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By: **Delegate Barve**  
Introduced and read first time: February 12, 1999  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Corporations and Real Estate Investment Trusts**

3 FOR the purpose of authorizing a real estate investment trust to file a certain  
4 certificate of correction with the State Department of Assessments and  
5 Taxation; clarifying that certain provisions of law relating to service of process  
6 apply to real estate investment trusts; clarifying and altering certain  
7 definitions; altering the required contents of a resolution that the board of  
8 directors of a corporation is required to adopt before the issuance of certain stock  
9 or convertible securities; providing the fact that certain stock certificates and  
10 certain share certificates do not contain or refer to certain restrictions on  
11 transferability adopted after the issuance of the certificate does not mean the  
12 restriction is invalid; clarifying a certain stockholder vote requirement;  
13 authorizing a corporation, subject to a certain exception, to hold meetings of its  
14 stockholders in certain places; authorizing certain agreements to include certain  
15 terms and conditions that require the submission of certain matters to certain  
16 stockholders of a corporation; authorizing certain agreements to include certain  
17 terms and conditions that require the submission of certain matters to certain  
18 shareholders of a real estate investment trust; clarifying that certain shares of  
19 stock may be voted and counted for certain purposes; clarifying that boards of  
20 trustees of real estate investment trusts may delegate certain powers to certain  
21 committees of the trustees; repealing certain provisions of law prohibiting real  
22 estate investment trusts from holding certain assets and using or applying land  
23 for certain purposes; providing that certain stockholder approval and certain  
24 articles of transfer or share exchange or both are not required in certain  
25 circumstances; establishing a short title; providing for the application of certain  
26 provisions of this Act; and generally relating to corporations and real estate  
27 investment trusts.

28 BY repealing and reenacting, with amendments,  
29 Article - Corporations and Associations  
30 Section 1-207, 1-401, 2-105, 2-203, 2-211, 2-406, 2-503, 3-104, 3-105,  
31 3-202(a)(3), 3-601(j), 8-203(a) and (c); 8-301(7) to be under the amended  
32 subtitle "Subtitle 3. Powers"; and 8-501.1  
33 Annotated Code of Maryland  
34 (1993 Replacement Volume and 1998 Supplement)

1 BY repealing  
2 Article - Corporations and Associations  
3 Section 8-302  
4 Annotated Code of Maryland  
5 (1993 Replacement Volume and 1998 Supplement)

6 BY adding to  
7 Article - Corporations and Associations  
8 Section 2-310(a)(3), 8-203(h), and 8-206; and 8-801 to be under the new  
9 subtitle "Subtitle 8. Short Title"  
10 Annotated Code of Maryland  
11 (1993 Replacement Volume and 1998 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Corporations and Associations**

15 1-401.

16 (a) Service of process on the resident agent of a corporation, partnership,  
17 limited partnership, limited liability partnership, [or] limited liability company, OR  
18 REAL ESTATE INVESTMENT TRUST, or any other person binds the corporation,  
19 partnership, limited partnership, limited liability partnership, [or] limited liability  
20 company, OR REAL ESTATE INVESTMENT TRUST, or other person in any action, suit, or  
21 proceeding which is pending, filed, or instituted against it under the provisions of this  
22 article.

23 (b) (1) Any notice required by law to be served by personal service on a  
24 resident agent or other agent or officer of any Maryland or foreign corporation,  
25 partnership, limited partnership, limited liability partnership, [or] limited liability  
26 company, OR REAL ESTATE INVESTMENT TRUST required by statute to have a  
27 resident agent in this State may be served on the corporation, partnership, limited  
28 partnership, limited liability partnership, [or] limited liability company, OR REAL  
29 ESTATE INVESTMENT TRUST in the manner provided by the Maryland Rules relating  
30 to the service of process on corporations.

31 (2) Service under the Maryland Rules is equivalent to personal service  
32 on a resident agent or other agent or officer of a corporation, partnership, limited  
33 partnership, limited liability partnership, [or] limited liability company, OR REAL  
34 ESTATE INVESTMENT TRUST mentioned in paragraph (1) of this subsection.

35 2-211.

36 (a) Each stock certificate shall include on its face:

37 (1) The name of the corporation that issues it;

1 (2) The name of the stockholder or other person to whom it is issued; and

2 (3) The class of stock and number of shares it represents.

