection (a) shall not adversely affect the rights specifically provided for or saved 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)]** ***363 (relating to approval of division)***.

(4) Nothing in this **[subpart]** ***title*** 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."

Section 32. Sections 5303, 5304 and 5305 of Title 15 are repealed:

[§ 5303. Corporate name.

(a) General rule.—The corporate name may be in any language, but must be expressed in Roman letters or characters or Arabic or Roman numerals.

(b) Duplicate use of names.—The corporate name shall be distinguishable upon the records of the Department of State from:

(1) The name of any other domestic corporation for profit or not-for-profit which is either in existence or for which articles of incorporation have been filed but have not yet become effective, or of any foreign corporation for profit or not-for-profit which is either authorized to do business in this Commonwealth or for which an application for a certificate of authority has been filed but which has not yet become effective, or the name of any association registered at any time under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names), unless the other association:

(i) has stated that it is about to change its name, or to cease to do business, or is being wound up, or is a foreign association about to withdraw from doing business in this Commonwealth, and the statement and a written consent to the adoption of the name executed by the other association is filed in the Department of State;

(ii) has filed with the Department of Revenue a certificate of out of existence, or has failed for a period of three successive years to file with the Department of Revenue a report or return required by law and the fact of such failure has been certified by the Department of Revenue to the Department of State;

(iii) has abandoned its name under the laws of its jurisdiction of incorporation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor in a merger, consolidation, division or otherwise, and an official record of that fact, certified as provided by 42 Pa.C.S. § 5328 (relating to proof of official records), is presented by any person to the department; or

(iv) has had the registration of its name under 54 Pa.C.S. Ch. 5 terminated and, if the termination was effected by operation of 54 Pa.C.S. § 504 (relating to effect of failure to make filings), the application for the use of the name is accompanied by a verified statement stating that at least 30 days' written notice of intention to appropriate the name was given to the delinquent association at its last known place of business and that, after diligent search by the affiant, the affiant believes the association to be out of existence.

(2) A name the exclusive right to which is at the time reserved by any other person whatsoever in the manner provided by statute. A name shall be rendered unavailable for corporate use by reason of the filing in the Department of State of any assumed or fictitious name required by 54 Pa.C.S. Ch. 3 (relating to fictitious names) to be filed in the department only if and to the extent expressly so provided in that chapter.

(c) Required approvals or conditions.—

(1) The corporate name shall not imply that the corporation is:

(i) A governmental agency of the Commonwealth or of the United States.

(ii) A bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

(iii) An insurance company.

(iv) A public utility as defined in 66 Pa.C.S. § 102 (relating to definitions).

(v) A credit union. See 17 Pa.C.S. § 104 (relating to prohibition on use of words "credit union," etc.).

(2) The corporate name shall not contain:

(i) The word "college," "university" or "seminary" when used in such a way as to imply that it is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education, unless there is submitted a certificate from the Department of Education certifying that the corporation or proposed corporation is entitled to use that designation.

(ii) Words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name.

(iii) The words "engineer" or "engineering" or "surveyor" or "surveying" or any other word implying that any form of the practice of engineering or surveying as defined in the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the State Registration Board for Professional Engineers in the practice of engineering or surveying and there is submitted to the department a certificate from the board to that effect.

(iv) The words "Young Men's Christian Association" or any other words implying that the corporation is affiliated with the State Young Men's Christian Association of Pennsylvania unless the corporation is incorporated for the purpose of the improvement of the spiritual, mental, social and physical condition of young people, by the support and maintenance of lecture rooms, libraries, reading rooms, religious and social meetings, gymnasiums, and such other means and services as may conduce to the accomplishment of that object, according to the general rules and regulations of such State association.

(v) The words "architect" or "architecture" or any other word implying that any form of the practice of architecture as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the incorporators of a proposed corporation or the directors of the existing corporation has been properly registered with the Architects Licensure Board in the practice of architecture and there is submitted to the department a certificate from the board to that effect.

(vi) The word "cooperative" or an abbreviation thereof unless the corporation is a cooperative corporation.

(d) Other rights unaffected.—This section shall not abrogate or limit the law as to unfair competition or unfair practices, nor derogate from the common law, the principles of equity or the provisions of Title 54 (relating to names) with respect to the right to acquire and protect trade names. Subsection (b) shall not apply if the applicant files in the department a certified copy of a final order of a court of competent jurisdiction establishing the prior right of the applicant to the use of a name in this Commonwealth.

(e) Remedies for violation of section.—The use of a name in violation of this section shall not vitiate or otherwise affect the corporate existence, but any court having jurisdiction may enjoin the corporation from using or continuing to use a name in violation of this section upon the application of:

(1) the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth; or

(2) any person adversely affected.

(f) Cross references.—See sections 135(e) (relating to distinguishable names) and 5106(b)(2) (relating to limited uniform application of subpart).

§ 5304. Required name changes by senior corporations.

(a) Adoption of new name upon reactivation.—Where a corporate name is made available on the basis that the corporation or other association that formerly registered the name has failed to file with the Department of Revenue a report or a return required by law or where the corporation or other association has filed with the Department of Revenue a certificate of out of existence, the corporation or other association shall cease to have by virtue of its prior registration any right to the use of the name. The corporation or other association, upon withdrawal of the certificate of out of existence or upon the removal of its delinquency in the filing of the required reports or returns, shall make inquiry with the Department of State with regard to the availability of its name and, if the name has been made available to another domestic or foreign corporation for profit or not-for-profit or other association by virtue of these conditions, shall adopt a new name in accordance with law before resuming its activities.

(b) Enforcement of undertaking to release name.—If a corporation has used a name that is not distinguishable upon the records of the Department of State from the name of another corporation or other association as permitted by section 5303(b)(1) (relating to duplicate use of names) and the other corporation or other association continues to use its name in this Commonwealth and does not change its name, cease to do business, be wound up, or withdraw as it proposed to do in its consent or change its name as required by subsection (a), any court having jurisdiction may enjoin the other corporation or other association from continuing to use its name or a name that is not distinguishable therefrom, upon the application of:

(1) the Attorney General, acting on his own motion or at the instance of any administrative department, board or commission of this Commonwealth; or

(2) upon the application of any person adversely affected.

§ 5305. Reservation of corporate name.

(a) General rule.—The exclusive right to the use of a corporate name may be reserved by any person. The reservation shall be made by delivering to the Department of State an application to reserve a specified corporate name, executed by the applicant. If the department finds that the name is available for corporate use, it shall reserve the name for the exclusive use of the applicant for a period of 120 days.

(b) Transfer of reservation.—The right to exclusive use of a specified corporate name reserved under subsection (a) may be transferred to any other person by delivering to the department a notice of the transfer, executed by the person who reserved the name, and specifying the name and address of the transferee.

(c) Cross references.—See sections 134 (relating to docketing statement) and 6131 (relating to registration of name).]

Section 33. Sections 5341, 5704(b)(1), 5757 and 5766(c) of Title 15 are amended to read:

§ 5341. Statement of revival.

(a) General rule.—Any nonprofit corporation whose charter or articles have been forfeited by proclamation of the Governor pursuant to section 1704 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, or otherwise, or whose corporate existence has expired by reason of any limitation contained in its charter or articles and the failure to effect a timely renewal or extension of its corporate existence, may, at any time by **[filing]** ***delivering to the department for filing*** a statement of revival, procure a revival of its charter or articles, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities that had been vested in and imposed upon the corporation by its charter or articles as last in effect.

(b) Contents of statement.—The statement of revival shall be **[executed]** ***signed*** in the name of the forfeited or expired corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name of the corporation at the time its charter or articles were forfeited or expired and the address, including street and number, if any, of its last registered office.

(2) The statute by or under which the corporation was incorporated and the date of incorporation.

(3) The name that the corporation adopts as its new name if the adoption of a new name is required by section **[5304]** ***207*** (relating to required name changes by senior **[corporations]** ***associations***).

(4) The address, including street and number, if any, of its registered office in this Commonwealth.

(5) A reference to the proclamation or other action by which its charter or articles were forfeited or a reference to the limitation contained in its expired charter or articles.

(6) A statement that the corporate existence of the corporation shall be revived.

(7) A statement that the filing of the statement of revival has been authorized by the corporation. Every forfeited or expired corporation may act by its last directors or may elect directors and officers in the manner provided by this subpart for the limited purpose of effecting a filing under this section.

(c) Filing and effect.—The statement of revival and, in the case of a forfeited corporation, the clearance certificates required by section 139 (relating to tax clearance of certain fundamental transactions) shall be **[filed in the Department of State]** ***delivered to the department for filing***. Upon the filing of the statement of revival, the corporation shall be revived with the same effect as if its charter or articles had not been forfeited or expired by limitation. The revival shall validate all contracts and other transactions made and effected within the scope of the articles of the corporation by its representatives during the time when its charter or articles were forfeited or expired to the same effect as if its charter or articles had not been forfeited or expired.

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

§ 5704. Place and notice of meetings of members.

* * *

(b) 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 ***transaction under Chapter 3 (relating to entity transactions) or a*** fundamental change under Chapter 59 (relating to **[fundamental changes]** ***amendments, sale of assets and dissolution***); or

* * *

§ 5757. Action by members.

(a) General rule.—Except as otherwise provided in this **[subpart]** ***title*** 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]** ***title*** 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.

(d) Cross reference.—See section 322 (relating to approval by nonprofit corporation).

§ 5766. Consent of members in lieu of meeting.

* * *

(c) **[Effectiveness]** ***Notice*** 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.]** ***Unless the bylaws require notice before an action pursuant to subsection (b) takes effect, prompt notice that an action has been taken shall be given to each member entitled to vote on the action that has not consented.***

Section 34. The heading of Chapter 59 of Title 15 is amended to read:

CHAPTER 59
[FUNDAMENTAL CHANGES] ***AMENDMENTS, SALE OF ASSETS AND DISSOLUTION***

Section 34.1. Sections 5901, 5902(a) and 5905 of Title 15 are amended to read:

[§ 5901. Omission of certain provisions from filed plans.

(a) General rule.—A plan as filed in the Department of State under any provision of this chapter may omit all provisions of the plan except provisions, if any:

(1) that are intended to amend or constitute the operative provisions of the articles of a corporation as in effect subsequent to the effective date of the plan; or

(2) that allocate or specify the respective assets and liabilities of the resulting corporations, in the case of a plan of division.

(b) Availability of full plan.—If any of the provisions of a plan are omitted from the plan as filed in the department, the articles of amendment, merger, consolidation, division or conversion shall state that the full text of the plan is on file at the principal place of business of the surviving or new or a resulting corporation and shall state the address thereof. A corporation that takes advantage of this section shall furnish a copy of the full text of the plan, on request and without cost, to any member of any corporation that was a party to the plan and on request and at cost to any other person.]

§ 5902. Statement of termination.

(a) General rule.—If articles of amendment **[or articles of merger, consolidation, division or conversion of a nonprofit corporation or to which it is a party]** have been filed in the **[Department of State]** ***department*** prior to the termination of the amendment **[or plan]** pursuant to provisions therefor set forth in the resolution or petition relating to the

amendment **[or in the plan]**, the termination shall not be effective unless the corporation shall, prior to the time the amendment or plan is to become effective, file in the department a statement of termination. The statement of termination shall be executed by the corporation that filed the amendment **[or by each corporation that is a party to the plan, unless the plan permits termination by less than all of the corporations, in which case the statement shall be executed on behalf of the corporation or corporations exercising the right to terminate,]** and shall set forth:

(1) A copy of the articles of amendment **[or articles of merger, consolidation, division or conversion relating to the amendment or plan that is terminated]**.

(2) A statement that the amendment **[or plan]** has been terminated in accordance with the provisions therefor set forth therein.

* * *

§ 5905. Proposal of fundamental transactions.

Where any provision of this chapter requires that an amendment of the articles**[, a plan]** or the dissolution of a nonprofit corporation be proposed or approved by action of the board of directors, that requirement shall be construed to authorize and be satisfied by the written agreement or consent of all of the members of the corporation entitled to vote thereon.

Section 35. The heading of Subchapter C of Chapter 59 of Title 15 is amended to read:

SUBCHAPTER C
[MERGER, CONSOLIDATION AND] SALE OF ASSETS

Section 36. Sections 5921, 5922, 5923, 5924, 5925, 5926, 5927, 5928 and 5929 of Title 15 are repealed:

[§ 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, or any one or more domestic nonprofit corporations and any one or more foreign nonprofit corporations, may, in the manner provided in this subchapter, be merged into one of the domestic nonprofit corporations, designated in this subchapter as the surviving corporation, or consolidated into a new corporation to be formed under this subpart, if the foreign corporations are authorized by the laws of the jurisdiction under which they are incorporated to effect 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, may, in the manner provided in this subchapter, be merged into one of the foreign nonprofit corporations, designated in this subchapter as the surviving corporation, or consolidated into a new corporation to be incorporated under the laws of the jurisdiction under which one of the foreign nonprofit corporations is incorporated, if the laws of that jurisdiction authorize a merger with or consolidation into a corporation of another jurisdiction.

§ 5922. 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:

(1) The terms and conditions of the merger or consolidation.

(2) If the surviving or new corporation is or is to be a domestic nonprofit corporation:

(i) any changes desired to be made in the articles, which may include a restatement of the articles in the case of a merger; or

(ii) in the case of a consolidation, all of the statements required by this subpart to be set forth in restated articles.

(3) Such other provisions as are deemed desirable.

(b) Post-adoption amendment.—A plan of merger or consolidation may contain a provision that the boards of directors or other bodies of the constituent corporations may amend the plan at any time prior to its effective date, except that an amendment made subsequent to the adoption of the plan by the members of any constituent corporation shall not change:

(1) The term of memberships or the amount or kind of securities, obligations, cash, property or rights to be received in exchange for or on conversion of all or any of the memberships in the constituent corporation.

(2) Any term of the articles of the surviving or new corporation to be effected by the merger or consolidation.

(3) Any of the terms and conditions of the plan if the change would adversely affect the members of the constituent corporation.

(c) Proposal.—Every merger or consolidation shall be proposed in the case of each domestic nonprofit corporation:

(1) by the adoption by the board of directors or other body of a resolution approving the plan of merger or consolidation;

(2) unless otherwise provided in the articles, by petition of members entitled to cast at least 10% of the votes that all members are entitled to cast thereon, setting forth the proposed plan of merger or consolidation, which petition shall be directed to the board of directors and filed with the secretary of the corporation; or

(3) by such other method as may be provided in the bylaws.

(d) Submission to members.—Except where the corporation has no members entitled to vote thereon, the board of directors or other body shall direct that the plan be submitted to a vote of the members entitled to vote thereon at a regular or special meeting of the members.

(e) Party to plan or transaction.—A corporation, partnership, business trust or other association that approves a plan in its capacity as a member or creditor of a merging or consolidating corporation or that furnishes all or a part of the consideration contemplated by a plan does not thereby become a party to the plan or the merger or consolidation for the purposes of this subchapter.

(f) Reference to outside facts.—Any of the terms of a plan of merger or consolidation 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. Such facts may include, without

limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

§ 5923. Notice of meeting of members.

(a) General rule.—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. The notice shall include or be accompanied by a copy of the proposed plan or a summary thereof. The notice shall provide that a copy of the bylaws of the surviving or new corporation will be furnished to any member on request and without cost.

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

§ 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 that all members present are entitled to cast thereon of each of the 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 that all members present of such class are entitled to cast thereon.

(b) Adoption in absence of voting members.—If 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.—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 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:

(1) The name and the location of the registered office, including street and number, if any, of the domestic surviving or new corporation or, in the case of a foreign surviving or new corporation, the name of the corporation and its jurisdiction of incorporation, together with either:

(i) if a qualified foreign nonprofit corporation, the address, including street and number, if any, of its registered office in this Commonwealth; or

(ii) if a nonqualified foreign nonprofit corporation, the address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is incorporated.

(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 merger or consolidation.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by each domestic corporation and, if one or more foreign corporations are parties to the 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.

(5) Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the plan of merger or consolidation.