3 (b) If the corporation has authority to issue stock of more than one class, the  
4 stock certificate shall contain on its face or back a full statement or summary of:

5 (1) The designations and any preferences, conversion and other rights,  
6 voting powers, restrictions, limitations as to dividends, qualifications, and terms and  
7 conditions of redemption of the stock of each class which the corporation is authorized  
8 to issue; and

9 (2) If the corporation is authorized to issue any preferred or special class  
10 in series:

11 (i) The differences in the relative rights and preferences between  
12 the shares of each series to the extent they have been set; and

13 (ii) The authority of the board of directors to set the relative rights  
14 and preferences of subsequent series.

15 (c) Instead of a full statement or summary of the information required by  
16 subsection (b) of this section, the certificate may state that the corporation will  
17 furnish a full statement of the required information to any stockholder on request and  
18 without charge.

19 (d) Without affecting § 8-204 of the Commercial Law Article, if the corporation  
20 which issues the stock imposes a restriction on its transferability, the stock certificate  
21 shall:

22 (1) Contain a full statement of the restriction; or

23 (2) State that the corporation will furnish information about the  
24 restriction to the stockholder on request and without charge.

25 (E) EXCEPT AS OTHERWISE PROVIDED BY § 8-204 OF THE COMMERCIAL LAW  
26 ARTICLE, THE FACT THAT A STOCK CERTIFICATE DOES NOT CONTAIN OR REFER TO A  
27 RESTRICTION ON TRANSFERABILITY THAT IS ADOPTED AFTER THE DATE OF  
28 ISSUANCE OF THE STOCK CERTIFICATE DOES NOT MEAN THAT THE RESTRICTION IS  
29 INVALID OR UNENFORCEABLE.

30 2-503.

31 [Meetings] UNLESS THE CHARTER PROVIDES OTHERWISE, MEETINGS of  
32 stockholders shall be held [at any place in the United States] as is:

33 (1) Provided in the bylaws; or

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

1 3-105.

2 (a) A consolidation, merger, share exchange, or transfer of assets shall be  
3 approved in the manner provided by this section, except that:

4 (1) A merger of a 90 percent or more owned subsidiary with or into its  
5 parent need be approved only in accordance with the provisions of § 3-106 of this  
6 subtitle;

7 (2) A share exchange need be approved by a Maryland successor only by  
8 its board of directors and by any other action required by its charter;

9 (3) A transfer of assets need be approved by a Maryland transferee  
10 corporation only by its board of directors and by any other action required by its  
11 charter;

12 (4) A foreign corporation party to the transaction shall have the  
13 transaction advised, authorized, and approved in the manner and by the vote  
14 required by its charter and the laws of the place where it is organized;

15 (5) A merger need be approved by a Maryland successor corporation only  
16 by a majority of its entire board of directors if:

17 (i) The merger does not reclassify or change its outstanding stock  
18 or otherwise amend its charter and the number of its shares of stock to be issued or  
19 delivered in the merger is not more than 20 percent of the number of its shares of the  
20 same class or series outstanding immediately before the merger becomes effective; or

21 (ii) There is no stock outstanding or subscribed for and entitled to  
22 be voted on the merger; and

23 (6) A business trust party to a merger shall have the merger advised,  
24 authorized, and approved in the manner and by the vote required by its declaration of  
25 trust and the laws of the place where it is organized.

26 (b) The board of directors of each corporation proposing to consolidate, merge,  
27 transfer its assets, or have its stock acquired in a share exchange shall:

28 (1) Adopt a resolution which declares that the proposed transaction is  
29 advisable on substantially the terms and conditions set forth or referred to in the  
30 resolution; and

31 (2) Direct that the proposed transaction be submitted for consideration  
32 at either an annual or a special meeting of the stockholders.

33 (c) Notice which states that a purpose of the meeting will be to act on the  
34 proposed consolidation, merger, share exchange, or transfer of assets shall be given by  
35 each corporation in the manner required by Title 2 of this article to:

1 (1) Each of its stockholders entitled to vote on the proposed transaction;  
2 and

3 (2) Each of its stockholders not entitled to vote on the proposed  
4 transaction, except the stockholders of a successor in a merger if the merger does not  
5 alter the contract rights of their stock as expressly set forth in the charter.

6 (D) AN AGREEMENT OF CONSOLIDATION, MERGER, SHARE EXCHANGE, OR  
7 TRANSFER OF ASSETS MAY REQUIRE THAT THE PROPOSED TRANSACTION SHALL BE  
8 SUBMITTED TO THE STOCKHOLDERS, EVEN IF THE BOARD OF DIRECTORS  
9 DETERMINES AT ANY TIME AFTER HAVING DECLARED THE ADVISABILITY OF THE  
10 PROPOSED TRANSACTION THAT THE PROPOSED TRANSACTION IS NO LONGER  
11 ADVISABLE AND EITHER MAKES NO RECOMMENDATION TO THE STOCKHOLDERS OR  
12 RECOMMENDS THAT THE STOCKHOLDERS REJECT THE PROPOSED TRANSACTION.