§ 5927. Filing of articles of merger or consolidation.

(a) General rule.—The articles of merger or articles of consolidation, as the case may be, and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 5928. Effective date of merger or consolidation.

Upon the filing of the articles of merger or the articles of consolidation in the 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 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.

§ 5929. Effect of merger or consolidation.

(a) Single surviving or new corporation.—Upon the merger or consolidation becoming effective, the several corporations parties to the merger or consolidation shall be a single corporation which, in the case

of a merger, shall be the corporation designated in the plan of merger as the surviving corporation and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation. The separate existence of all corporations parties to the merger or consolidation shall cease, except that of the surviving corporation, in the case of a merger. The surviving or new corporation, as the case may be, if it is a domestic nonprofit corporation, shall not thereby acquire authority to engage in any business or exercise any right that a corporation may not be incorporated under this subpart to engage in or exercise.

(b) Property rights.—Except as otherwise provided by order, if any, obtained pursuant to section 5547(b) (relating to nondiversion of certain property), all the property, real, personal and mixed, and franchises of each of the corporations parties to the merger or consolidation, and all debts due on whatever account to any of them, including subscriptions for membership and other choses in action belonging to any of them, shall be deemed to be vested in and shall belong to the surviving or new corporation, as the case may be, without further action, and the title to any real estate, or any interest therein, vested in any of the corporations shall not revert or be in any way impaired by reason of the merger or consolidation. The surviving or new corporation shall thenceforth be responsible for all the liabilities of each of the corporations so merged or consolidated. Liens upon the property of the merging or consolidating corporations shall not be impaired by the merger or consolidation, and any claim existing or action or proceeding pending by or against any of the corporations may be prosecuted to judgment as if the merger or consolidation had not taken place, or the surviving or new corporation may be proceeded against or substituted in its place. Any devise, gift or grant contained in any will or other instrument, in trust or otherwise, made before or after such merger or consolidation, to or for any of the constituent corporations, shall inure to the surviving or new corporation, as the case may be, subject to compliance with the requirements of section 5550 (relating to devises, bequests and gifts after certain fundamental changes).

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against any of the merging or consolidating corporations that are settled, assessed or determined prior to or after the merger or consolidation shall be the liability of the surviving or new corporation and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of the surviving or new corporation.

(d) Articles of incorporation.—In the case of a merger, the articles of incorporation of the surviving domestic nonprofit corporation, if any, shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the plan of merger. In the case of a consolidation into a domestic nonprofit corporation, the statements that are set forth in the plan of consolidation, or articles of incorporation set forth therein, shall be deemed to be the articles of incorporation of the new corporation.]

Section 37. Section 5930(a) of Title 15 is amended to read:

§ 5930. Voluntary transfer of corporate assets.

(a) General rule.—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]** ***F*** of Chapter **[19]** ***3*** (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 so adopted, it shall not be necessary to file any articles or other document in the department, but the corporation shall comply with the requirements of section 5547(b) (relating to nondiversion of certain property).

* * *

Section 38. The heading of Subchapter D of Chapter 59 of Title 15 is amended to read:

SUBCHAPTER D
[DIVISION] ***(RESERVED)***

Section 39. Sections 5951, 5952, 5953, 5954, 5955, 5956, 5957 and Subchapter E of Chapter 59 and sections 5980, 6121, 6122 and 6123 of Title 15 are repealed:

[§ 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 domestic nonprofit corporations and one or more foreign nonprofit corporations to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more foreign nonprofit corporations, if the laws of the other jurisdictions authorize the division.

(b) Division of foreign corporation.—Any foreign nonprofit corporation may, in the manner provided in this subchapter, be divided into one or more domestic nonprofit corporations to be incorporated under this subpart and one or more foreign nonprofit corporations incorporated or to be incorporated under the laws of another jurisdiction or jurisdictions, or into two or more domestic nonprofit

corporations, if the foreign nonprofit corporation is authorized under the laws of the jurisdiction under which it is incorporated to effect a division.

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

§ 5952. Proposal and adoption of plan of division.

(a) Preparation of plan.—A plan of division shall be prepared, setting forth:

(1) The terms and conditions of the division, including the manner and basis of:

(i) The reclassification of the membership interests or shares of the surviving corporation, if there be one.

(ii) The disposition of the membership interests or shares or obligations, if any, of the new corporation or corporations resulting from the division.

(2) A statement that the dividing nonprofit corporation will, or will not, survive the division.

(3) Any changes desired to be made in the articles of the surviving corporation, if there be one, including a restatement of the articles.

(4) The articles of incorporation required by subsection (b).

(5) Such other provisions as are deemed desirable.

(b) Articles of new corporations.—There shall be included in or annexed to the plan of division:

(1) Articles of incorporation, which shall contain all of the statements required by this subpart to be set forth in restated articles, for each of the new domestic nonprofit corporations, if any, resulting from the division.

(2) Articles of incorporation, certificates of incorporation or other charter documents for each of the new foreign nonprofit corporations, if any, resulting from the division.

(c) Proposal and adoption.—Except as otherwise provided in section 5953 (relating to division without member approval), the plan of division shall be proposed and adopted, and may be amended after its adoption and terminated, by a domestic nonprofit corporation in the manner provided for the proposal, adoption, amendment and termination of a plan of merger in Subchapter C (relating to merger, consolidation and sale of assets) or, if the dividing corporation is a foreign nonprofit corporation, in accordance with the laws of the jurisdiction in which it is 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 corporations). There shall be included in or enclosed with the

notice of the meeting of members that will act on the plan a copy or summary of the plan.

(d) Special requirements.—If any provision of the bylaws of a dividing domestic nonprofit corporation adopted before January 1, 1972 shall require for the adoption of a plan of merger or consolidation or a plan involving the sale, lease or exchange of all or substantially all of the property and assets of the corporation a specific number or percentage of votes of directors, members, or members of an other body or other special procedures, the plan of division shall not be adopted without such number or percentage of votes or compliance with such other special procedures.

(e) Financial status of resulting corporations.—Unless the plan of division provides that the dividing corporation shall survive the division and that all membership interests or shares or obligations, if any, of all new corporations resulting from the plan shall be owned solely by the surviving corporation, no plan of division may be made effective at a time when the dividing corporation is insolvent or when the division would render any of the resulting corporations insolvent.

(f) Rights of holders of indebtedness.—If any debt securities, notes or similar evidences of indebtedness for money borrowed, whether secured or unsecured, indentures or other contracts were issued, incurred or executed by the dividing corporation before January 1, 1972, and have not been amended subsequent to that date, the liability of the dividing corporation thereunder shall not be affected by the division nor shall the rights of the obligees thereunder be impaired by the division, and each of the resulting corporations may be proceeded against or substituted in place of the dividing corporation as joint and several obligors on such liability, regardless of any provision of the plan of division apportioning the liabilities of the dividing corporation.

(g) Reference to outside facts.—Any of the terms of a plan of division 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. Such facts may include, without limitation, actions or events within the control of or determinations made by the dividing corporation or a representative of the dividing corporation.

§ 5953. Division without member approval.

Unless otherwise required by its bylaws or by section 5952 (relating to proposal and adoption of plan of division), a plan of division that does not alter the state of incorporation of a nonprofit corporation nor amend in any respect the provisions of its articles, except amendments that under section 5914(b) (relating to adoption in absence of voting members) may be made without member action, shall not require the approval of the members of the corporation if the transfers of assets effected by the division, if effected by means of a sale, lease, exchange or other disposition, would not require the approval of members under section 5930 (relating to voluntary transfer of corporate assets).

§ 5954. Articles of division.

Upon the adoption of a plan of division by the corporation desiring to divide, as provided in this subchapter, articles of division shall be

executed by the corporation and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic nonprofit corporation or, in the case of a dividing foreign nonprofit corporation, the name of the corporation and the jurisdiction in which it is incorporated, together with either:

(i) If a qualified foreign nonprofit corporation, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign nonprofit corporation, the address, including street and number, if any, of its principal office under the laws of that jurisdiction.

(2) The statute under which the dividing corporation was incorporated and the date of incorporation.

(3) A statement that the dividing corporation will, or will not, survive the division.

(4) The name and the address, including street and number, if any, of the registered office of each new domestic nonprofit corporation or qualified foreign nonprofit corporation resulting from the division.

(5) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(6) The manner in which the plan was adopted by the corporation.

(7) Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the plan of division.

§ 5955. Filing of articles of division.

(a) General rule.—The articles of division and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 5956. Effective date of division.

Upon the filing of articles of division in the 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 or the division of a foreign nonprofit corporation shall be effective according to the laws of the jurisdictions where 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.

(a) Multiple resulting corporations.—Upon the division becoming effective, the dividing corporation shall be subdivided into the distinct and independent resulting corporations named in the plan of division and, if the dividing corporation is not to survive the division, the existence of the dividing corporation shall cease. The resulting corporations, if they are domestic nonprofit corporations, shall not thereby acquire authority to engage in any business or exercise any right that a corporation may not be incorporated under this subpart to engage in or exercise. Any resulting foreign nonprofit corporation that is stated in the articles of division to be a qualified foreign nonprofit corporation shall be a qualified foreign nonprofit corporation under Article C (relating to foreign nonprofit corporations), and the articles of division shall be deemed to be the application for a certificate of authority and the certificate of authority issued thereon of the corporation.

(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):

(i) All the property, real, personal and mixed, and franchises of the dividing corporation, and all debts due on whatever account to it, including subscriptions for membership and other choses in action belonging to it, shall, to the extent allocations of assets are contemplated by the plan of division, be deemed without further action to be allocated to and vested in the resulting corporations on such a manner and basis and with such effect as is specified in the plan, or per capita among the resulting corporations, as tenants in common, if no specification is made in the plan, and the title to any real estate, or interest therein, vested in any of the corporations shall not revert or be in any way impaired by reason of the division.

(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 subparagraphs (iv) and (v).

(iii) Liens upon the property of the dividing corporation shall not be impaired by the division.

(iv) 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).

(v) If the conditions in subparagraph (iv) for freeing one or more of the resulting corporations from the liabilities of the dividing corporation or for allocating some or all of the liabilities of the dividing corporation are not satisfied, the liabilities of the dividing corporation as to which those conditions are not satisfied shall not be affected by the division nor shall the rights of creditors thereunder be impaired by the division and any claim existing or action or proceeding pending by or against the corporation with respect to those liabilities may be prosecuted to judgment as if the division had not taken place, or the resulting corporations may be proceeded against or substituted in place of the dividing corporation as joint and several obligors on those liabilities, regardless of any provision of the plan of division apportioning the liabilities of the dividing corporation.

(2) It shall not be necessary for a plan of division to list each individual asset or liability of the dividing corporation to be allocated to a new corporation so long as those assets and liabilities are described in a reasonable manner.

(3) Each new corporation shall hold any assets and liabilities allocated to it as the successor to the dividing corporation, and those assets and liabilities shall not be deemed to have been assigned to the new corporation in any manner, whether directly or indirectly or by operation of law.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the dividing corporation that are settled, assessed or determined prior to or after the division shall be the liability of any of the resulting corporations and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of all the corporations. Upon the application of the dividing corporation, the Department of Revenue, with the concurrence of the Office of Employment Security of the Department of Labor and Industry, shall release one or more, but less than all, of the resulting corporations from liability and liens for all taxes, interest, penalties and public accounts of the dividing corporation due the Commonwealth for periods prior to the effective date of the division if those departments are satisfied that the public revenues will be adequately secured.

(d) Articles of surviving corporation.—The articles of incorporation of the surviving corporation, if there be one, shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the plan of division.

(e) Articles of new corporations.—The statements that are set forth in the plan of division with respect to each new domestic nonprofit corporation and that are required or permitted to be set forth in restated articles of incorporation of corporations incorporated under this subpart, or the articles of incorporation of each new corporation set

forth therein, shall be deemed to be the articles of incorporation of each new corporation.

(f) Directors and officers.—Unless otherwise provided in the plan, the directors and officers of the dividing corporation shall be the initial directors and officers of each of the resulting corporations.

(g) Disposition of memberships.—Unless otherwise provided in the plan, the memberships and other securities or obligations, if any, of each new corporation resulting from the division shall be distributable to:

(1) the surviving corporation if the dividing corporation survives the division; or

(2) the members of the dividing corporation pro rata in any other case.

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

(1) The effect of a division of a domestic 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.

(2) The effect of a division on the assets and liabilities of the dividing 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 nonprofit corporation, regardless of whether any of the new corporations is a foreign nonprofit corporation, shall be governed solely by the laws of this Commonwealth.

(4) In addition to the express provisions of this subsection, this subchapter shall otherwise generally be granted the protection of full faith and credit under the Constitution of the United States.

SUBCHAPTER E
CONVERSION

Sec.

§ 5961. Conversion authorized.

(a) General rule.—Any nonprofit corporation may, in the manner provided in this subchapter, be converted into a business corporation, hereinafter designated as the resulting corporation.

(b) Exceptions.—

(1) This subchapter shall not authorize any conversion involving:

(i) A cooperative corporation.

(ii) Beneficial, benevolent, fraternal or fraternal benefit societies having a lodge system and a representative form of government, or transacting any type of insurance whatsoever.

(iii) Any corporation which by the laws of this Commonwealth is subject to the supervision of the Department of Banking, the Insurance Department or the Pennsylvania Public Utility Commission.

(2) Paragraph (1) of this subsection shall not be construed as repealing any statute which provides a procedure for the conversion of a nonprofit corporation into an insurance corporation.

§ 5962. Proposal and adoption of plan of conversion.

(a) Preparation of plan.—A plan of conversion shall be prepared, setting forth:

(1) The terms and conditions of the conversion.

(2) The mode of carrying the conversion into effect.

(3) A restatement of the articles of the resulting corporation, which articles shall comply with the requirements of Subpart B of Part II (relating to business corporations).

(4) Such other details and provisions as are deemed desirable.

(b) Proposal and adoption.—The plan of conversion shall be proposed and adopted, and may be terminated, in the manner provided for the proposal, adoption and termination of a plan of merger in Subchapter C (relating to merger, consolidation and sale of assets).

§ 5963. Articles of conversion.

Upon the adoption of a plan of conversion by the nonprofit corporation desiring to convert, as provided in this subchapter, articles of conversion shall be executed by the corporation and shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(2) The statute under which the corporation was incorporated and the date of incorporation.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by the corporation.

(5) Except as provided in section 5901 (relating to omission of certain provisions from filed plans), the plan of conversion.

§ 5964. Filing of articles of conversion.

(a) General rule.—The articles of conversion shall be filed in the Department of State.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 5965. Effective date of conversion.

Upon the filing of articles of conversion in the Department of State, or upon the effective date specified in the plan of conversion, whichever is later, the conversion shall become effective.

§ 5966. Effect of conversion.

Upon the conversion becoming effective, the corporation shall be deemed to be a business corporation for all purposes, shall cease to be a nonprofit corporation, and may thereafter operate for a purpose or

purposes resulting in pecuniary profit, incidental or otherwise, to its members or shareholders. The corporation shall issue share certificates to each shareholder entitled thereto. The corporation shall remain liable for all existing obligations, public and private, taxes due the Commonwealth or any other taxing authority for periods prior to the effective date of the conversion, and, as such business corporation, it shall continue to be entitled to all assets theretofore pertaining to it as a nonprofit corporation except as otherwise provided by order, if any, obtained pursuant to section 5547(b) (relating to nondiversion of certain property).

§ 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).

§ 6121. Admission of foreign corporations.

(a) General rule.—A foreign nonprofit corporation, before doing business in this Commonwealth, shall procure a certificate of authority to do so from the Department of State, in the manner provided in this subchapter. A foreign nonprofit corporation shall not be denied a certificate of authority by reason of the fact that the laws of the jurisdiction governing its incorporation and internal affairs differ from the laws of this Commonwealth.

(b) Qualification under former statute.—If a foreign corporation was on March 19, 1966, admitted to do business in this Commonwealth by the filing of a power of attorney and statement under the act of June 8, 1911 (P.L.710, No.283), such power of attorney and statement shall be deemed an approved application for a certificate of authority issued under this subchapter and the corporation shall be deemed a holder of the certificate. The corporation shall include in its initial application, if any, for an amended certificate of authority under this subchapter the information required by this subchapter to be set forth in an application for a certificate of authority. A certificate of authority issued under the former provisions of the Nonprofit Corporation Law of 1933 or former 15 Pa.C.S. Pt. III Art. B, known as the Nonprofit Corporation Law of 1972, as added by the act of November 15, 1972 (P.L.1063, No.271), shall be deemed to be issued under this subchapter and the certificate of

authority shall be deemed not to contain any reference to the kind of business that the corporation proposes to do in this Commonwealth.

§ 6122. Excluded activities.

(a) General rule.—Without excluding other activities which may not constitute doing business in this Commonwealth, a foreign nonprofit corporation shall not be considered to be doing business in this Commonwealth for the purposes of this subchapter by reason of carrying on in this Commonwealth any one or more of the following acts:

(1) Maintaining or defending any action or administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors, other body or members or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange and registration of its memberships or securities, or appointing and maintaining trustees or depositories with relation to its memberships or securities.

(5) Granting funds.

(6) Distributing information to its members.

(7) Creating as borrower or lender, acquiring or incurring obligations or mortgages or other security interests in real or personal property.

(8) Securing or collecting debts or enforcing any rights in property securing them.

(9) Transacting any business in interstate or foreign commerce.

(10) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

(11) Inspecting, appraising and acquiring real estate and mortgages and other liens thereon and personal property and security interests therein, and holding, leasing, conveying and transferring them, as fiduciary or otherwise.

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

(1) Service of process under any statute or general rule.

(2) Taxation by the Commonwealth or any political subdivision thereof.

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

§ 6123. Requirements for foreign corporation names.

(a) General rule.—The Department of State shall not issue a certificate of authority to any foreign nonprofit corporation that, except as provided in subsection (b), has a name that is rendered unavailable for use by a domestic nonprofit corporation by any provision of section 5303(a), (b) or (c) (relating to corporate name).

(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 not distinguishable upon the records of the department from the name of any other domestic or foreign corporation for profit or not-for-profit, 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 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 distinguishable upon the records of the department from the name of the other corporation or other association and from any name reserved or registered as provided in this part that is otherwise available for use by a domestic nonprofit corporation.

(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.]

Section 40. Section 6124 of Title 15 is amended to read:

§ 6124. **[Application for a certificate of authority.]** ***Advertisement of registration to do business.***

[(a) General rule.—An application for a certificate of authority shall be executed by the foreign nonprofit corporation and shall set forth:

(1) The name of the corporation.

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is incorporated.

(4) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its proposed registered office in this Commonwealth.

(5) A statement that it is a corporation incorporated for a purpose or purposes not involving pecuniary profit, incidental or otherwise.]

(b) Advertisement.—A foreign nonprofit corporation shall officially publish notice of its intention to **[apply or its application for a certificate of authority]** ***register to do business or its registration to do business in this Commonwealth under Chapter 4 (relating to foreign associations).*** The notice may appear prior to or after the day on which **[application is**

made to the Department of State] ***a registration statement is delivered to the department for filing*** and shall set forth **[briefly]**:

(1) A statement that the corporation will **[apply or has applied for a certificate of authority under the provisions of the Nonprofit Corporation Law of 1988]** ***register or has registered to do business in this Commonwealth under Chapter 4.***

(2) The name of the corporation and **[of the jurisdiction under the laws of which it is incorporated]** ***its jurisdiction of formation.***

(3) The address, including street and number, if any, of its principal office under the laws of **[the jurisdiction in which it is incorporated]** ***its jurisdiction of formation.***

(4) Subject to section 109 ***(relating to name of commercial registered office provider in lieu of registered address)***, the address, including street and number, if any, of its proposed registered office in this Commonwealth.

(c) **[Filing.—The application for a certificate of authority shall be filed in the Department of State.]** ***(Reserved).***

(d) **[Cross reference.—See section 134 (relating to docketing statement).]** ***(Reserved).***

Section 41. Sections 6125, 6126, 6127 and 6128 of Title 15 are repealed:

[§ 6125. Issuance of certificate of authority.

Upon the filing of the application for a certificate of authority, the foreign nonprofit corporation shall be deemed to hold a certificate of authority to do business in this Commonwealth.

§ 6126. Amended certificate of authority.

(a) General rule.—After receiving a certificate of authority, a qualified foreign nonprofit corporation may, subject to the provisions of this subchapter, change or correct any of the information set forth in its application for a certificate of authority or previous filings under this section by filing in the Department of State an application for an amended certificate of authority. The application shall be executed by the corporation and shall state:

(1) The name under which the applicant corporation currently holds a certificate of authority to do business in this Commonwealth.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) The information to be changed or corrected.

(4) If the application reflects a change in the name of the corporation, the application shall include a statement that either:

(i) the change of name reflects a change effected in the jurisdiction of incorporation; or

(ii) documents complying with section 6123(b) (relating to exceptions) accompany the application.

(b) Issuance of amended certificate of authority.—Upon the filing of the application, the applicant corporation shall be deemed to hold an amended certificate of authority.

(c) Cross reference.—See section 134 (relating to docketing statement).

§ 6127. Merger, consolidation or division of qualified foreign corporations.

(a) General rule.—Whenever a qualified foreign nonprofit 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 surviving the merger, or the new corporation resulting from the consolidation or division, as the case may be, shall file in the Department of State a statement of merger, consolidation or division, which shall be executed by the surviving or new corporation and shall set forth:

(1) The name of each nonsurviving qualified foreign nonprofit corporation.

(2) The name of the jurisdictions under the laws of which each nonsurviving qualified foreign nonprofit corporation was incorporated.

(3) The date on which each nonsurviving qualified foreign nonprofit corporation received a certificate of authority to do business in this Commonwealth.

(4) A statement that the corporate existence of each nonsurviving qualified foreign nonprofit corporation has been terminated by merger, consolidation or division, as the case may be.

(5) In the case of a consolidation or division or if the surviving corporation was a nonqualified foreign nonprofit corporation prior to the merger, the statements on the part of the surviving or new corporation required by section 6124(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 nonprofit corporation and to qualify the surviving or new corporation under this subchapter. If the surviving or new corporation does not desire to continue as a qualified foreign nonprofit corporation, it may thereafter withdraw in the manner provided by section 6129 (relating to application for termination of authority).

(c) Surviving qualified foreign corporations.—It shall not be necessary for a surviving corporation that was a qualified foreign nonprofit corporation to effect any filing under this subchapter with respect to a merger or division or to procure an amended certificate of authority to do business in this Commonwealth unless the name of such corporation is changed by the merger or division.

(d) Cross reference.—See section 134 (relating to docketing statement).

§ 6128. Revocation of certificate of authority.

(a) General rule.—Whenever the Department of State finds that a qualified foreign nonprofit corporation has failed to secure an amended certificate of authority as required by this subchapter after changing its

name, or has failed or refused to appear by its proper representatives, or otherwise to comply with any subpoena issued by any court having jurisdiction of the subject matter, or to produce books, papers, records or documents as required by a subpoena, or is violating any of the laws of this Commonwealth, or that its articles have been revoked or voided by its jurisdiction of incorporation, the department shall give notice and opportunity for hearing by registered or certified mail to the corporation that the default exists and that its certificate of authority, including any amendments thereof, will be revoked unless the default is cured within 30 days after the mailing of the notice. If the default is not cured within the period of 30 days, the department shall revoke the certificate of authority, including any amendments thereof, of the foreign nonprofit corporation. Upon revoking the certificate of authority, the department shall mail to the corporation, at its registered office in this Commonwealth, a certificate of revocation.

(b) Effect of revocation.—Upon the issuance of the certificate of revocation, the authority of the corporation to do business in this Commonwealth shall cease and the corporation shall not thereafter do any business in this Commonwealth unless it applies for and receives a new certificate of authority.]

Section 42. Section 6129 of Title 15 is amended to read:

§ 6129. **[Application for]** ***Advertisement of*** termination of **[authority]** ***registration to do business***.

[(a) General rule.—Any qualified foreign nonprofit corporation may withdraw from doing business in this Commonwealth and surrender its certificate of authority by filing in the Department of State an application for termination of authority, executed by the corporation, which shall set forth:

(1) The name of the corporation and, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(2) The name of the jurisdiction under the laws of which it is incorporated.

(3) The date on which it received a certificate of authority to do business in this Commonwealth.

(4) A statement that it surrenders its certificate of authority to do business in this Commonwealth.

(5) A statement that notice of its intention to withdraw from doing business in this Commonwealth was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in this Commonwealth is located, and that the official publication required by subsection (b) has been effected.

(6) The post office address, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before the filing of the application for termination of authority.]

(b) Advertisement.—A **[qualified]** ***registered*** foreign nonprofit corporation shall, before filing **[an application for termination of authority]** ***a statement of withdrawal under section 415 (relating to voluntary withdrawal of registration)***, officially publish and mail a notice of its intention to withdraw from doing business in this Commonwealth in a manner similar to that required by section 5975(b) (relating to notice to creditors and taxing authorities). The notice shall set forth **[briefly]**:

(1) The name of the corporation and **[the jurisdiction under the laws of which it is incorporated]** ***its jurisdiction of formation***.

(2) The address, including street and number, if any, of its principal office under the laws of its jurisdiction of **[incorporation]** ***formation***.

(3) Subject to section 109 ***(relating to name of commercial registered office provider in lieu of registered address)***, the address, including street and number, if any, of its last registered office in this Commonwealth.

(c) **[Filing.—The application for termination of authority and the certificates or statement required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the department. See section 134 (relating to docketing statement).]** ***(Reserved).***

(d) **[Effect of filing.—Upon the filing of the application for termination of authority, the authority of the corporation to do business in this Commonwealth shall cease. The termination of authority shall not affect any action or proceeding pending at the time thereof or affect any right of action arising with respect to the corporation before the filing of the application for termination of authority. Process against the corporation in an action upon any liability incurred before the filing of the application for termination of authority may be served as provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate and international procedure) or as otherwise provided or prescribed by law.]** ***(Reserved).***

Section 43. Sections 6130, 6131, 6141, 6142, 6143, 6144 and Subchapter D of Chapter 61 of Title 15 are repealed:

[§ 6130. Change of address after withdrawal.

(a) General rule.—Any foreign nonprofit corporation that has withdrawn from doing business in this Commonwealth, or its successor in interest, may, from time to time, change the address to which process may be sent in an action upon any liability incurred before the filing of an application for termination of authority by filing in the Department of State a statement of change of address by the withdrawn corporation executed by the corporation, setting forth:

(1) The name of the withdrawn corporation and, if the statement is filed by a successor in interest, the name and capacity of the successor.

(2) The name of the jurisdiction under the laws of which the corporation filing the statement is incorporated.

(3) The former post office address, including street and number, if any, of the withdrawn corporation as of record in the department.

(4) The new post office address, including street and number, if any, of the withdrawn corporation or its successor.

(b) Cross reference.—See section 134 (relating to docketing statement).

§ 6131. Registration of name.

(a) General rule.—A nonqualified foreign nonprofit corporation may register its name under 54 Pa.C.S. Ch. 5 (relating to corporate and other association names) if the name is available for use by a qualified foreign nonprofit corporation under section 6123 (relating to requirements for foreign corporation names), by filing in the Department of State an application for registration of name, executed by the corporation, which shall set forth:

(1) The name of the corporation.

(2) The address, including street and number, if any, of the corporation.

(b) Annual renewal.—A corporation that has in effect a registration of its corporate name may renew the registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration. A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.

(c) Cross reference.—See section 134 (relating to docketing statement).

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

(a) Right to bring actions suspended.—A nonqualified foreign nonprofit corporation doing business in this Commonwealth within the meaning of Subchapter B (relating to qualification) shall not be permitted to maintain any action or proceeding in any court of this Commonwealth until the corporation has obtained a certificate of authority. Except as provided in subsection (b), an action or proceeding may not be maintained in any court of this Commonwealth by any successor or assignee of the corporation on any right, claim or demand arising out of the doing of business by the corporation in this Commonwealth until a certificate of authority has been obtained by the corporation or by a corporation 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 the corporation, shall not prevent the corporation from defending any action in any court of this Commonwealth and shall not render escheatable any of its real or personal property.

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

(a) General rule.—A qualified foreign nonprofit corporation, so long as its certificate of authority is not revoked, shall enjoy the same rights and privileges as a domestic nonprofit corporation, but no more, and, except as in this 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 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 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 a qualified foreign nonprofit corporation.

(b) Duties.—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 (relating to qualification) shall be subject to the same liabilities, restrictions, duties and penalties now or hereafter imposed upon a qualified foreign nonprofit corporation.

§ 6144. Registered office of qualified foreign corporations.

(a) General rule.—Subject to the provisions of section 5507(c) (relating to alternative procedure), every qualified foreign nonprofit corporation shall have, and continuously maintain, in this Commonwealth a registered office, which may but need not be the same as its place of business in this Commonwealth.

(b) Change.—A qualified foreign corporation may, from time to time, change the address of its registered office in the manner provided by section 5507(b) (relating to statement of change of registered office).

SUBCHAPTER D
DOMESTICATION

Sec.

6161. Domestication.

6162. Effect of domestication.

§ 6161. Domestication.

(a) General rule.—Any qualified foreign nonprofit corporation may become a domestic nonprofit corporation by filing in the Department of State articles of domestication. The articles of domestication, upon being filed in the department, shall constitute the articles of the domesticated foreign corporation, and it shall thereafter continue as a corporation which shall be a domestic nonprofit corporation subject to this subpart.

(b) Articles of domestication.—The articles of domestication shall be executed by the corporation and shall set forth in the English language:

(1) The name of the corporation. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) A statement that upon domestication the corporation will be subject to the domestic corporation provisions of the Nonprofit Corporation Law of 1988 and a brief statement of the purpose or purposes for which it is to be domesticated which shall be a purpose or purposes for which a domestic nonprofit corporation may be incorporated under Article B (relating to domestic nonprofit corporations generally).

(4) The term for which upon domestication it is to exist, if not perpetual.

(5) Any desired provisions relating to the manner and basis of reclassifying the memberships in the corporation.

(6) A statement that the filing of articles of domestication and, if desired, the renunciation of the original charter or articles of the corporation has been authorized (unless its charter or other organic documents require a greater vote) by a majority of the votes cast by all members entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(7) Any other provisions authorized by Article B to be set forth in the original articles.

(c) Cross reference.—See section 134 (relating to docketing statement).

§ 6162. Effect of domestication.

As a domestic nonprofit corporation, the domesticated corporation shall no longer be a foreign nonprofit corporation for the purposes of this subpart and shall have all the powers and privileges and be subject to all the duties and limitations granted and imposed upon domestic nonprofit corporations. The property, franchises, debts, liens, estates, taxes, penalties and public accounts due the Commonwealth shall continue to be vested in and imposed upon the corporation to the same extent as if it were the successor by merger of the domesticating corporation with and into a domestic nonprofit corporation under Subchapter C of Chapter 59 (relating to merger, consolidation and sale of assets). Memberships in the domesticated corporation shall be unaffected by the domestication except to the extent, if any, reclassified in the articles of domestication.]

Section 43.1. Title 15 is amended by adding a section to read:

§ 7411. Expiration.

This chapter shall expire December 31, 2014.

Section 44. The definitions of "bureau" and "corporation" in section 7702 of Title 15 are amended to read:

§ 7702. 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:

["Bureau." The Corporation Bureau of the department.]

"Corporation." A corporation **[organized]** for profit which has elected to be governed by this chapter.

* * *

Section 45. Sections 7703(b)(1), 7704(d) introductory paragraph and (1) and 7723(a) of Title 15 are amended to read:

§ 7703. Corporations.

* * *

(b) Name.—

(1) **[The corporation may adopt any corporate name to indicate its cooperative character as long as the name has not been previously adopted.]** ***The name of the corporation must comply with section 202 (relating to requirements for names generally).***

* * *

§ 7704. Articles of incorporation.