13 [(d)] (E) The proposed consolidation, merger, share exchange, or transfer shall  
14 be approved by the stockholders of each corporation by the affirmative vote of two  
15 thirds of all the votes entitled to be cast on the matter.

16 3-202.

17 (a) Except as provided in subsection (c) of this section, a stockholder of a  
18 Maryland corporation has the right to demand and receive payment of the fair value  
19 of the stockholder's stock from the successor if:

20 (3) The corporation transfers its assets in a manner requiring action  
21 under [§ 3-105(d)] § 3-105(E) of this title;

22 3-601.

23 (j) "Interested stockholder" means any person (other than the corporation or  
24 any subsidiary) that:

25 (1) (i) Is the beneficial owner, directly or indirectly, of 10 percent or  
26 more of the voting power of the outstanding voting stock of the corporation after the  
27 date on which the corporation had 100 or more beneficial owners of its stock; or

28 (ii) Is an affiliate or associate of the corporation and was the  
29 beneficial owner, directly or indirectly, of 10 percent or more of the voting power of the  
30 then outstanding stock of the corporation:

31 1. At any time within the 2-year period immediately prior to  
32 the date in question; and

33 2. After the date on which the corporation had 100 or more  
34 beneficial owners of its stock.

35 (2) For the purpose of determining whether a person is an interested  
36 [stockholder,] STOCKHOLDER:

1 (I) [the] THE number of shares of voting stock deemed to be  
2 outstanding shall include shares deemed owned by the person through application of  
3 subsection (d) of this section but may not include any other shares of voting stock  
4 which may be issuable pursuant to any agreement, arrangement, or understanding,  
5 or upon exercise of conversion rights, warrants or options, or otherwise; AND

6 (II) THE AGGREGATE NUMBER OF SHARES OF VOTING STOCK OF  
7 WHICH THE PERSON IS THE BENEFICIAL OWNER MAY NOT INCLUDE ANY SHARES OF  
8 VOTING STOCK ACQUIRED BY SUCH PERSON IF THE ACQUISITION BY SUCH PERSON  
9 OF SUCH SHARES, INCLUDING THE NUMBER OF SHARES ACQUIRED, WAS EXPRESSLY  
10 APPROVED BY THE BOARD OF DIRECTORS OF THE CORPORATION PRIOR TO THE  
11 ACQUISITION.

12 8-203.

13 (H) EXCEPT AS PROVIDED IN § 8-204 OF THE COMMERCIAL LAW ARTICLE, THE  
14 FACT THAT A CERTIFICATE DOES NOT CONTAIN OR REFER TO A RESTRICTION ON  
15 TRANSFERABILITY OR OWNERSHIP THAT IS ADOPTED AFTER THE DATE OF ISSUANCE  
16 OF THE CERTIFICATE DOES NOT MEAN THAT THE RESTRICTION IS INVALID OR  
17 UNENFORCEABLE.

18 8-206.

19 THE BOARD OF TRUSTEES OF A REAL ESTATE INVESTMENT TRUST MAY  
20 DELEGATE ANY OF ITS POWERS TO ONE OR MORE COMMITTEES OF ONE OR MORE  
21 TRUSTEES.

22 Subtitle 3. Powers [and Investment Restrictions].

23 8-301.

24 A real estate investment trust has the power to:

25 (7) [Subject to § 8-302 of this subtitle, acquire] ACQUIRE by purchase or  
26 in any other manner and take, receive, own, hold, use, employ, improve, encumber,  
27 and otherwise deal with any interest in real and personal property, wherever located;  
28 [8-302.

29 (a) A real estate investment trust shall hold, either directly or through other  
30 entities, at least 75 percent of the value of its assets in real estate assets, mortgages  
31 or mortgage related securities, government securities, cash and cash equivalent  
32 items, including high-grade short term securities and receivables.

33 (b) A real estate investment trust may not use or apply land for farming,  
34 agriculture, horticulture, or similar purposes.]

35 8-501.1.

36 (a) (1) In this section the following words have the meanings indicated.