* * *

(d) Content of articles.—The articles of incorporation shall be signed by the persons originally associating themselves together and shall state **[distinctly]**:

(1) The name **[by which]** ***of*** the corporation **[shall be known, which may not be the same as, or confusingly similar to, the name of an association or corporation existing under the law of the Commonwealth, the name of a foreign or alien association or corporation authorized to transact business in this Commonwealth, or a corporate name reserved or registered as provided by law]**.

* * *

§ 7723. Dissolution.

(a) General rule.—A corporation may dissolve and wind up; may merge **[or consolidate]** with other corporations; and may sell to, lease to or exchange with other corporations all or substantially all of its property and assets. Except as otherwise provided in this chapter, these actions are governed by ***Chapter 3 (relating to entity transactions) and*** Subchapter C of Chapter 19 (relating to merger**[, consolidation, share exchanges]** ***liabilities*** and sale of assets). A workers' cooperative corporation which has not revoked its election to be governed by this chapter may not **[consolidate or]** merge with one or more corporations organized under any law other than this chapter. If a member objects to a corporation's merger **[or consolidation]**, the member may terminate membership in the corporation. The price of redemption of the member's interest shall be the amount in the member's individual capital account on terms and conditions as the law, the articles of incorporation and the bylaws provide.

* * *

Section 46. Section 8203 of Title 15 is repealed:

[§ 8203. Name.

(a) General rule.—The name of a registered limited liability partnership shall:

(1) Not be one rendered unavailable for use by a corporation by any provision of section 1303(b) and (c) (relating to corporate name).

(2) Contain the term "company," "limited" or "limited liability partnership," or an abbreviation of one of those terms, or words or abbreviations of like import in English or any other language.

(b) Reservation of name.—The exclusive right to the use of a name for purposes of this subchapter may be reserved and transferred in the manner provided in section 1305 (relating to reservation of corporate name).]

Section 47. Section 8211(b) of Title 15 is amended to read:

§ 8211. Foreign registered limited liability partnerships.

* * *

[(b) Registration to do business.—A foreign registered limited liability partnership, regardless of whether or not it is also a foreign limited partnership, shall be subject to Subchapter K of Chapter 85 (relating to foreign limited partnerships) as if it were a foreign limited partnership, except that:

(1) Its application for registration shall state that it is a registered limited liability partnership.

(2) The name under which it registers and conducts business in this Commonwealth shall comply with the requirements of section 8203 (relating to name).

(3) Section 8582(a)(5) and (6) (relating to registration) shall not be applicable to the application for registration of a foreign limited liability partnership that is not a foreign limited partnership.]

* * *

Section 48. The definitions of "certificate of limited partnership," "foreign limited partnership," "nonqualified foreign limited partnership" and "qualified foreign limited partnership" in section 8503(a) of Title 15 are amended to read:

§ 8503. Definitions and index of definitions.

(a) 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:

"Certificate of limited partnership." The certificate referred to in section 8511 (relating to certificate of limited partnership) and the certificate as amended. The term includes any other statements or certificates permitted or required to be filed in the Department of State by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction), ***Chapter 3 (relating to entity transactions)*** or this part. If an amendment of the certificate of limited partnership or a **[certificate of merger or division made in the manner permitted by this chapter]** ***statement filed under Chapter 3*** restates the certificate in its entirety **[or if there is a certificate of consolidation]**, thenceforth the "certificate of limited partnership" shall not include any prior documents and any certificate issued by the department with respect thereto shall so state.

* * *

"Foreign limited partnership." A partnership formed under the laws of any jurisdiction other than this Commonwealth and having as partners one or more general partners and one or more limited partners, whether or not

required to register under **[Subchapter K (relating to foreign limited partnerships)]** ***Chapter 4 (relating to foreign associations).***

* * *

["Nonqualified foreign limited partnership." A foreign limited partnership that is not a qualified foreign limited partnership as defined in this section.]

* * *

["Qualified foreign limited partnership." A foreign limited partnership that is registered under Subchapter K (relating to foreign limited partnerships) to do business in this Commonwealth.]

* * *

Section 49. Section 8505 of Title 15 is repealed:

[§ 8505. Name.

(a) General rule.—The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall be expressed in Roman letters or characters or Arabic or Roman numerals.

(2) Shall not be one rendered unavailable to use by a corporation by any provision of section 1303(b) and (c) (relating to corporate name).

(3) May contain the name of a limited partner or a general partner. See section 8523(d) (relating to use of name of limited partner).

(b) Reservation of name.—The exclusive right to the use of a name for purposes of this chapter may be reserved and transferred in the manner provided by section 1305 (relating to reservation of corporate name).]

Section 50. Sections 8513(d) and 8514(a) of Title 15 are amended to read:

§ 8513. Cancellation of certificate.

* * *

[(d) Dissolution by domestication.—Whenever a domestic limited partnership has domesticated itself under the laws of another jurisdiction by action similar to that provided by section 8590 (relating to domestication) and has authorized that action by the vote required by this chapter for the approval of a proposal that the limited partnership dissolve voluntarily, the limited partnership may surrender its certificate of limited partnership under the laws of this Commonwealth by filing in the department a certificate of cancellation under subsection (a).]

* * *

§ 8514. Execution of certificates.

(a) General rule.—Each certificate or other document required or permitted by this chapter to be **[filed in]** ***delivered to*** the Department of State ***for filing*** shall be **[executed]** ***signed*** in the following manner:

(1) An original certificate of limited partnership must be signed by all general partners named therein.

(2) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner.

(3) A certificate of cancellation must be signed by all general partners or liquidating trustees or, if there is no general partner or liquidating trustee, by a majority in interest of the limited partners.

(4) A certificate of change of registered office must be signed by a general partner.

(5) A certificate of summary of record must be signed by all general partners.

(6) A certificate of withdrawal must be signed by the person withdrawing.

(7) A certificate of termination must be signed by a general partner.

(8) A **[certificate of merger, consolidation or division]** ***statement of merger, interest exchange, conversion, division or domestication*** must be signed by a general partner.

(9) **[An application for registration as a foreign limited partnership]** ***A foreign registration statement*** must be signed by a general partner.

(10) **[A certificate of amendment of registration of a foreign limited partnership]** ***An amendment of a foreign registration statement*** must be signed by a general partner.

(11) A **[certificate of cancellation of registration of]** ***statement of withdrawal by*** a foreign limited partnership must be signed by a general partner.

[(12) A certificate of domestication must be signed by a general partner.]

* * *

Section 51. Subchapter F of Chapter 85 of Title 15 is repealed:

[SUBCHAPTER F
MERGER AND CONSLIDATION

Sec.
8545. Merger and consolidation of limited partnerships authorized.
8546. Approval of merger or consolidation.
8547. Certificate of merger or consolidation.
8548. Effective date of merger or consolidation.
8549. Effect of merger or consolidation.

§ 8545. Merger and consolidation of limited partnerships authorized.

(a) Domestic surviving or new limited partnership.—Any two or more domestic limited partnerships, or any two or more foreign limited partnerships, or any one or more domestic limited partnerships and any one or more foreign limited partnerships, may, in the manner provided in this subchapter, be merged into one of the domestic limited partnerships, designated in this subchapter as the surviving limited partnership, or consolidated into a new limited partnership to be formed under this chapter, if the foreign limited partnerships are authorized by the laws of the jurisdiction under which they are

organized to effect a merger or consolidation with a limited partnership of another jurisdiction.

(b) Foreign surviving or new limited partnership.—Any one or more domestic limited partnerships, and any one or more foreign limited partnerships, may, in the manner provided in this subchapter, be merged into one of the foreign limited partnerships, designated in this subchapter as the surviving limited partnership, or consolidated into a new limited partnership to be organized under the laws of the jurisdiction under which one of the foreign limited partnerships is organized, if the laws of that jurisdiction authorize a merger with or consolidation into a limited partnership of another jurisdiction.

(c) Business trusts and other associations.—The provisions of this subchapter applicable to domestic and foreign limited partnerships shall also be applicable to a merger or consolidation to which a domestic limited partnership is a party or in which such a partnership is the resulting entity with or into a domestic or foreign corporation, business trust, general partnership or other association. Except as otherwise provided by law in this or any other state, the powers and duties vested in and imposed upon the general partners and limited partners in this subchapter shall be exercised and performed by the group of persons under the direction of whom the business and affairs of the corporation, business trust or other association are managed and the holders or owners of shares or other interests in the corporation, business trust or other association, respectively, irrespective of the names by which the managing group and the holders or owners of shares or other interests are designated. The units into which the shares or other interests in the corporation, business trust or other association are divided shall be deemed to be partnership interests for the purposes of applying the provisions of this subchapter to a merger or consolidation involving the corporation, business trust or other association.

§ 8546. Approval of merger or consolidation.

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

(1) The terms and conditions of the merger or consolidation.

(2) If the surviving or new partnership is or is to be a domestic limited partnership:

(i) in the case of a merger, any changes desired to be made in the certificate of limited partnership or partnership agreement, which may include a restatement of either or both; or

(ii) in the case of a consolidation:

(A) all of the statements required by this chapter to be set forth in a restated certificate of limited partnership; and

(B) the written provisions, if any, of the partnership agreement.

(3) The manner and basis of converting the partnership interests of each limited partnership into partnership interests, securities or obligations of the surviving or new limited partnership, as the case may be, and, if any of the partnership interests of any of the limited

partnerships that are parties to the merger or consolidation are not to be converted solely into partnership interests, securities or obligations of the surviving or new limited partnership, the partnership interests, securities or obligations of any other person or cash, property or rights that the holders of such partnership interests are to receive in exchange for, or upon conversion of, such partnership interests, 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 partnership interests, securities or obligations of the surviving or new limited partnership.

(4) Such other provisions as are deemed desirable.

(b) Post-adoption amendment of plan of merger or consolidation.—A plan of merger or consolidation may contain a provision that the general partners of the constituent limited partnerships may amend the plan at any time prior to its effective date, except that an amendment made subsequent to any adoption of the plan by the limited partners of any constituent domestic limited partnership shall not change:

(1) The amount or kind of partnership interests, obligations, cash, property or rights to be received in exchange for or on conversion of all or any of the partnership interests of the constituent domestic limited partnership adversely to the holders of those partnership interests.

(2) Any term of the certificate of limited partnership or partnership agreement of the surviving or new limited partnership as it is to be in effect immediately following consummation of the merger or consolidation except provisions that may be amended without the approval of the limited partners.

(3) Any of the other terms and conditions of the plan if the change would adversely affect the holders of any partnership interests of the constituent domestic limited partnership.

(c) Proposal of merger or consolidation.—Every merger or consolidation shall be proposed in the case of each domestic limited partnership by the adoption by the general partners of a resolution approving the plan of merger or consolidation. Except where the approval of the limited partners is unnecessary under this subchapter or the partnership agreement, the general partners shall submit the plan to a vote of the limited partners entitled to vote thereon at a regular or special meeting of the limited partners.

(d) Party to plan.—An association that approves a plan in its capacity as a partner or creditor of a merging or consolidating limited partnership, or that furnishes all or a part of the consideration contemplated by a plan, does not thereby become a party to the merger or consolidation for the purposes of this subchapter.

(e) Notice of meeting of limited partners.—Notwithstanding any other provision of the partnership agreement, written notice of the meeting of limited partners called for the purpose of considering the proposed plan shall be given to each limited partner of record, whether or not entitled to vote thereon, of each domestic limited partnership that

is a party to the proposed merger or consolidation. There shall be included in, or enclosed with, the notice a copy of the proposed plan or a summary thereof. The provisions of this subsection may not be relaxed by the certificate of limited partnership or partnership agreement.

(f) Adoption of plan by limited partners.—The plan of merger or consolidation shall be adopted upon receiving a majority of the votes cast by all limited partners, if any, entitled to vote thereon of each of the domestic limited partnerships that is a party to the proposed merger or consolidation and, if any class of limited partners is entitled to vote thereon as a class, a majority of the votes cast in each class vote. A proposed plan of merger or consolidation shall not be deemed to have been adopted by the limited partnership unless it has also been approved by the general partners, regardless of the fact that the general partners have directed or suffered the submission of the plan to the limited partners for action.

(g) Adoption by general partners.—

(1) Unless otherwise required by the partnership agreement, a plan of merger or consolidation shall not require the approval of the limited partners of a limited partnership if:

(i) the plan, whether or not the limited partnership is the surviving limited partnership, does not alter the status of the limited partnership as a domestic limited partnership or alter in any respect the provisions of its certificate of limited partnership or partnership agreement, except changes that may be made without action by the limited partners; and

(ii) each partnership interest outstanding immediately prior to the effective date of the merger or consolidation is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical partnership interest in the surviving or new limited partnership after the effective date of the merger or consolidation.

(2) If a merger or consolidation is effected pursuant to paragraph (1), the plan of merger or consolidation shall be deemed adopted by the limited partnership when it has been adopted by the general partners pursuant to subsection (c).

(h) Termination of plan.—Prior to the time when a merger or consolidation becomes effective, the merger or consolidation may be terminated pursuant to provisions therefor, if any, set forth in the plan. If a certificate of merger or consolidation has been filed in the department prior to the termination, a certificate of termination executed by each limited partnership that is a party to the merger or consolidation, unless the plan permits termination by less than all of the limited partnerships, in which case the certificate shall be executed on behalf of the limited partnership exercising the right to terminate, shall be filed in the department. The certificate of termination shall set forth:

(1) A copy of the certificate of merger or consolidation relating to the plan that is terminated.

(2) A statement that the plan has been terminated in accordance with the provisions therefor set forth therein.

See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents), 138 (relating to statement of correction) and 8514 (relating to execution of certificates).

(i) Authorization by foreign limited partnerships.—The plan of merger or consolidation shall be authorized, adopted or approved by each foreign limited partnership that desires to merge or consolidate in accordance with the laws of the jurisdiction in which it is organized.

(j) Reference to outside facts.—Any of the terms of a plan of merger or consolidation 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. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

§ 8547. Certificate of merger or consolidation.

(a) General rule.—Upon the adoption of the plan of merger or consolidation by the limited partnerships desiring to merge or consolidate, as provided in this subchapter, a certificate of merger or a certificate of consolidation, as the case may be, shall be executed by each limited partnership and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the domestic surviving or new limited partnership or, in the case of a foreign surviving or new limited partnership, the name of the limited partnership and its jurisdiction of organization, together with either of the following:

(i) If a qualified foreign limited partnership, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign limited partnership, the address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is organized.

(2) The name and address, including street and number, if any, of the registered office of each other domestic limited partnership and qualified foreign limited partnership that is a party to the plan.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by each domestic limited partnership and, if one or more foreign limited partnerships are parties to the plan, the fact that the plan was authorized, adopted or approved, as the case may be, by each of the foreign limited partnerships in accordance with the laws of the jurisdiction in which it is organized.

(5) Except as provided in subsection (b), the plan of merger or consolidation.

(b) Omission of certain provisions of plan of merger or consolidation.—A certificate of merger or consolidation may omit all provisions of the plan of merger or consolidation except provisions, if any, that are intended to amend or constitute the operative provisions of

the certificate of limited partnership of a limited partnership as in effect subsequent to the effective date of the plan, if the certificate of merger or consolidation states that the full text of the plan is on file at the principal place of business of the surviving or new limited partnership and states the address thereof. A limited partnership that takes advantage of this subsection shall furnish a copy of the full text of the plan, on request and without cost, to any partner of any limited partnership that was a party to the plan and, unless all parties to the plan had fewer than 30 partners each, on request and at cost to any other person.

(c) Filing of certificate of merger or consolidation.—The certificate of merger or certificate of consolidation, as the case may be, and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the department.

(d) Cross references.—See sections 134 (relating to docketing statement) and 8514 (relating to execution of certificates).

§ 8548. Effective date of merger or consolidation.

Upon the filing of the certificate of merger or the certificate of consolidation in the Department of State 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 limited partnerships into a foreign limited partnership shall be effective according to the provisions of law of the jurisdiction in which the foreign limited partnership is organized, but not until a certificate of merger or certificate of consolidation has been adopted and filed, as provided in this subchapter.