1           (2)     "Business trust" means an unincorporated trust or association,  
2 including a Maryland real estate investment trust, a common-law trust, or a  
3 Massachusetts trust, which is engaged in business and in which property is acquired,  
4 held, managed, administered, controlled, invested, or disposed of for the benefit and  
5 profit of any person who may become a holder of a transferable unit of beneficial  
6 interest in the trust.

7           (3)     "Foreign business trust" means a business trust organized under the  
8 laws of the United States, another state of the United States, or a territory,  
9 possession, or district of the United States.

10          (4)     "Maryland real estate investment trust" means a real estate  
11 investment trust in compliance with the provisions of this title.

12          (5)     "Domestic limited partnership" means a partnership formed by 2 or  
13 more persons under the laws of the State and having one or more general partners  
14 and one or more limited partners.

15          (6)     "Foreign limited partnership" means a partnership formed under the  
16 laws of any state other than the State of Maryland or under the laws of a foreign  
17 country and having as partners one or more general partners and one or more limited  
18 partners.

19          (7)     "Domestic limited liability company" means a limited liability  
20 company formed under the laws of the State.

21          (8)     "Foreign limited liability company" means a limited liability company  
22 formed under the laws of any state other than the State of Maryland or under the  
23 laws of a foreign country.

24          (9)     "Domestic partnership" or "partnership" means a partnership formed  
25 under the laws of the State.

26          (10)    "Foreign partnership" means a partnership formed under the laws of  
27 any state, other than this State, or under the laws of a foreign country.

28       (b)     Unless the declaration of trust provides otherwise, a Maryland real estate  
29 investment trust may merge into a Maryland or foreign business trust, into a  
30 Maryland or foreign corporation having capital stock, into a domestic or foreign  
31 partnership, or into a domestic or foreign limited partnership or limited liability  
32 company; or one or more such business trusts, such corporations, domestic or foreign  
33 partnerships, domestic or foreign limited partnerships, or limited liability companies  
34 may merge into it.

35       (c)     A merger shall be approved in the manner provided by this section, except  
36 that:

37           (1)     A foreign business trust, a Maryland business trust, other than a  
38 Maryland real estate investment trust, a corporation, a domestic or foreign  
39 partnership, or a domestic or foreign limited partnership party to the merger shall

1 have the merger advised, authorized, and approved in the manner and by the vote  
2 required by its declaration of trust, charter, or partnership agreement and the laws of  
3 the place where it is organized;

4 (2) (i) A foreign limited liability company party to the merger shall  
5 have the merger advised, authorized, and approved in the manner and by the vote  
6 required by the laws of the place where it is organized; and

7 (ii) A domestic limited liability company shall have the merger  
8 approved in the manner provided under § 4A-703 of this article;

9 (3) A merger need be approved by a Maryland real estate investment  
10 trust successor only by a majority of its entire board of trustees if:

11 (i) The merger does not reclassify or change its outstanding shares  
12 or otherwise amend its declaration of trust; and

13 (ii) The number of shares to be issued or delivered in the merger is  
14 not more than 20 percent of the number of its shares of the same class or series  
15 outstanding immediately before the merger becomes effective; and

16 (4) A merger of a subsidiary with or into its parent need be approved only  
17 in the manner provided in § 3-106 of this article, provided the parent owns at least 90  
18 percent of the subsidiary.

19 (d) The board of trustees of each Maryland real estate investment trust  
20 proposing to merge shall:

21 (1) Adopt a resolution that declares the proposed transaction is  
22 advisable on substantially the terms and conditions set forth or referred to in the  
23 resolution; and

24 (2) Direct that the proposed transaction be submitted for consideration  
25 at either an annual or special meeting of shareholders.

26 (e) Notice which states that a purpose of a meeting will be to act upon the  
27 proposed merger shall be given by each Maryland real estate investment trust in the  
28 manner provided for corporations by Title 2 of this article to:

29 (1) Each of its shareholders entitled to vote on the proposed transaction;  
30 and

31 (2) Each of its shareholders not entitled to vote on the proposed  
32 transaction, except the shareholders of a successor in a merger if the merger does not  
33 alter the contract rights of their shares as expressly set forth in the declaration of  
34 trust.

35 (F) AN AGREEMENT OF MERGER MAY REQUIRE THAT THE PROPOSED  
36 TRANSACTION SHALL BE SUBMITTED TO THE SHAREHOLDERS, EVEN IF THE BOARD  
37 OF TRUSTEES DETERMINES AT ANY TIME AFTER HAVING DECLARED THE



1 ADVISABILITY OF THE PROPOSED TRANSACTION THAT THE PROPOSED TRANSACTION  
2 IS NO LONGER ADVISABLE AND EITHER MAKES NO RECOMMENDATION TO THE  
3 SHAREHOLDERS OR RECOMMENDS THAT THE SHAREHOLDERS REJECT THE  
4 PROPOSED TRANSACTION.