§ 8549. Effect of merger or consolidation.

(a) Single surviving or new limited partnership.—Upon the merger or consolidation becoming effective, the several limited partnerships parties to the plan of merger or consolidation shall be a single limited partnership which, in the case of a merger, shall be the limited partnership designated in the plan of merger as the surviving limited partnership and, in the case of a consolidation, shall be the new limited partnership provided for in the plan of consolidation. The separate existence of all limited partnerships parties to the plan of merger or consolidation shall cease, except that of the surviving limited partnership, in the case of a merger.

(b) Property rights.—All the property, real, personal and mixed, of each of the limited partnerships parties to the plan of merger or consolidation, and all debts due on whatever account to any of them, as well as all other things and causes of action belonging to any of them, shall be deemed to be vested in and shall belong to the surviving or new limited partnership, as the case may be, without further action, and the title to any real estate, or any interest therein, vested in any of the limited partnerships shall not revert or be in any way impaired by reason of the merger or consolidation. The surviving or new limited partnership shall thenceforth be responsible for all the liabilities of each of the limited partnerships so merged or consolidated. Liens upon the

property of the merging or consolidating limited partnerships shall not be impaired by the merger or consolidation, and any claim existing or action or proceeding pending by or against any of the limited partnerships may be prosecuted to judgment as if the merger or consolidation had not taken place or the surviving or new limited partnership may be proceeded against or substituted in its place.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against any of the merging or consolidating limited partnerships that are settled, assessed or determined prior to or after the merger or consolidation shall be the liability of the surviving or new limited partnership and, together with interest thereon, shall be a lien against the property, both real and personal, of the surviving or new limited partnership.

(d) Certificate of limited partnership.—In the case of a merger, the certificate of limited partnership of the surviving domestic limited partnership, if any, shall be deemed to be amended to the extent, if any, that changes in its certificate of limited partnership are stated in the plan of merger. In the case of a consolidation into a domestic limited partnership, the statements that are set forth in the plan of consolidation, or certificate of limited partnership set forth therein, shall be deemed to be the certificate of limited partnership of the new limited partnership.]

Section 52. Section 8571(c) of Title 15 is amended to read:

§ 8571. Nonjudicial dissolution.

* * *

[(c) Dissolution by domestication.—Whenever a domestic limited partnership has domesticated itself under the laws of another jurisdiction by action similar to that provided by section 8590 (relating to domestication) and has authorized that action in the manner required by this subchapter for the approval of a proposal that the partnership dissolve voluntarily, the partnership may surrender its certificate of limited partnership under the laws of this Commonwealth by filing in the department a certificate of cancellation under section 8513 (relating to cancellation of certificate). If the partnership, as domesticated in the other jurisdiction, registers to do business in this Commonwealth either prior to or simultaneously with the filing of the certificate of cancellation under this subsection, the partnership shall not be required to file with the certificate of cancellation the tax clearance certificates that would otherwise be required by section 139 (relating to tax clearance of certain fundamental transactions).]

* * *

Section 53. Subchapters J and K of Chapter 85 of Title 15 are repealed:

[SUBCHAPTER J
DIVISION

Sec.
8576. Division authorized.
8577. Proposal and adoption of plan of division.

8578. Division without approval of limited partners.
8579. Certificate of division.
8580. Effect of division.

§ 8576. Division authorized.

(a) Division of domestic limited partnership.—Any domestic limited partnership may, in the manner provided in this subchapter, be divided into two or more domestic limited partnerships organized or to be organized under this chapter or into one or more domestic limited partnerships and one or more foreign limited partnerships to be organized under the laws of another jurisdiction or jurisdictions or into two or more foreign limited partnerships if the laws of the other jurisdictions authorize the division.

(b) Division of foreign limited partnership.—Any foreign limited partnership may, in the manner provided in this subchapter, be divided into one or more domestic limited partnerships to be organized under this chapter and one or more foreign limited partnerships organized or to be organized under the laws of another jurisdiction or jurisdictions or into two or more domestic limited partnerships if the foreign limited partnership is authorized under the laws of the jurisdiction under which it is organized to effect a division.

(c) Surviving and new limited partnerships.—The limited partnership effecting a division, if it survives the division, is designated in this subchapter as the surviving limited partnership. All limited partnerships originally organized by a division are designated in this subchapter as new limited partnerships. The surviving limited partnership, if any, and the new limited partnership or partnerships are collectively designated in this subchapter as the resulting limited partnerships.

§ 8577. Proposal and adoption of plan of division.

(a) Preparation of plan.—A plan of division shall be prepared, setting forth:

(1) The terms and conditions of the division, including the manner and basis of:

(i) The reclassification of the partnership interests in the surviving limited partnership, if there be one, and, if any of the partnership interests in the dividing limited partnership are not to be converted solely into partnership interests or other securities or obligations of one or more of the resulting limited partnerships, the partnership interests or other securities or obligations of any other person or cash, property or rights that the holders of the partnership interests are to receive in exchange for or upon conversion of the partnership interests 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 partnership interests or other securities or obligations of one or more of the resulting limited partnerships.

(ii) The disposition of the partnership interests and other securities or obligations, if any, of the new limited partnership or partnerships resulting from the division.

(2) A statement that the dividing limited partnership will or will not survive the division.

(3) Any changes desired to be made in the certificate of limited partnership of the surviving limited partnership, if there be one, including a restatement of the certificate.

(4) The certificates of limited partnership required by subsection (c).

(5) Such other provisions as are deemed desirable.

(b) Reference to outside facts.—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. Such facts may include, without limitation, actions or events within the control of or determinations made by the dividing limited partnership or a representative of the dividing limited partnership.

(c) Certificates of limited partnership of new limited partnerships.—There shall be included in or annexed to the plan of division:

(1) Certificates of limited partnership, which shall contain all of the statements required by this chapter to be set forth in a restated certificate of limited partnership for each of the new domestic limited partnerships, if any, resulting from the division.

(2) Certificates of limited partnership or other organizational documents for each of the new foreign limited partnerships, if any, resulting from the division.

(d) Proposal and adoption.—Except as otherwise provided in section 8578 (relating to division without approval of limited partners), the plan of division shall be proposed and adopted and may be amended after its adoption and termination by a domestic limited partnership in the manner provided for the proposal, adoption, amendment and termination of a plan of merger in Subchapter F (relating to merger and consolidation), except section 8546(g) (relating to approval of merger or consolidation) or, if the dividing limited partnership is a foreign limited partnership, in accordance with the laws of the jurisdiction in which it is organized. There shall be included in or enclosed with the notice of the meeting of limited partners to act on the plan, a copy or a summary of the plan.

(f) Rights of holders of indebtedness.—If any such debt securities, notes, similar evidences of indebtedness, indentures or other contracts were issued, incurred or executed by the dividing limited partnership before August 21, 2001, and have not been amended subsequent to that date, the liability of the dividing limited partnership thereunder shall not be affected by the division nor shall the rights of the obligees thereunder be impaired by the division, and each of the resulting limited partnerships may be proceeded against or substituted in place of the dividing limited partnership as joint and several obligors on such

liability, regardless of any provision of the plan of division apportioning the liabilities of the dividing limited partnership.

(g) Special requirements.—If any provision of the certificate of limited partnership or partnership agreement of a dividing domestic limited partnership adopted before February 5, 1995, requires for the proposal or adoption of a plan of merger or consolidation a specific number or percentage of votes of general or limited partners or other special procedures, the plan of division shall not be proposed or adopted by the general or limited partners without that number or percentage of votes or compliance with the other special procedures.

§ 8578. Division without approval of limited partners.

Unless otherwise restricted by its partnership agreement, a plan of division that does not alter the state of organization of a limited partnership nor amend in any respect the provisions of its certificate of limited partnership or partnership agreement (except amendments that may be made without action by the limited partners) shall not require the approval of the limited partners of the limited partnership if:

(1) the dividing limited partnership survives the division and all the partnership interests and other securities and obligations, if any, of all new limited partnerships resulting from the plan are owned solely by the surviving limited partnership; or

(2) the transfers of assets effected by the division, if effected by means of a sale, lease, exchange or other disposition, would not require the approval of the limited partners.

§ 8579. Certificate of division.

(a) Contents.—Upon the adoption of a plan of division by the limited partnership desiring to divide, as provided in this subchapter, a certificate of division shall be executed by the limited partnership and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic limited partnership or, in the case of a dividing foreign limited partnership, the name of the limited partnership and the jurisdiction in which it is organized, together with either:

(i) If a qualified foreign limited partnership, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign limited partnership, the address, including street and number, if any, of its principal office under the laws of that jurisdiction.

(2) The statute under which the dividing limited partnership was organized and the date of organization.

(3) A statement that the dividing limited partnership will or will not survive the division.

(4) The name and the address, including street and number, if any, of the registered office of each new domestic limited partnership or qualified foreign limited partnership resulting from the division.

(5) If the plan is to be effective on a specific date, the hour, if any, and the month, day and year of the effective date.

(6) The manner in which the plan was adopted by the limited partnership.

(7) The plan of division.

(b) Filing.—The certificate of division and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

(c) Effective date of certificate of division.—Upon the filing of a certificate of division in the Department of State or upon the effective date specified in the plan of division, whichever is later, the division shall become effective. The division of a domestic limited partnership into one or more foreign limited partnerships or the division of a foreign limited partnership shall be effective according to the laws of the jurisdictions where the foreign limited partnerships are or are to be organized, but not until a certificate of division has been adopted and filed as provided in this subchapter.

(d) Cross references.—See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 8514 (relating to execution of certificates).

§ 8580. Effect of division.

(a) Multiple resulting limited partnerships.—Upon the division becoming effective, the dividing limited partnership shall be subdivided into the distinct and independent resulting limited partnerships named in the plan of division, and, if the dividing limited partnership is not to survive the division, the existence of the dividing limited partnership shall cease. The resulting limited partnerships, if they are domestic limited partnerships, shall not thereby acquire authority to engage in any business or exercise any right that a limited partnership may not be organized under this chapter to engage in or exercise. Any resulting foreign limited partnership that is stated in the certificate of division to be a qualified foreign limited partnership shall be a qualified foreign limited partnership under Subchapter K (relating to foreign limited partnerships), and the certificate of division shall be deemed to be the application for registration as a foreign limited partnership of the limited partnership.

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

(1) (i) All the property, real, personal and mixed, of the dividing limited partnership, and all debts due on whatever account to it, including subscriptions for partnership interests or other causes of action belonging to it, shall, except as otherwise provided in paragraph (2), to the extent allocations of assets are contemplated by the plan of division, be deemed without further action to be allocated to and vested in the resulting limited partnerships on such a manner and basis and with such effect as is specified in the plan, or per capita among the resulting limited partnerships, as tenants in common, if no specification is made in the plan, and the title to any real estate or interest therein vested in any of the

limited partnerships shall not revert or be in any way impaired by reason of the division.

(ii) Upon the division becoming effective, the resulting limited partnerships shall each thenceforth be responsible as separate and distinct limited partnerships only for such liabilities as each limited partnership may undertake or incur in its own name but shall be liable for the liabilities of the dividing limited partnership in the manner and on the basis provided in subparagraphs (iv) and (v).

(iii) Liens upon the property of the dividing limited partnership shall not be impaired by the division.

(iv) To the extent allocations of liabilities are contemplated by the plan of division, the liabilities of the dividing limited partnership shall be deemed without further action to be allocated to and become the liabilities of the resulting limited partnerships 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 limited partnerships shall be free of the liabilities of the dividing limited partnership to the extent, if any, specified in the plan if in either case:

(A) no fraud of partners 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).

(v) If the conditions in subparagraph (iv) for freeing one or more of the resulting limited partnerships from the liabilities of the dividing limited partnership, or for allocating some or all of the liabilities of the dividing limited partnership, are not satisfied, the liabilities of the dividing limited partnership as to which those conditions are not satisfied shall not be affected by the division nor shall the rights of creditors thereunder or of any person dealing with the limited partnership be impaired by the division, and any claim existing or action or proceeding pending by or against the limited partnership with respect to those liabilities may be prosecuted to judgment as if the division had not taken place, or the resulting limited partnerships may be proceeded against or substituted in place of the dividing limited partnership as joint and several obligors on those liabilities, regardless of any provision of the plan of division apportioning the liabilities of the dividing limited partnership.

(vi) The conditions in subparagraph (iv) for freeing one or more of the resulting limited partnerships from the liabilities of the dividing limited partnership and for allocating some or all of the liabilities of the dividing limited partnership shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Pennsylvania Public Utility Commission in a final order issued after August 21, 2001, that has become not subject to further appeal.

(2) (i) The allocation of any fee or freehold interest or leasehold having a remaining term of 30 years or more in any tract or parcel of real property situate in this Commonwealth owned by a dividing limited partnership (including property owned by a foreign limited partnership dividing solely under the law of another jurisdiction) to a new limited partnership resulting from the division shall not be effective until one of the following documents is filed in the office for the recording of deeds of the county, or each of them, in which the tract or parcel is situated:

(A) A deed, lease or other instrument of confirmation describing the tract or parcel.

(B) A duly executed duplicate original copy of the certificate of division.

(C) A copy of the certificate of division certified by the Department of State.

(D) A declaration of acquisition setting forth the value of real estate holdings in the county of the limited partnership as an acquired company.

(ii) The provisions of 75 Pa.C.S. § 1114 (relating to transfer of vehicle by operation of law) shall not be applicable to an allocation of ownership of any motor vehicle, trailer or semitrailer to a new limited partnership under this section or under a similar law of any other jurisdiction, but any such allocation shall be effective only upon compliance with the requirements of 75 Pa.C.S. § 1116 (relating to issuance of new certificate following transfer).

(3) It shall not be necessary for a plan of division to list each individual asset or liability of the dividing limited partnership to be allocated to a new limited partnership so long as those assets and liabilities are described in a reasonable and customary manner.

(4) Each new limited partnership shall hold any assets and liabilities allocated to it as the successor to the dividing limited partnership, and those assets and liabilities shall not be deemed to have been assigned to the new limited partnership in any manner, whether directly or indirectly or by operation of law.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the dividing limited partnership that are settled, assessed or determined prior to or after the division shall be the liability of any of the resulting limited partnerships and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of all the limited partnerships. Upon the application of the dividing limited partnership, the Department of Revenue, with the concurrence of the Office of Employment Security of the Department of Labor and Industry, shall release one or more, but less than all, of the resulting limited partnerships from liability and liens for all taxes, interest, penalties and public accounts of the dividing limited partnership due the Commonwealth for periods prior to the effective date of the division if those departments are satisfied that the public revenues will be adequately secured.

(d) Certificate of limited partnership of surviving limited partnership.—The certificate of limited partnership of the surviving limited partnership, if there be one, shall be deemed to be amended to the extent, if any, that changes in its certificate of limited partnership are stated in the plan of division.

(e) Certificates of limited partnership of new limited partnerships.—The statements that are set forth in the plan of division with respect to each new domestic limited partnership and that are required or permitted to be set forth in a restated certificate of limited partnership of limited partnerships organized under this chapter, or the certificate of limited partnership of each new limited partnership set forth therein, shall be deemed to be the certificate of limited partnership of each new limited partnership.

(f) Disposition of partnership interests.—Unless otherwise provided in the plan, the partnership interests and other securities or obligations, if any, of each new limited partnership resulting from the division shall be distributable to:

(1) the surviving limited partnership if the dividing limited partnership survives the division; or

(2) the partners of the dividing limited partnership in the proportions in which the partners share in distributions, in any other case.

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

(1) The effect of a division of a domestic limited partnership shall be governed solely by the laws of this Commonwealth and any other jurisdiction under the laws of which any of the resulting limited partnerships is organized.

(2) The effect of a division on the assets and liabilities of the dividing limited partnership shall be governed solely by the laws of this Commonwealth and any other jurisdiction under the laws of which any of the resulting limited partnerships is organized.

(3) The validity of any allocations of assets or liabilities by a plan of division of a domestic limited partnership, regardless of whether or not any of the new limited partnerships is a foreign limited partnership, shall be governed solely by the laws of this Commonwealth.

(4) In addition to the express provisions of this subsection, this subchapter shall otherwise generally be granted the protection of full faith and credit under the Constitution of the United States.

SUBCHAPTER K
FOREIGN LIMITED PARTNERSHIPS

Sec.
8581. Governing law.
8582. Registration.
8583. Effect of filing.
8584. Name.
8585. Changes and amendments.

§ 8581. Governing law.

Subject to the Constitution of Pennsylvania:

(1) The laws of the jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners.

(2) A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this Commonwealth.

§ 8582. Registration.

(a) General rule.—Before doing business in this Commonwealth, a foreign limited partnership shall register under this subchapter. In order to register, a foreign limited partnership shall execute and file in the Department of State an application for registration as a foreign limited partnership setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and do business in this Commonwealth.

(2) The jurisdiction and date of its formation.

(3) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office.

(4) The address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited partnership.

(5) The name and business address of each general partner.

(6) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the registration of the foreign limited partnership in this Commonwealth is canceled or withdrawn.

(b) Exceptions.—None of the activities described in section 4122 (relating to excluded activities) shall be considered doing business in this Commonwealth for the purposes of this subchapter.

(c) Cross references.—See sections 134 (relating to docketing statement) and 8514 (relating to execution of certificates).

§ 8583. Effect of filing.

Upon the filing of the application for registration as a foreign limited partnership, the partnership shall be authorized to do business in this Commonwealth.

§ 8584. Name.

(a) General rule.—A foreign limited partnership may register with the Department of State under any name (whether or not it is the name

under which it is registered in its jurisdiction of organization) that could be used by a domestic limited partnership.

(b) Cross reference.—See section 8505 (relating to name).

§ 8585. Changes and amendments.

(a) General rule.—If any arrangements or other facts described in the application for registration of a foreign limited partnership have changed, making the application inaccurate in any material respect, the foreign limited partnership shall promptly execute and file in the Department of State a certificate of amendment of registration setting forth:

(1) The name under which the foreign limited partnership is registered to do business in this Commonwealth.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) The arrangements or other facts that have changed.

(b) Effect of filing.—The application for registration as a foreign limited partnership shall be amended upon filing of the certificate of amendment of registration in the department.

(c) Cross references.—See sections 134 (relating to docketing statement), 138 (relating to statement of correction) and 8514 (relating to execution of certificates).

§ 8586. Cancellation of registration.

(a) General rule.—A qualified foreign limited partnership may cancel its registration by executing and filing in the Department of State a certificate of cancellation of registration setting forth:

(1) The name under which the foreign limited partnership is registered to do business in this Commonwealth.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its last registered office in this Commonwealth.

(3) The name of the jurisdiction under the laws of which it is organized.

(4) The date on which it registered to do business in this Commonwealth.

(5) A statement that it withdraws from doing business in this Commonwealth.

(6) A statement that notice of its intention to withdraw from doing business in this Commonwealth was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the foreign limited partnership in this Commonwealth is located.

(7) The post office address, including street and number, if any, to which process may be sent in an action upon any liability incurred before the filing of the certificate of cancellation of registration.

(b) Filing.—The certificate of cancellation of registration and the certificates or statement required by section 139 (relating to tax

clearance of certain fundamental transactions) shall be filed in the department.

(c) Effect of filing.—Upon the filing of the certificate of cancellation of registration, the authority of the foreign limited partnership to do business in this Commonwealth shall cease. The termination of authority shall not affect any action pending at the time thereof or affect any right of action arising with respect to the foreign limited partnership before the filing of the certificate of cancellation of registration. Process against the foreign limited partnership in an action upon any liability incurred before the filing of the certificate of cancellation of registration may be served as provided in 42 Pa.C.S. Ch. 53 (relating to bases of jurisdiction and interstate and international procedure) or as otherwise provided or prescribed by law.

(d) Cross references.—See sections 134 (relating to docketing statement) and 8514 (relating to execution of certificates).

§ 8587. Doing business without registration.

(a) Maintenance of actions or proceedings prohibited.—A nonqualified foreign limited partnership doing business in this Commonwealth may not maintain any action or proceeding in any court of this Commonwealth until it has registered under this subchapter, nor, except as provided in subsection (b), shall any action or proceeding be maintained in any court of this Commonwealth on any right, claim or demand arising out of the doing of business by the foreign limited partnership in this Commonwealth by any successor, assignee or acquiror of all or substantially all of the assets of the foreign limited partnership that is a foreign corporation for profit or not-for-profit or a foreign limited partnership until such foreign corporation or foreign limited partnership has been authorized to do business in this Commonwealth.

(b) Contracts, property and defense of actions unaffected.—The failure of a foreign limited partnership to register under this subchapter shall not impair the validity of any contract or act of the foreign limited partnership, shall not prevent the foreign limited partnership from defending any action in any court of this Commonwealth and shall not render escheatable any of its real or personal property.

(c) Liability of limited partner.—A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the foreign limited partnership having done business in this Commonwealth without registration under this subchapter.

(d) Acquisition of real and personal property.—Every nonqualified foreign limited partnership 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 a qualified foreign limited partnership.

(e) Duties.—Except as provided in subsection (a), a nonqualified foreign limited partnership doing business in this Commonwealth shall be subject to the same liabilities, restrictions, duties and penalties now or hereafter imposed upon a qualified foreign limited partnership.

§ 8588. Action by Attorney General.

The Attorney General may bring an action to restrain a foreign limited partnership from doing business in this Commonwealth in violation of this subchapter.

§ 8589. General powers and duties of qualified foreign limited partnerships.

(a) General rule.—A qualified foreign limited partnership, so long as its registration under this subchapter is not canceled or revoked, shall enjoy the same rights and privileges as a domestic limited partnership, but no more, and, except as in this part otherwise provided, shall be subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed upon domestic limited partnerships, to the same extent as if it had been formed under this chapter.

(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.

§ 8590. Domestication.

(a) General rule.—Any qualified foreign limited partnership may become a domestic limited partnership by filing in the Department of State a certificate of domestication. The certificate of domestication, upon being filed in the department, shall constitute the certificate of limited partnership of the domesticated foreign limited partnership, and it shall thereafter continue as a limited partnership which shall be a domestic limited partnership subject to this chapter.

(b) Certificate of domestication.—The certificate of domestication shall be executed by the limited partnership and shall set forth in the English language:

(1) The name of the limited partnership. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals. If the name is one that is rendered unavailable for use by any provision of section 8505 (relating to name), the limited partnership shall adopt, in accordance with any procedures for changing the name of the limited partnership that are applicable prior to the domestication of the limited partnership, and shall set forth in the certificate of domestication an available name.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) A statement that upon domestication the limited partnership will be subject to the domestic limited partnership provisions of the Pennsylvania Revised Uniform Limited Partnership Act and, if desired, a brief statement of the purpose or purposes for which it is to be domesticated, which shall be a purpose or purposes for which a domestic limited partnership may be organized under this chapter and which may consist of or include a statement that the limited partnership shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which limited

partnerships may be organized under the Pennsylvania Revised Uniform Limited Partnership Act.

(4) Any desired provisions relating to the manner and basis of reclassifying the partnership interests in the limited partnership.

(5) A statement that the filing of the certificate of domestication and, if desired, the renunciation of the original certificate of limited partnership of the limited partnership has been authorized (unless its certificate of limited partnership or other organic documents require a greater vote) by a majority of the votes cast by all partners entitled to vote thereon and, if any class of partners is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(6) Any other provisions authorized by this chapter to be set forth in an original certificate of limited partnership.

See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 8514 (relating to execution of certificates).

(c) Effect of domestication.—

(1) As a domestic limited partnership, the domesticated limited partnership shall no longer be a foreign limited partnership for the purposes of this chapter and shall instead be a domestic limited partnership with all the powers and privileges and all the duties and limitations granted and imposed upon domestic limited partnerships. In all other respects, the domesticated limited partnership shall be deemed to be the same limited partnership as it was prior to the domestication without any change in or effect on its existence. Without limiting the generality of the previous sentence, the domestication shall not be deemed to have dissolved the limited partnership or to have affected in any way:

(i) the right and title of the limited partnership in and to its assets, property, franchises, estates and choses in action;

(ii) the liability of the limited partnership for its debts, obligations, penalties and public accounts due the Commonwealth;

(iii) any liens or other encumbrances on the property or assets of the limited partnership; or

(iv) any contract, license or other agreement to which the limited partnership is a party or under which it has any rights or obligations.

(2) The partnership interests in the domesticated limited partnership shall be unaffected by the domestication except to the extent, if any, reclassified in the certificate of domestication.]

Section 54. The definitions of "certificate of organization," "foreign limited liability company" and "qualified foreign limited liability company" in section 8903(a) of Title 15 are amended to read:

§ 8903. Definitions and index of definitions.

(a) 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:

* * *

"Certificate of organization." The certificate of organization referred to in section 8913 (relating to certificate of organization) and the certificate of organization as amended. The term includes any other statements or certificates permitted or required to be filed in the Department of State by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction), ***Chapter 3 (relating to entity transactions)*** or this part. If an amendment of the certificate of organization or a **[certificate of merger or division made in the manner permitted by this chapter]** ***statement filed under Chapter 3*** restates the certificate of organization in its entirety **[or if there is a certificate of consolidation or domestication]**, thenceforth the certificate of organization shall not include any prior documents, and any certificate issued by the Department of State with respect thereto shall so state.

* * *

"Foreign limited liability company." An association organized under the laws of any jurisdiction other than this Commonwealth, whether or not required to register under **[Subchapter J (relating to foreign companies)]** ***Chapter 4 (relating to foreign associations)***, which would be a limited liability company if organized under the laws of this Commonwealth.

* * *

"Qualified foreign limited liability company." A foreign limited liability company that is registered under **[Subchapter J (relating to foreign companies) to do business in this Commonwealth]** ***Chapter 4 (relating to foreign associations)***.

* * *

Section 55. Sections 8905 and 8908 and Subchapters G and H of Chapter 89 and section 8978 and Subchapter J of Chapter 89 of Title 15 are repealed:

[§ 8905. Name.

(a) General rule.—The name of each limited liability company as set forth in its certificate of organization shall:

(1) Be expressed in Roman letters or characters or Arabic or Roman numerals.

(2) Not be one rendered unavailable for use by a corporation by any provision of section 1303(b) and (c) (relating to corporate name).

(3) Contain the term "company," "limited" or "limited liability company" or an abbreviation of one of those terms.

(b) Reservation of name.—The exclusive right to the use of a name for purposes of this chapter may be reserved and transferred in the manner provided by section 1305 (relating to reservation of corporate name).

§ 8908. Election of professional association to become limited liability company.

(a) General rule.—This chapter applies to every professional association subject to Chapter 93 (relating to professional associations) that elects to accept the provisions of this chapter in the manner set forth in subsection (b).

(b) Procedure for election.—A professional association may elect to accept this chapter by filing in the Department of State a certificate of

election of limited liability company status which shall be executed by all of the associates of the professional association and shall set forth:

(1) The name of the professional association.

(2) The name of the county in the office of the prothonotary of which the initial articles of association of the association were filed.

(3) A statement that the associates of the professional association have elected to accept the provisions of this chapter for the government and regulation of the affairs of the association.

(4) The provisions that shall constitute the initial certificate of organization of the limited liability company resulting from the filing, which may include such amendments to the articles of association of the professional association as the associates may choose to adopt.

See sections 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

(c) Date of organization.—This chapter shall become applicable to the professional association, and it shall be deemed organized as a limited liability company, on the date the certificate of election is filed in the department.

SUBCHAPTER G
MERGERS AND CONSOLIDATIONS

Sec.

§ 8956. Merger and consolidation of limited liability companies authorized.

(a) Domestic surviving or new limited liability company.—Any two or more domestic limited liability companies, or any two or more foreign limited liability companies, or any one or more domestic limited liability companies and any one or more foreign limited liability companies, may, in the manner provided in this subchapter, be merged into one of the domestic limited liability companies designated in this subchapter as the surviving limited liability company, or consolidated into a new limited liability company to be formed under this chapter, if the foreign limited liability companies are authorized by the laws of the jurisdiction under which they are organized to effect a merger or consolidation with a limited liability company of another jurisdiction.

(b) Foreign surviving or new limited liability company.—Any one or more domestic limited liability companies and any one or more foreign limited liability companies may, in the manner provided in this subchapter, be merged into one of the foreign limited liability companies designated in this subchapter as the surviving limited liability company, or consolidated into a new limited liability company to be organized under the laws of the jurisdiction under which one of the foreign limited liability companies is organized, if the laws of that jurisdiction authorize

a merger with or consolidation into a limited liability company of another jurisdiction.

(c) Business trusts and other associations.—The provisions of this subchapter applicable to domestic and foreign limited liability companies shall also be applicable to a merger or consolidation to which a domestic limited liability company is a party or in which such a company is the resulting entity with or into a domestic or foreign corporation, partnership, business trust or other association. The surviving or resulting entity in such a merger or consolidation may be a corporation, partnership, business trust or other association. Except as otherwise provided by law in this Commonwealth or any other jurisdiction, the powers and duties vested in and imposed upon the managers and members in this subchapter shall be exercised and performed by the group of persons under the direction of whom the business and affairs of the corporation, partnership, business trust or other association are managed and the holders or owners of shares or other interests in the corporation, partnership, business trust or other association, respectively, irrespective of the names by which the managing group and the holders or owners of shares or other interests are designated. The units into which the shares or other interests in the corporation, partnership, business trust or other association are divided shall be deemed to be membership interests for the purposes of applying the provisions of this subchapter to a merger or consolidation involving the corporation, partnership, business trust or other association.

§ 8957. Approval of merger or consolidation.

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

(1) The terms and conditions of the merger or consolidation.

(2) If the surviving or new limited liability company is or is to be a domestic limited liability company:

(i) in the case of a merger, any changes desired to be made in the certificate of organization or operating agreement, which may include a restatement of either or both; or

(ii) in the case of a consolidation:

(A) all of the statements required by this chapter to be set forth in a restated certificate of organization; and

(B) the written provisions, if any, of the operating agreement.

(3) The manner and basis of converting the membership interests of each company into membership interests, securities or obligations of the surviving or new company, as the case may be, and, if any of the membership interests of any of the companies that are parties to the merger or consolidation are not to be converted solely into membership interests, securities or obligations of the surviving or new company, the membership interests, securities or obligations of any other person or cash, property or rights that the holders of such membership interests are to receive in exchange for, or upon conversion of, such membership interests, 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 membership interests, securities or obligations of the surviving or new company.

(4) Such other provisions as are deemed desirable.

(b) Reference to outside facts.—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. Such facts may include, without limitation, actions or events within the control of or determinations made by a party to the plan or a representative of a party to the plan.

(c) Post-adoption amendment of plan of merger or consolidation.—A plan of merger or consolidation may contain a provision that the managers, if any, of the constituent companies may amend the plan at any time prior to its effective date, except that an amendment made subsequent to any adoption of the plan by the members of any constituent domestic company shall not, without the approval of the members, change:

(1) The amount or kind of membership interests, obligations, cash, property or rights to be received in exchange for or on conversion of all or any of the membership interests of the constituent domestic company adversely to the holders of those membership interests.

(2) Any provision of the certificate of organization or operating agreement of the surviving or new company as it is to be in effect immediately following consummation of the merger or consolidation except provisions that may be amended without the approval of the members.

(3) Any of the other terms and conditions of the plan if the change would adversely affect the holders of any membership interests of the constituent domestic company.

(d) Proposal of merger or consolidation.—Every merger or consolidation shall be proposed, in the case of each domestic limited liability company that is managed by one or more managers, by the adoption by the managers of a resolution approving the plan of merger or consolidation and, in any other case, in accordance with any applicable procedures specified in the operating agreement. Except where the approval of the members is unnecessary under this subchapter or the operating agreement, the plan shall be submitted to a vote of the members entitled to vote thereon at a regular or special meeting of the members.