5 [(f)] (G) Except as provided in § 8-202(c) of this title, the proposed merger  
6 shall be approved by the shareholders of each Maryland real estate investment trust  
7 by the affirmative vote of two thirds of all the votes entitled to be cast on the matter.

8 [(g)] (H) Articles of merger containing provisions required by § 3-109 of this  
9 article and such other provisions as may be permitted by that section shall be:

10 (1) Executed for each party to the articles in the manner required by  
11 Title 1 of this article; and

12 (2) Filed for the record with the Department.

13 [(h)] (I) (1) A proposed merger may be abandoned before the effective date  
14 of the articles:

15 (i) If the articles so provide, by majority vote of the entire board of  
16 trustees of any one business trust party to the articles or of the entire board of  
17 directors of any one corporation party to the articles;

18 (ii) Unless the articles provide otherwise, by majority vote of the  
19 entire board of trustees of each Maryland real estate investment trust party to the  
20 articles; or

21 (iii) By unanimous consent of the members of a limited liability  
22 company party to the articles.

23 (2) If the articles have been filed with the Department, notice of the  
24 abandonment shall be given promptly to the Department.

25 (3) (i) If the proposed merger is abandoned as provided in this  
26 subsection, no legal liability arises under the articles.

27 (ii) An abandonment does not prejudice the rights of any person  
28 under any other contract made by a business trust, corporation, or limited liability  
29 company party to the proposed articles in connection with the proposed merger.

30 [(i)] (J) Each shareholder of a Maryland real estate investment trust  
31 objecting to a merger of the Maryland real estate investment trust shall have the  
32 same rights as an objecting stockholder of a Maryland corporation under Subtitle 2 of  
33 Title 3 of this article and under the same procedures.

34 [(j)] (K) (1) The Department shall prepare certificates of merger that  
35 specify:

36 (i) The name of each party to the articles;

1 (ii) The name of the successor and the location of its principal office  
2 in this State or, if it has none, its principal place of business; and

3 (iii) The time the articles are accepted for record by the Department.

4 (2) In addition to any other provision of law with respect to recording,  
5 the Department shall send one certificate each to the clerk of the circuit court for each  
6 county where the articles show that a merging business trust, corporation,  
7 partnership, limited partnership, or limited liability company other than the  
8 successor owns an interest in land.

9 (3) On receipt of a certificate, a clerk promptly shall record it with the  
10 land records.

11 [(k)] (L) (1) In order to keep the land assessment records current in each  
12 county, the Department shall require a business trust, corporation, partnership,  
13 limited partnership, or limited liability company to submit with the articles a  
14 property certificate for each county where a merging business trust, corporation,  
15 partnership, limited partnership, or limited liability company other than the  
16 successor owns an interest in land.

17 (2) A property certificate is not required with respect to any property in  
18 which the only interest owned by the merging business trust, corporation,  
19 partnership, limited partnership, or limited liability company is a security interest.

20 (3) The property certificate shall be in the form and number of copies  
21 which the Department requires and may include the certificate of the Department  
22 required by subsection (j) of this section.

23 (4) (i) The property certificate shall provide a deed reference or other  
24 description sufficient to identify the property.

25 (ii) The Department shall indicate on the certificate the time the  
26 articles are accepted for record and send a copy of it to the chief assessor of the county  
27 where the property is located.

28 (5) A transfer, vesting, or devolution of title to the property is not  
29 invalidated or otherwise affected by any error or defect in the property certificate,  
30 failure to file it, or failure by the Department to act on it.

31 [(l)] (M) If the successor in a merger is a Maryland real estate investment  
32 trust, a merger is effective as of the later of:

33 (1) The time the Department accepts the articles of merger for record; or

34 (2) The time established under the articles, not to exceed 30 days after  
35 the articles are accepted for record.

36 [(m)] (N) (1) If the successor in a merger is a foreign corporation, foreign  
37 partnership, foreign limited partnership, a foreign limited liability company, or a

1 Maryland or foreign business trust, other than a Maryland real estate investment  
2 trust, the merger is effective as of the later of:

3 (i) The time specified by the law of the place where the successor is  
4 organized; or

5 (ii) The time the Department accepts the articles of merger for  
6 record.