(e) Party to plan.—An association that approves a plan in its capacity as a member or creditor of a merging or consolidating company or that furnishes all or a part of the consideration contemplated by a plan does not thereby become a party to the merger or consolidation for the purposes of this subchapter.

(f) Notice of meeting of members.—Written notice 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 limited liability company that is a party to the merger or consolidation. There shall be included in or enclosed with the notice a copy of the proposed plan or a summary thereof. The provisions of this subsection may not be relaxed by any provision of the certificate of organization or operating agreement.

(g) Adoption of plan by members.—The plan of merger or consolidation shall be adopted upon receiving a majority of the votes cast by all members, if any, entitled to vote thereon of each of the domestic limited liability companies that is a party to the merger or consolidation and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote. A proposed plan of merger or consolidation shall not be deemed to have been adopted by a company that is managed by one or more managers unless it has also been approved by the managers, regardless of the fact that the managers have directed or suffered the submission of the plan to the members for action.

(h) Adoption by managers.—

(1) Unless otherwise required by a written provision of the operating agreement, a plan of merger or consolidation shall not require the approval of the members of a company that is managed by one or more managers if:

(i) the plan, whether or not the company is the surviving company, does not alter the status of the company as a domestic limited liability company or alter in any respect the provisions of its certificate of organization or operating agreement, except changes that may be made without action by the members; and

(ii) each membership interest outstanding immediately prior to the effective date of the merger or consolidation is to continue as or to be converted into, except as may be otherwise agreed by the holder thereof, an identical membership interest in the surviving or new company after the effective date of the merger or consolidation.

(2) If a merger or consolidation is effected pursuant to paragraph (1), the plan of merger or consolidation shall be deemed adopted by the company when it has been adopted by the managers pursuant to subsection (d).

(i) Termination of plan.—Prior to the time when a merger or consolidation becomes effective, the merger or consolidation may be terminated pursuant to provisions therefor, if any, set forth in the plan. If a certificate of merger or consolidation has been filed in the department prior to the termination, a certificate of termination executed by each company that is a party to the merger or consolidation, unless the plan permits termination by less than all of the companies, in which case the certificate shall be executed on behalf of the company exercising the right to terminate, shall be filed in the department. The certificate of termination shall set forth:

(1) A copy of the certificate of merger or consolidation relating to the plan that is terminated.

(2) A statement that the plan has been terminated in accordance with the provisions therefor set forth therein.

See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents), 138 (relating to statement of correction) and 8907 (relating to execution of documents).

(j) Authorization by foreign limited liability companies.—The plan of merger or consolidation shall be authorized, adopted or approved by each foreign limited liability company that desires to merge or consolidate in accordance with the laws of the jurisdiction in which it is organized.

§ 8958. Certificate of merger or consolidation.

(a) General rule.—Upon the adoption of the plan of merger or consolidation by the limited liability companies desiring to merge or consolidate, as provided in this subchapter, a certificate of merger or a certificate of consolidation, as the case may be, shall be executed by each company and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the domestic surviving or new limited liability company or, in the case of a foreign surviving or new limited liability company, the name of the company and its jurisdiction of organization, together with either of the following:

(i) If a qualified foreign limited liability company, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign limited liability company, the address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it is organized.

(2) The name and address, including street and number, if any, of the registered office of each other domestic limited liability company and qualified foreign limited liability company that is a party to the merger or consolidation.

(3) If the plan is to be effective on a specified date, the hour, if any, and the month, day and year of the effective date.

(4) The manner in which the plan was adopted by each domestic limited liability company and, if one or more foreign limited liability companies are parties to the merger or consolidation, the fact that the plan was authorized, adopted or approved, as the case may be, by each of the foreign limited liability companies in accordance with the laws of the jurisdiction in which it is organized.

(5) Except as provided in subsection (b), the plan of merger or consolidation.

(b) Omission of certain provisions of plan of merger or consolidation.—A certificate of merger or consolidation may omit all provisions of the plan of merger or consolidation except provisions, if any, that are intended to amend or constitute the operative provisions of the certificate of organization of a company as in effect subsequent to the effective date of the plan, if the certificate of merger or consolidation

states that the full text of the plan is on file at the principal place of business of the surviving or new company and states the address thereof. A company that takes advantage of this subsection shall furnish a copy of the full text of the plan, on request and without cost, to any member of any company that was a party to the plan and, unless all parties to the plan had fewer than 30 members each, on request and at cost to any other person.

(c) Filing of certificate of merger or consolidation.—The certificate of merger or certificate of consolidation, as the case may be, and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the department.

(d) Effective date of merger or consolidation.—Upon the filing of the certificate of merger or the certificate of consolidation in the Department of State 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 limited liability companies into a foreign limited liability company shall be effective according to the provisions of law of the jurisdiction in which the foreign limited liability company is organized, but not until a certificate of merger or certificate of consolidation has been adopted and filed, as provided in this subchapter.

(e) Cross references.—See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 8907 (relating to execution of documents).

§ 8959. Effect of merger or consolidation.

(a) Single surviving or new limited liability company.—Upon the merger or consolidation becoming effective, the several limited liability companies parties to the merger or consolidation shall be a single company which, in the case of a merger, shall be the company designated in the plan of merger as the surviving company and, in the case of a consolidation, shall be the new company provided for in the plan of consolidation. The separate existence of all companies parties to the merger or consolidation shall cease, except that of the surviving company, in the case of a merger.

(b) Property rights.—All the property, real, personal and mixed, of each of the companies parties to the merger or consolidation and all debts due on whatever account to any of them, as well as all other things and causes of action belonging to any of them, shall be deemed to be vested in and shall belong to the surviving or new company, as the case may be, without further action, and the title to any real estate or any interest therein vested in any of the companies shall not revert or be in any way impaired by reason of the merger or consolidation. The surviving or new company shall thenceforth be responsible for all the liabilities of each of the companies so merged or consolidated. Liens upon the property of the merging or consolidating companies shall not be impaired by the merger or consolidation, and any claim existing or action or proceeding pending by or against any of the companies may be prosecuted to judgment as if the merger or consolidation had not taken

place or the surviving or new company may be proceeded against or substituted in its place.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against any of the merging or consolidating companies that are settled, assessed or determined prior to or after the merger or consolidation shall be the liability of the surviving or new company and, together with interest thereon, shall be a lien against the property, both real and personal, of the surviving or new company.

(d) Certificate of organization.—In the case of a merger, the certificate of organization of the surviving domestic limited liability company, if any, shall be deemed to be amended to the extent, if any, that changes in its certificate of organization are stated in the plan of merger. In the case of a consolidation into a domestic limited liability company, the statements that are set forth in the plan of consolidation or certificate of organization set forth therein shall be deemed to be the certificate of organization of the new limited liability company.

SUBCHAPTER H
DIVISION

Sec.
8961. Division authorized.
8962. Proposal and adoption of plan of division.
8963. Division without member approval.
8964. Certificate of division.
8965. Effect of division.

§ 8961. Division authorized.

(a) Division of domestic company.—Any domestic limited liability company may, in the manner provided in this subchapter, be divided into two or more domestic limited liability companies organized or to be organized under this chapter, or into one or more domestic limited liability companies and one or more foreign limited liability companies to be organized under the laws of another jurisdiction or jurisdictions, or into two or more foreign limited liability companies, if the laws of the other jurisdictions authorize the division.

(b) Division of foreign company.—Any foreign limited liability company may, in the manner provided in this subchapter, be divided into one or more domestic limited liability companies to be organized under this chapter and one or more foreign limited liability companies organized or to be organized under the laws of another jurisdiction or jurisdictions, or into two or more domestic limited liability companies, if the foreign limited liability company is authorized under the laws of the jurisdiction under which it is incorporated to effect a division.

(c) Surviving and new companies.—The company effecting a division, if it survives the division, is designated in this subchapter as the surviving company. All companies originally organized by a division are designated in this subchapter as new companies. The surviving company, if any, and the new company or companies are collectively designated in this subchapter as the resulting companies.

§ 8962. Proposal and adoption of plan of division.

(a) Preparation of plan.—A plan of division shall be prepared, setting forth:

(1) The terms and conditions of the division, including the manner and basis of:

(i) The reclassification of the membership interests of the surviving company, if there be one, and, if any of the membership interests of the dividing company are not to be converted solely into membership interests or other securities or obligations of one or more of the resulting companies, the membership interests or other securities or obligations of any other person or cash, property or rights that the holders of such membership interests are to receive in exchange for or upon conversion of such membership interests, 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 membership interests or other securities or obligations of one or more of the resulting companies.

(ii) The disposition of the membership interests and other securities or obligations, if any, of the new company or companies resulting from the division.

(2) A statement that the dividing company will or will not survive the division.

(3) Any changes desired to be made in the certificate of organization of the surviving company, if there be one, including a restatement of the certificate.

(4) The certificates of organization required by subsection (c).

(5) Such other provisions as are deemed desirable.

(b) Reference to outside facts.—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. Such facts may include, without limitation, actions or events within the control of or determinations made by the dividing limited liability company or a representative of the dividing limited liability company.

(c) Certificates of organization of new companies.—There shall be included in or annexed to the plan of division:

(1) Certificates of organization, which shall contain all of the statements required by this chapter to be set forth in a restated certificate, for each of the new domestic limited liability companies, if any, resulting from the division.

(2) Certificates of organization or other organizational documents for each of the new foreign limited liability companies, if any, resulting from the division.

(d) Proposal and adoption.—Except as otherwise provided in section 8963 (relating to division without member approval), the plan of division shall be proposed and adopted and may be amended after its adoption and terminated by a domestic limited liability company in the manner provided for the proposal, adoption, amendment and

termination of a plan of merger in Subchapter G (relating to mergers and consolidations) or, if the dividing company is a foreign limited liability company, in accordance with the laws of the jurisdiction in which it is organized.

§ 8963. Division without member approval.

Unless otherwise required by a written provision of the operating agreement, a plan of division that does not alter the state of organization of a limited liability company that is managed by one or more managers nor amend in any respect the provisions of its certificate of organization or operating agreement (except amendments which may be made without action by the members) shall not require the approval of the members of the company if:

(1) the dividing company has only one class of membership interests outstanding and the membership interests and other securities, if any, of each company resulting from the plan are distributed pro rata to the members of the dividing company;

(2) the dividing company survives the division and all the membership interests and other securities and obligations, if any, of all new companies resulting from the plan are owned solely by the surviving company; or

(3) the transfers of assets effected by the division, if effected by means of a sale, lease, exchange or other disposition, would not require the approval of the members.

§ 8964. Certificate of division.

(a) Contents.—Upon the adoption of a plan of division by the limited liability company desiring to divide, as provided in this subchapter, a certificate of division shall be executed by the company and shall, subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), set forth:

(1) The name and the location of the registered office, including street and number, if any, of the dividing domestic limited liability company or, in the case of a dividing foreign limited liability company, the name of the company and the jurisdiction in which it is organized, together with either:

(i) If a qualified foreign limited liability company, the address, including street and number, if any, of its registered office in this Commonwealth.

(ii) If a nonqualified foreign limited liability company, the address, including street and number, if any, of its principal office under the laws of that jurisdiction.

(2) The statute under which the dividing company was organized and the date of organization.

(3) A statement that the dividing company will or will not survive the division.

(4) The name and address, including street and number, if any, of the registered office of each new domestic limited liability company or qualified foreign limited liability company resulting from the division.

(5) If the plan is to be effective on a specific date, the hour, if any, and the month, day and year of the effective date.

(6) The manner in which the plan was adopted by the company.

(7) The plan of division.

(b) Filing.—The certificate of division and the certificates or statement, if any, required by section 139 (relating to tax clearance of certain fundamental transactions) shall be filed in the Department of State.

(c) Effective date of division.—Upon the filing of the certificate of division in the Department of State or upon the effective date specified in the plan of division, whichever is later, the division shall become effective. The division of a domestic limited liability company into one or more foreign limited liability companies or the division of a foreign limited liability company shall be effective according to the laws of the jurisdictions where the foreign companies are or are to be organized but not until a certificate of division has been adopted and filed as provided in this subchapter.

(d) Cross references.—See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 8907 (relating to execution of documents).

§ 8965. Effect of division.

(a) Multiple resulting companies.—Upon the division becoming effective, the dividing company shall be subdivided into the distinct and independent resulting companies named in the plan of division, and, if the dividing company is not to survive the division, the existence of the dividing company shall cease. The resulting companies, if they are domestic limited liability companies, shall not thereby acquire authority to engage in any business or exercise any right that a company may not be organized under this chapter to engage in or exercise. Any resulting foreign limited liability company that is stated in the certificate of division to be a qualified foreign limited liability company shall be a qualified foreign limited liability company under Subchapter J (relating to foreign companies), and the certificate of division shall be deemed to be the application for registration of a foreign limited liability company of the limited liability company.

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

(1) (i) All the property, real, personal and mixed, of the dividing company and all debts due on whatever account to it, including subscriptions for membership interests and other causes of action belonging to it, shall, except as otherwise provided in paragraph (2), to the extent allocations of assets are contemplated by the plan of division, be deemed without further action to be allocated to and vested in the resulting companies on such a manner and basis and with such effect as is specified in the plan, or per capita among the resulting companies as tenants in common if no specification is made in the plan, and the title to any real estate or interest therein vested in any of the companies shall not revert or be in any way impaired by reason of the division.

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

(iii) Liens upon the property of the dividing company shall not be impaired by the division.

(iv) To the extent allocations of liabilities are contemplated by the plan of division, the liabilities of the dividing company shall be deemed without further action to be allocated to and become the liabilities of the resulting companies 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 companies shall be free of the liabilities of the dividing company to the extent, if any, specified in the plan if in either case:

(A) no fraud on members 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).

(v) If the conditions in subparagraph (iv) for freeing one or more of the resulting companies from the liabilities of the dividing company, or for allocating some or all of the liabilities of the dividing company, are not satisfied, the liabilities of the dividing company as to which those conditions are not satisfied shall not be affected by the division nor shall the rights of creditors thereunder or of any person dealing with the company be impaired by the division, and any claim existing or action or proceeding pending by or against the company with respect to those liabilities may be prosecuted to judgment as if the division had not taken place, or the resulting companies may be proceeded against or substituted in place of the dividing company as joint and several obligors on those liabilities, regardless of any provision of the plan of division apportioning the liabilities of the dividing company.

(vi) The conditions in subparagraph (iv) for freeing one or more of the resulting companies from the liabilities of the dividing company and for allocating some or all of the liabilities of the dividing company shall be conclusively deemed to have been satisfied if the plan of division has been approved by the Pennsylvania Public Utility Commission in a final order issued after August 21, 2001, that has become not subject to further appeal.

(2) (i) The allocation of any fee or freehold interest or leasehold having a remaining term of 30 years or more in any tract or parcel of real property situate in this Commonwealth owned by a dividing company (including property owned by a foreign limited liability company dividing solely under the law of another jurisdiction) to a new company resulting from the division shall

not be effective until one of the following documents is filed in the office for the recording of deeds of the county, or each of them, in which the tract or parcel is situated:

(A) A deed, lease or other instrument of confirmation describing the tract or parcel.

(B) A duly executed duplicate original copy of the certificate of division.

(C) A copy of the certificate of division certified by the Department of State.

(D) A declaration of acquisition setting forth the value of real estate holdings in such county of the company as an acquired company.

(ii) The provisions of 75 Pa.C.S. § 1114 (relating to transfer of vehicle by operation of law) shall not be applicable to an allocation of ownership of any motor vehicle, trailer or semitrailer to a new company under this section or under a similar law of any other jurisdiction but any such allocation shall be effective only upon compliance with the requirements of 75 Pa.C.S. § 1116 (relating to issuance of new certificate following transfer).

(3) It shall not be necessary for a plan of division to list each individual asset or liability of the dividing company to be allocated to a new company so long as those assets and liabilities are described in a reasonable and customary manner.