7 (2) A foreign successor in a merger shall file for record with the  
8 Department a certificate from the place where it is organized which certifies the date  
9 the articles of merger were filed. However, the failure to file this certificate does not  
10 invalidate the merger.

11 [(n)] (O) (1) Consummation of a merger has the effects provided in this  
12 subsection.

13 (2) The separate existence of each business trust, corporation,  
14 partnership, limited partnership, or limited liability company party to the articles,  
15 except the successor, ceases.

16 (3) The shares of each business trust party to the articles which are to be  
17 converted or exchanged under the terms of the articles cease to exist, subject to the  
18 rights of an objecting shareholder under subsection (i) of this section.

19 (4) In addition to any other purposes and powers set forth in the articles,  
20 if the articles provide, the successor has the purposes and powers of each party to the  
21 articles.

22 (5) (i) The assets of each party to the articles, including any legacies  
23 which it would have been capable of taking, transfer to, vest in, and devolve on the  
24 successor without further act or deed.

25 (ii) Confirmatory deeds, assignments, or similar instruments to  
26 evidence the transfer may be executed and delivered at any time in the name of the  
27 transferring party to the articles by its last acting officers or trustees or by the  
28 appropriate officers or trustees of the successor.

29 (6) (i) The successor is liable for all the debts and obligations of each  
30 nonsurviving party to the articles. An existing claim, action, or proceeding pending by  
31 or against any nonsurviving party to the articles may be prosecuted to judgment as if  
32 the merger had not taken place, or, on motion of the successor or any party, the  
33 successor may be substituted as a party and the judgment against the nonsurviving  
34 party to the articles constitutes a lien on the property of the successor.

35 (ii) A merger does not impair the rights of creditors or any liens on  
36 the property of any business trust, corporation, partnership, limited partnership, or  
37 limited liability company party to the articles.

## SUBTITLE 8. SHORT TITLE.

2 8-801.

3 THIS TITLE MAY BE CITED AS THE MARYLAND REIT LAW.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
5 read as follows:6 **Article - Corporations and Associations**

7 1-207.

8 (a) If any charter document or other corporate document filed with the  
9 Department under TITLES 1 THROUGH 5 OR TITLE 8 OF this article contains any  
10 typographical error, error of transcription, or other error or has been defectively  
11 executed, the document may be corrected by the filing of a certificate of correction.

12 (b) A certificate of correction shall set forth:

13 (1) The title of the document being corrected;

14 (2) The name of each party to the document being corrected;

15 (3) The date that the document being corrected was filed; and

16 (4) The provision in the document as previously filed and as corrected  
17 and, if execution of the document was defective, the manner in which it was defective.

18 (c) A certificate of correction may not:

19 (1) Alter the wording of any resolution which was adopted by the board  
20 of directors, THE BOARD OF TRUSTEES, [or] the stockholders, OR THE  
21 SHAREHOLDERS of a party to the document being corrected; or22 (2) Make any other change or amendment which would not have  
23 complied in all respects with the requirements of this article at the time the document  
24 being corrected was filed.25 (d) A certificate of correction shall be executed in the same manner in which  
26 the document being corrected was required to be executed.

27 (e) A certificate of correction may not:

28 (1) Change the effective date of the document being corrected; or

29 (2) Affect any right or liability accrued or incurred before its filing,  
30 except that any right or liability accrued or incurred by reason of the error or defect  
31 being corrected shall be extinguished by the filing if the person having the right has  
32 not detrimentally relied on the original document.

1 2-105.

2 (a) A corporation may provide by its charter:

3 (1) For one or more classes of stock, the voting rights of each class, and  
4 any restriction on or denial of these rights;

5 (2) As to each class of stock, either the par value of the shares or that the  
6 shares are without par value;

7 (3) (i) That the corporation shall set apart dividends for or pay  
8 dividends to the holders of a specified class of stock before any dividends are set apart  
9 for or paid to the holders of another class of stock;

10 (ii) The rate, amount, and time of payment of the dividends; and

11 (iii) Whether the dividends are cumulative, cumulative to a limited  
12 extent, or noncumulative;

13 (4) That any specified class of stock is preferred over another class as to  
14 its distributive share of the assets on voluntary or involuntary liquidation of the  
15 corporation and the amount of the preference;

16 (5) That any specified class of stock may be redeemed at the option of the  
17 corporation or of the holders of the stock and the terms and conditions of redemption,  
18 including the time and price of redemption;

19 (6) That any specified class of stock is convertible into shares of stock of  
20 one or more other classes and the terms and conditions of conversion;

21 (7) That the holders of any specified securities issued or to be issued by  
22 the corporation have any voting or other rights which, by law, are or may be conferred  
23 on stockholders;

24 (8) For any other preferences, rights, restrictions, including restrictions  
25 on transferability, and qualifications not inconsistent with law;

26 (9) That the board of directors may classify or reclassify any unissued  
27 stock from time to time by setting or changing the preferences, conversion or other  
28 rights, voting powers, restrictions, limitations as to dividends, qualifications, or terms  
29 or conditions of redemption of the stock;

30 (10) (i) For any grant to the holders of the stock of the corporation,  
31 including a specified class or series of stock, of the preemptive right to subscribe to:

32 1. Any or all additional issues of the stock; or

33 2. Any securities of the corporation convertible into  
34 additional issues of stock; or

1 (ii) For any definition or limitation of the preemptive rights of  
2 stockholders to acquire additional stock or securities in the corporation; and

3 (11) For restrictions on transferability for any purpose, including  
4 restrictions designed to permit a corporation to qualify as:

5 (i) A real estate investment trust under the Internal Revenue Code  
6 or regulations adopted under the Internal Revenue Code; or

7 (ii) An investment company under the Investment Company Act of  
8 1940 or regulations adopted under the Investment Company Act of 1940.

9 (b) (1) In this subsection, "facts ascertainable outside the charter" includes:

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

13 (II) THE CONTENTS OF ANY AGREEMENT TO WHICH THE  
14 CORPORATION IS A PARTY OR ANY OTHER DOCUMENT; AND

15 [(ii)] (III) Any other event.

16 (2) Any of the preferences, conversion or other rights, voting powers,  
17 restrictions, limitations as to dividends, qualifications, or terms or conditions of  
18 redemption of any class or series of stock may be made dependent upon facts  
19 ascertainable outside the charter and may vary among holders thereof, provided that  
20 the manner in which such facts or variations shall operate upon the preferences,  
21 conversion or other rights, voting powers, restrictions, limitations as to dividends,  
22 qualifications, or terms or conditions of redemption of such class or series of stock is  
23 clearly and expressly set forth in the charter.

24 (c) The board of directors of a corporation that is registered or intends to  
25 register as an open-end company under the Investment Company Act of 1940, after  
26 the registration as an open-end company takes effect, may increase or decrease the  
27 aggregate number of shares of stock or the number of shares of stock of any class that  
28 the corporation has authority to issue, unless a provision has been included in the  
29 charter of the corporation after July 1, 1987 prohibiting an action by the board of  
30 directors to increase or decrease the aggregate number of shares of stock or the  
31 number of shares of stock of any class that the corporation has authority to issue.

32 2-203.

33 (a) Before the issuance of stock or convertible securities, the board of directors  
34 shall adopt a resolution which:

35 (1) Authorizes the issuance;

36 (2) Sets the minimum price or value of consideration for the stock or  
37 convertible securities or a formula for its determination; and

1 (3) Fairly describes any consideration other than money [and states:

2 (i) Its actual value as determined by the board of directors; or

3 (ii) That the board of directors has determined that the actual  
4 value is or will be not less than a certain sum].

5 (b) In the absence of actual fraud in the transaction, the value of consideration  
6 stated in the charter or determined by the board of directors in its resolution is  
7 conclusive for all purposes.

8 (c) For purposes of this section, the consideration for stock issued as a stock  
9 dividend is the resulting capitalization of surplus.

10 (d) This section does not apply to the issuance of stock or convertible securities  
11 as part of:

12 (1) A reclassification of stock effected by amendment of the charter; or

13 (2) A consolidation, merger, or share exchange.

14 (e) If its issuance is authorized in accordance with this subtitle, stock with par  
15 value and securities convertible into stock with par value may be issued as full paid  
16 and nonassessable even if the price or value of the consideration received is less than  
17 the par value of the stock issued or the stock into which the securities are convertible.  
18 2-310.

19 (a) (3) SHARES OF A CORPORATION'S OWN STOCK ACQUIRED BY THE  
20 CORPORATION BETWEEN THE RECORD DATE FOR DETERMINING STOCKHOLDERS  
21 ENTITLED TO NOTICE OF OR TO VOTE AT A MEETING OF STOCKHOLDERS AND THE  
22 TIME OF THE MEETING MAY BE VOTED AT THE MEETING BY THE HOLDER OF RECORD  
23 AS OF THE RECORD DATE AND SHALL BE COUNTED IN DETERMINING THE TOTAL  
24 NUMBER OF OUTSTANDING SHARES ENTITLED TO BE VOTED AT THE MEETING.  
25 2-406.