(4) Each new company shall hold any assets and liabilities allocated to it as the successor to the dividing company, and those assets and liabilities shall not be deemed to have been assigned to the new company in any manner, whether directly or indirectly or by operation of law.

(c) Taxes.—Any taxes, interest, penalties and public accounts of the Commonwealth claimed against the dividing company that are settled, assessed or determined prior to or after the division shall be the liability of any of the resulting companies and, together with interest thereon, shall be a lien against the franchises and property, both real and personal, of all the companies. Upon the application of the dividing company, the Department of Revenue, with the concurrence of the Office of Employment Security of the Department of Labor and Industry, shall release one or more, but less than all, of the resulting companies from liability and liens for all taxes, interest, penalties and public accounts of the dividing company due the Commonwealth for periods prior to the effective date of the division if those departments are satisfied that the public revenues will be adequately secured.

(d) Certificate of organization of surviving company.—The certificate of organization of the surviving company, if there be one, shall be deemed to be amended to the extent, if any, that changes in its certificate are stated in the plan of division.

(e) Certificates of organization of new companies.—The statements that are set forth in the plan of division with respect to each new domestic limited liability company and that are required or permitted to

be set forth in a restated certificate of organization of companies organized under this chapter or the certificate of organization of each new company set forth therein shall be deemed to be the certificate of organization of each new company.

(f) Managers.—Unless otherwise provided in the plan, the managers, if any, of the dividing limited liability company shall be the initial managers of each of the resulting companies.

(g) Disposition of membership interests.—Unless otherwise provided in the plan, the membership interests and other securities or obligations, if any, of each new company resulting from the division shall be distributable to:

(1) the surviving company if the dividing company survives the division; or

(2) the members of the dividing company in the proportions in which the members share in distributions, in any other case.

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

(1) The effect of a division of a domestic limited liability company shall be governed by the laws of this Commonwealth and any other jurisdiction under the laws of which any of the resulting companies is organized.

(2) The effect of a division on the assets and liabilities of the dividing company shall be governed solely by the laws of this Commonwealth and any other jurisdiction under the laws of which any of the resulting companies is organized.

(3) The validity of any allocation of assets or liabilities by a plan of division of a domestic limited liability company, regardless of whether or not any of the new companies is a foreign limited liability company, shall be governed solely by the laws of this Commonwealth.

(4) In addition to the express provisions of this subsection, this subchapter shall otherwise generally be granted the protection of full faith and credit under the Constitution of the United States.

§ 8978. Dissolution by domestication.

Whenever a domestic limited liability company has domesticated itself under the laws of another jurisdiction by action similar to that provided by section 8982 (relating to domestication) and has authorized that action by the vote required by this subchapter for the approval of a proposal that the company dissolve voluntarily, the company may surrender its certificate of organization under the laws of this Commonwealth by filing in the Department of State a certificate of dissolution under section 8975 (relating to certificate of dissolution). In lieu of the statements required by section 8975(a)(2) through (4), the certificate of dissolution shall set forth a statement that the company has domesticated itself under the laws of another jurisdiction. If the company, as domesticated in the other jurisdiction, registers to do business in this Commonwealth either prior to or simultaneously with the filing of the certificate of dissolution under this section, the company shall not be required to file with the certificate of dissolution the tax clearance certificates that would otherwise be required by section 139 (relating to tax clearance of certain fundamental transactions).

SUBCHAPTER J
FOREIGN COMPANIES

Sec.
8981. Foreign limited liability companies.
8982. Domestication.

§ 8981. Foreign limited liability companies.

(a) General rule.—A foreign limited liability company shall be subject to Subchapter K of Chapter 85 (relating to foreign limited partnerships) as if it were a foreign limited partnership, except that:

(1) Section 8582(a)(5) and (6) (relating to registration) shall not be applicable to the application for registration of a foreign limited liability company.

(2) If the foreign limited liability company is to be a qualified foreign restricted professional company, its application for registration shall so state and shall also contain a brief description of the professional service or services to be rendered by the company.

(3) A qualified foreign limited liability company shall enjoy the same rights and privileges as a domestic limited liability company, but no more, and, except as otherwise provided by law, shall be subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed upon domestic limited liability companies to the same extent as if it had been organized under this chapter.

(b) Provision applicable to all foreign limited liability companies.—Section 8926 (relating to certain specifically authorized debt terms) shall be applicable to any obligation, as defined in section 1510 (relating to certain specifically authorized debt terms), of a foreign limited liability company executed or effected in this Commonwealth or affecting real property situated in this Commonwealth.

§ 8982. Domestication.

(a) General rule.—Any qualified foreign limited liability company may become a domestic limited liability company by filing in the Department of State a certificate of domestication. The certificate of domestication, upon being filed in the department, shall constitute the certificate of organization of the domesticated company, and it shall thereafter continue as a limited liability company which shall be a domestic limited liability company subject to this chapter.

(b) Certificate of domestication.—The certificate of domestication shall be executed by the company and shall set forth in the English language:

(1) The name of the company. If the name is in a foreign language, it shall be set forth in Roman letters or characters or Arabic or Roman numerals. If the name is one that is rendered unavailable for use by any provision of section 8905 (relating to name), the company shall adopt, in accordance with any procedures for changing the name of the company that are applicable prior to the domestication of the company, and shall set forth in the certificate of domestication an available name.

(2) Subject to section 109 (relating to name of commercial registered office provider in lieu of registered address), the address, including street and number, if any, of its registered office in this Commonwealth.

(3) A statement that upon domestication the company will be subject to the domestic limited liability company provisions of the Limited Liability Company Law of 1994 and, if desired, a brief statement of the purpose or purposes for which it is to be domesticated which shall be a purpose or purposes for which a domestic limited liability company may be organized under this chapter and which may consist of or include a statement that the company shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which companies may be organized under the Limited Liability Company Law of 1994.

(4) Any desired provisions relating to the manner and basis of reclassifying the membership interests of the company.

(5) A statement that the filing of the certificate of domestication and, if desired, the renunciation of the original certificate of organization of the company has been authorized, unless its certificate of organization or other organic documents require a greater vote, by a majority of the votes cast by all members entitled to vote thereon and, if any class of members is entitled to vote thereon as a class, a majority of the votes cast in each class vote.

(6) Any other provisions authorized or required by this chapter to be set forth in an original certificate of organization.

See sections 134 (relating to docketing statement), 135 (relating to requirements to be met by filed documents) and 8907 (relating to execution of documents).

(c) Effect of domestication.—

(1) As a domestic limited liability company, the domesticated company shall no longer be a foreign limited liability company for the purposes of this chapter and shall instead be a domestic limited liability company with all the powers and privileges and all the duties and limitations granted and imposed upon domestic limited liability companies. In all other respects, the domesticated limited liability company shall be deemed to be the same limited liability company as it was prior to the domestication without any change in or effect on its existence. Without limiting the generality of the previous sentence, the domestication shall not be deemed to have dissolved the company or to have affected in any way:

(i) the right and title of the company in and to its assets, property, franchises, estates and choses in action;

(ii) the liability of the company for its debts, obligations, penalties and public accounts due the Commonwealth;

(iii) any liens or other encumbrances on the property or assets of the company; or

(iv) any contract, license or other agreement to which the company is a party or under which it has any rights or obligations.

(2) The membership interests in the domesticated company shall be unaffected by the domestication except to the extent, if any, reclassified in the certificate of domestication.]

Section 56. The definition of "transfer" in section 9112 of Title 15 is amended to read:

§ 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:

* * *

["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.]

Section 57. Sections 9302(3), 9502(a) introductory paragraph, 9503(b) and 9507(a) of Title 15 are amended to read:

§ 9302. Application of chapter.

This chapter shall apply to and the word "association" in this chapter shall mean a professional association organized under the act of August 7, 1961 (P.L.941, No.416), known as the Professional Association Act, which has not:

* * *

(3) **[Elected to become a limited liability company in the manner provided by section 8908 (relating to election of professional association to become limited liability company).]** ***Converted to a limited liability company under Subchapter E of Chapter 3 (relating to conversion).***

* * *

§ 9502. Creation, status and termination of business trusts.

(a) Creation.—**[A business trust may be created in real or personal property, or both, with power in]** ***Except as provided in the instrument,*** the trustee ***has the power***:

* * *

§ 9503. Documentation of trust.

* * *

(b) Definition of "instrument".—The term "instrument," as used in this chapter, shall mean the original deed of trust or other written instrument, all amendments thereof and any other statements or certificates permitted or required to be filed in the department by sections 108 (relating to change in location or status of registered office provided by agent) and 138 (relating to statement of correction)***, Chapter 3 (relating to entity transactions)*** or this chapter. If an amendment of the instrument or **[articles of merger made in the manner permitted by section 1921(c) (relating to business trusts and other associations) or a certificate of merger made in the manner**

permitted by section 8545(c) (relating to business trusts and other associations)] ***a statement filed under Chapter 3*** restates an instrument in its entirety, thenceforth the "instrument" shall not include any prior documents, and any certificate issued by the department with respect thereto shall so state.

* * *

§ 9507. Foreign business trusts.

[(a) General rule.—A business trust organized under any laws other than those of this Commonwealth shall be subject to Subchapters B (relating to qualification) and C (relating to powers, duties and liabilities) of Chapter 41, as if it were a foreign business corporation, except that a qualified foreign business trust shall enjoy the same rights and privileges as a domestic business trust, but no more, and, except as otherwise provided by law, shall be subject to the same liabilities, restrictions, duties and penalties now in force or hereafter imposed upon domestic business trusts, to the same extent as if it were a domestic business trust.]

* * *

Section 58. Section 302 of Title 54 is amended to read:

§ 302. Definitions.

(a) Definitions.—The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Business." Any commercial or professional activity.

"Entity." Any individual or any corporation, association, partnership, joint-stock company, business trust, syndicate, joint adventureship or other combination or group of persons, regardless of whether it is organized or formed under the laws of this Commonwealth or any other jurisdiction.

"Fictitious name." Any assumed or fictitious name, style or designation other than the proper name of the entity using such name. The term includes a name assumed by a general partnership, syndicate, joint adventureship or similar combination or group of persons.

"Proper name." When used with respect to an association of a type listed in the following paragraphs, the term means the name set forth in:

(1) the **[articles of incorporation, for a corporation;]** ***public organic record, for a domestic filing association;***

(2) the statement of registration, for a limited liability partnership;

[(3) the certificate of limited partnership, for a limited partnership;]

(4) the statement of election, for an electing partnership;

[(5) the certificate of organization, for a limited liability company;

(6) the articles of association, for a professional association;

(7) the deed of trust or other trust instrument, if any, that has been filed in the Department of State for a business trust; or

(8) a publicly filed document in another jurisdiction which is of a type listed in paragraphs (1) through (7).]

(9) the statement of registration of a foreign registered association under 15 Pa.C.S. § 412(a)(1)(i) (relating to foreign registration

statement) or, if that name does not comply with 15 Pa.C.S. § 202 (relating to requirements for names generally), the name set forth in the statement under 15 Pa.C.S. § 412 (a)(1)(ii).

(b) Other defined terms.—The definitions in 15 Pa.C.S. § 102 (relating to definitions) apply to this title except to the extent they are inconsistent with the provisions of this title.

Section 59. Section 303 of Title 54 is amended by adding a subsection to read:

§ 303. Scope of chapter.

* * *

(d) Effect of registration.—The registration of a name under this chapter does not render the name unavailable for use by another entity.

Section 60. Sections 311(e)(1) and (4), 501(a)(3), (4), (5), (6) and (8) and (b), 502(a)(2) introductory paragraph and 503(b)(1)(ii) and (c) of Title 54 are amended to read:

§ 311. Registration.

* * *

(e) Duplicate use of names.—The fictitious name shall be distinguishable upon the records of the department from:

(1) The name of any domestic **[corporation, or any]** ***filing entity, domestic limited liability limited partnership, domestic electing partnership, registered*** foreign **[corporation authorized to do business in this Commonwealth,]** ***association*** or the name of any corporation or other association registered at any time under Chapter 5 (relating to corporate and other association names) unless such name is available or is made available for use under the provisions or procedures of 15 Pa.C.S. § **[5303(b)(1)(i) or (ii) (relating to duplicate use of names) or the equivalent.]** ***202(b)(1) (relating to requirements for names generally).***

* * *

(4) A name the exclusive right to which is at the time reserved ***or registered*** by any other person **[whatsoever in the manner provided by]** ***under 15 Pa.C.S. § 208 (relating to reservation of name) or 209 (relating to registration of name of nonregistered foreign association) or another*** statute.

* * *

§ 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):

* * *

(3) In the case of a domestic or **[qualified]** ***registered*** foreign corporation, a name rendered unavailable for corporate use by other corporations by reason of any filing in the department by such domestic or **[qualified]** ***registered*** foreign corporation.

(4) A name registered under 15 Pa.C.S. § **[4131]** ***209*** (relating to registration of name ***of nonregistered foreign association***) or any similar provision of law.

(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)].

(6) In the case of a limited partnership or limited liability company subject to 15 Pa.C.S. Ch. 85 (relating to limited partnerships) or 89 (relating to limited liability companies), the name of the partnership or company as set forth in the certificate of limited partnership, certificate of organization or **[application for]** ***statement of*** registration as a ***registered*** foreign **[limited partnership or foreign limited liability company, as the case may be]** ***association***.

(8) In the case of a registered limited liability partnership subject to 15 Pa.C.S. Ch. 82 (relating to registered limited liability partnerships) that is not also a limited partnership, the name of the partnership as set forth in the statement of registration **[or application for registration]** as a ***registered*** foreign **[registered limited liability partnership]** ***association***.

(b) Subsequent availability of certain names.—Whenever, by reason of change in name, withdrawal or dissolution of a domestic or **[qualified]** ***registered*** foreign **[corporation]** ***association***, failure to renew a registration of its name by a **[nonqualified]** ***nonregistered*** foreign **[corporation]** ***association***, or for any other cause, its name is no longer rendered unavailable by the express provisions of Title 15 (relating to corporations and unincorporated associations), such name shall no longer be deemed to be registered under subsection (a)(3) or (4) on the register established by this chapter.

§ 502. Certain additions to register.

(a) Corporation names.—

* * *

(2) Any person who is not eligible to make a filing under 15 Pa.C.S. § **[4131 (relating to registration of name) or 6131]** ***209*** (relating to registration of name ***of nonregistered foreign association***) may register a corporation name with the department by filing an application for registration of name, executed by the person, which shall set forth:

* * *

§ 503. Decennial filings required.

* * *

(b) Exceptions.—Subsection (a) shall not apply to any of the following:

(1) A corporation or other association that during the ten years ending on December 31 of the year in which a filing would otherwise be required under subsection (a) has made any filing in the department pursuant to a provision of this title or 15 Pa.C.S. (relating to corporations and unincorporated associations) other than:

* * *

(ii) a filing under**[:**

(A) 15 Pa.C.S. § 1305 (relating to reservation of corporate name);

(B) 15 Pa.C.S. § 5305 (relating to reservation of corporate name);

(C) 15 Pa.C.S. § 8203(b) (relating to name);

(D) 15 Pa.C.S. § 8505(b) (relating to name); or

(E)] 15 Pa.C.S. § **[8905(b)]** ***208*** (relating to ***reservation of*** name) ***or 209 (relating to registration of name of nonregistered foreign association).***

* * *

[(c) Exemptions.—An association shall be exempt from the 2001 decennial filing if the association made a filing:

(1) After December 31, 1989, and before January 1, 1992, pursuant to a provision of this title or 15 Pa.C.S. other than a filing under:

(i) 15 Pa.C.S. § 1305;

(ii) 15 Pa.C.S. § 5305;

(iii) 15 Pa.C.S. § 8203(b);

(iv) 15 Pa.C.S. § 8505(b); or

(v) 15 Pa.C.S. § 8905(b).

(2) Under this section during the year 2000.]

* * *

Section 61. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of 15 Pa.C.S. § 7411.

(ii) This section.

(2) The remainder of this act shall take effect July 1, 2015.

APPROVED—The 22nd day of October, A.D. 2014

TOM CORBETT