26 (a) Except as provided in subsection (b) of this section and unless the charter  
27 of the corporation provides otherwise, the stockholders of a corporation may remove  
28 any director, with or without cause, by the affirmative vote of a majority of all the  
29 votes entitled to be cast GENERALLY for the election of directors.

30 (b) Unless the charter of the corporation provides otherwise:

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

35 (2) If a corporation has cumulative voting for the election of directors and  
36 less than the entire board is to be removed, a director may not be removed without

1 cause if the votes cast against his removal would be sufficient to elect him if then  
2 cumulatively voted at an election of the entire board of directors, or, if there is more  
3 than one class of directors, at an election of the class of directors of which he is a  
4 member; and

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

7 3-104.

8 (a) Notwithstanding any other provision of this subtitle, unless the charter or  
9 bylaws of a corporation provide otherwise, the approval of the stockholders and  
10 articles of transfer or share exchange, as the case may be, are not required for any:

11 (1) Transfer of assets by a corporation in the ordinary course of business  
12 actually conducted by it OR AS A DISTRIBUTION AS DEFINED IN § 2-301 OF THIS TITLE;

13 (2) Mortgage, pledge, or creation of any other security interest in any or  
14 all of the assets of a corporation, whether or not in the ordinary course of its business;

15 (3) Exchange of shares of stock through voluntary action or under any  
16 agreement with the stockholders; or

17 (4) Transfer of assets by a corporation to one or more persons if all of the  
18 equity interests of the person or persons are owned, directly or indirectly, by the  
19 corporation.

20 (b) A transaction described in subsection (a) of this section also may be  
21 effected as otherwise provided in this subtitle.

22 8-203.

23 (a) A real estate investment trust may provide by its declaration of trust:

24 (1) That any specified class of shares is preferred over another class as to  
25 its distributive share of the assets on voluntary or involuntary liquidation of the real  
26 estate investment trust and the amount of the preference;

27 (2) That any specified class of shares may be redeemed at the option of  
28 the real estate investment trust or of the holders of the shares and the terms and  
29 conditions of redemption, including the time and price of redemption;

30 (3) That any specified class of shares is convertible into shares of one or  
31 more other classes and the terms and conditions of conversion;

32 (4) That the holders of any specified securities issued or to be issued by  
33 the real estate investment trust have any voting or other rights which, by law, are or  
34 may be conferred on shareholders;

35 (5) For any other preferences, rights, restrictions, including restrictions  
36 on transferability OR OWNERSHIP designed to permit the real estate investment trust



1 to qualify under the Internal Revenue Code or regulations adopted under the Code or  
2 for any other purpose, and qualifications not inconsistent with law;

3           (6)       That the board of trustees may classify or reclassify any unissued  
4 shares from time to time by setting or changing the preferences, conversion or other  
5 rights, voting powers, restrictions, limitations as to dividends or distributions,  
6 qualifications, or terms or conditions of redemption of the shares; and

7           (7)       That the board of trustees may amend the declaration of trust to  
8 increase or decrease the aggregate number of shares or the number of shares of any  
9 class that the trust has authority to issue.

10       (c)       (1)       In this subsection, "facts" includes:

11                       (I)       [the] THE occurrence of any event, including a determination or  
12 action by any person or body, including the real estate investment trust; AND

13                       (II)       THE CONTENTS OF ANY AGREEMENT TO WHICH THE REAL  
14 ESTATE INVESTMENT TRUST IS A PARTY OR ANY OTHER DOCUMENT.

15           (2)       Any of the preferences, conversion or other rights, voting powers,  
16 restrictions, limitations as to dividends or distributions, qualifications, or terms or  
17 conditions of redemption of any class or series of shares may be made dependent upon  
18 facts ascertainable outside the declaration of trust and may vary among holders of the  
19 shares, provided that the manner in which such facts or variations will operate upon  
20 the preferences, conversion or other rights, voting powers, restrictions, limitations as  
21 to dividends or distributions, qualifications, or terms or conditions of redemption of  
22 such class or series of shares is clearly and expressly set forth in the declaration of  
23 trust.

24       SECTION 3. AND BE IT FURTHER ENACTED, That changes made to the  
25 Corporations and Associations Article under Section 2 of this Act shall be construed  
26 retroactively and may be applied before, on, or after the effective date of this Act.

27       SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 1999.